

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

DOUGLAS P. SEATON, VAN L.)
CARLSON, LINDA C. RUNBECK, and)
SCOTT M. DUTCHER,)

Plaintiffs,)

v.)

No.

DEANNA WIENER, GEORGE BECK,)
JON STAFSHOLT, ED OLIVER, NEIL)
PETERSON, and CHRISTIAN SANDE,)
in their official capacities as Chair and)
members of the Minnesota Campaign)
Finance and Public Disclosure Board,)
and TONY PALUMBO and CHAD)
LARSON, in their official capacities as)
county attorneys for Anoka and Douglas)
Counties,)

Defendants.)

CIVIL RIGHTS COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

Introduction

This civil rights action seeks to vindicate the First Amendment rights of Minnesotans to communicate with voters about the most important political issues of the day and whom the voters should elect to office. As in many other jurisdictions, the State of Minnesota sets a limit on the amount of money that an individual may contribute to a candidate for state office that

the candidate will in turn use to speak to voters. But unlike in other jurisdictions, Minnesota arbitrarily cuts this individual contribution limit in half once a candidate has accepted more than a certain amount of money from certain types of donors. This arbitrary treatment of allowing some similarly situated donors to contribute more than others violates the First Amendment rights of both donors and candidates.

Plaintiffs are two individual donors and two candidates whose First Amendment rights have been violated by Minnesota's special sources limit. Their rights will be violated again until and unless this Court protects their rights. Plaintiffs therefore request preliminary injunctive and permanent declaratory and injunctive relief to have Minnesota's "special sources" limit, Minn. Stat. §10A.27, subd. 11, as applied to contributions of more than one half the individual contribution limit, declared unconstitutional and to enjoin its enforcement.

JURISDICTION AND VENUE

1. This case is brought under 28 U.S.C. § 2201 and 42 U.S.C. §§1983 and 1988.
2. Subject-matter jurisdiction is based on 28 U.S.C. §§ 1331 and 1343(a)(1), (3) and (4).
3. Venue is appropriate in this District under 28 U.S.C. § 1391(b) because this case concerns a question of federal law, all defendants reside in

the same state, all of the defendants reside in this District, and a substantial part of the events giving rise to the claim occurred in this District.

THE PARTIES

4. Plaintiff Douglas P. (“Doug”) Seaton is a resident of Edina, Minnesota in Hennepin County. In past elections Seaton has contributed to candidates for Minnesota state office, both legislative and state-wide, and he plans to continue to do so for the 2014 election cycle, the 2016 election cycle, and in other future Minnesota elections. He would like to make contributions of more than half the individual contribution limit and to be able to do so without disadvantaging the candidates to whom he contributes.

5. Plaintiff Van L. Carlson is a resident of Circle Pines, Minnesota in Anoka County. He is a constituent of Plaintiff Linda Runbeck. In past elections Carlson has contributed to candidates for Minnesota state office, both legislative and state-wide—including Runbeck—and plans to continue to do so for the 2014 election and in future Minnesota elections. He would like to make contributions of more than half the individual contribution limit and to be able to do so without disadvantaging the candidates to whom he contributes.

6. Plaintiff Linda C. Runbeck is a resident of Circle Pines, Minnesota in Anoka County. She is the state representative for Minnesota’s District 38A. She is running for reelection in 2014 and plans to do so again in

future elections after 2014. She would like to accept contributions of more than half the individual contribution limit without a cap on how many of those contributions she can accept and to be able to do so without disadvantaging her.

7. Plaintiff Scott M. Dutcher is a resident of Brandon, Minnesota in Douglas County. Dutcher ran and lost the race for Minnesota's District 12A in 2012. He plans to run for state office again in future state elections, perhaps including 2014, 2016, and/or beyond. He would like to accept contributions of more than half the individual contribution limit without a cap on how many of those contributions he can accept and to be able to do so without disadvantaging him.

8. Plaintiffs all reside in this District.

9. Defendant Deanna Wiener is the Chair of the Minnesota Campaign Finance and Public Disclosure Board ("Board"). As a member of the Board her duties include investigating alleged violations of Chapter 10A of Minnesota Statutes, making findings of probable cause regarding violations of Chapter 10A, prosecuting violations of Chapter 10A, and authorizing prosecutions for violations of Chapter 10A. Minn. Stat. § 10A.02, subd. 11; § 10A.28; § 10A.34. This includes violations of the special sources limit of Minn. Stat. § 10A.27, subd. 11.

10. Defendants George Beck, Jon Stafsholt, Ed Oliver, Neil Peterson, and Christian Sande are the remaining members of the Board. As members of the Board their duties include investigating alleged violations of Chapter 10A of the Minnesota Statutes, making findings of probable cause regarding violations of Chapter 10A, prosecuting violations of Chapter 10A, and authorizing prosecutions for violations of Chapter 10A. Minn. Stat. § 10A.02, subd. 11; § 10A.28; § 10A.34. This includes violations of the special sources limit of Minn. Stat. § 10A.27, subd. 11.

11. Tony Palumbo is the county attorney for Anoka County, the county in which Plaintiff Runbeck resides. Under Minn. Stat. § 10A.34, subd. 2, Palumbo may seek an injunction in state district court to enforce Chapter 10A.

12. Chad Larson is the county attorney for Douglas County, the county in which Plaintiff Dutcher resides. Under Minn. Stat. § 10A.34, subd. 2, Larson may seek an injunction in state district court to enforce Chapter 10A.

13. Defendants are sued in their official capacities.

FACTS

Minnesota's Contribution Limits

14. Minnesota places a number of restrictions on how donors and candidates can exercise their rights to free speech and association. At issue in this case is the “special sources” limit.

Individual Contribution Limits

15. Since the 1970s Minnesota has limited the amount that an individual can contribute to a candidate’s campaign for state office. These individual contribution limits restrict how much a donor can contribute to a candidate.

16. Individual limits differ depending on the office sought by the particular candidate and also on whether the contribution is made in the “election segment of an election cycle,” i.e. the two years including an election year and the previous year, or a “nonelection segment of an election cycle,” i.e. the two years following an election year. Minn. Stat. § 10A.27, subd. 1(a). Because state house terms are only two years, the contribution limit for house candidates is always the same. Further, the individual limit for state senate is the same for nonelection and election segments.

17. The election segment individual contribution limits for each office, i.e. for the two years before an election, are:

- \$4,000 for the offices of Governor and Lieutenant Governor (running on the same ticket);
- \$2,500 for Attorney General;
- \$2,000 for Secretary of State and for Auditor;
- \$1,000 for a state senate seat (also \$1,000 in a nonelection segment); and
- \$1,000 for a state house seat.

Minn. Stat. § 10A.27, subd. 1(a).

18. These individual limits apply to contributions from political committees, political funds, lobbyists, and ordinary citizens. Separate limits apply to contributions from political party units and campaign committees to candidates. Plaintiffs are not challenging these limits in this case.

Adoption of the Special Sources Limit

19. In 1993 the Minnesota Legislature added a novel layer of complexity restricting both donors' and candidates' ability to speak and associate. Along with a host of other changes to Minnesota's campaign finance laws it placed a limit on the total amount of money a candidate can raise from certain types of donors. S.F. No. 1 (1993, Sp. Sec.).

20. Codified as Minn. Stat. § 10A.27, subd. 11, this new limit capped the total amount of money a candidate can raise from political committees, political funds, associations not registered with the Board, lobbyists, and what the statute today calls "large contributors." (For the sake of brevity,

hereinafter political committees, political funds, and associations not registered with the Board are collectively referred to as “political action committees” or “PACs.”)

21. The types of donors identified in Minn. Stat. § 10A.27, subd. 11, are commonly referred to as “special sources.”

22. Of these special sources, a “large contributor,” is defined as “an individual, other than the candidate, who contributes an amount that is more than one-half the amount an individual may contribute during the election cycle segment.” Minn. Stat. § 10A.27, subd. 11.

23. “Large contributors” are simply ordinary citizens who happen to give more than half the individual contribution limit to a candidate.

24. In 1993 a stated purpose for the special sources limit was to create a “level playing field.” Testifying before a Minnesota Senate committee, one of the bill’s authors, Senator William P. Luther, stated that the special sources limit was designed to address the competitive disparity between candidates who raise contributions in large individual amounts and those who raise contributions from a larger number of smaller contributions. Testimony of Sen. William P. Luther before Senate Ethics and Campaign Finance Reform Committee, Feb. 2, 1993.

25. In 2013 the Minnesota Legislature increased individual contribution limits for state offices, as well as the voluntary spending limits

that candidates can agree to in exchange for public financing. S.F. No. 661 (2013). However, the structure of the special sources limit, including the definition of “large contributor,” and how the limit is calculated, were not changed, except that the limit now applies over a two year period of contributions, not a one-year period.

How the Special Sources Limit Works

26. Special source limits are tied to the so-called “voluntary spending limits.” Although voluntary spending limits are not being challenged in this case, they must be understood to understand the challenged special sources limits.

27. Under Minn. Stat. § 10A.25, candidates can agree to spending limits in exchange for receiving some public funds to use in their campaigns. Although the special sources limit is calculated by reference to these spending limits, the special sources limit applies whether or not the candidate has voluntarily agreed to the spending limits in exchange for public financing.

28. The Board updates the voluntary spending limits for various offices every two years by an inflation-adjusted amount with reference to the consumer price index. *See* Minn. Stat. § 10A.255, subd. 1. For the 2013-14 period the voluntary spending limits are:

- \$3,651,200 for the offices of Governor and Lieutenant Governor (running on the same ticket);
- \$626,000 for Attorney General;
- \$417,300 for Secretary of State and for Auditor;
- \$30,000 for a state senate seat; and
- \$62,600 for a state house seat.

State senate candidates are not on the ballot in 2014, but the spending limit of \$30,000 nevertheless applies during 2013-14 to senate candidates for the 2016 election.

29. Under Minn. Stat. § 10A.27, subd. 11, any combination of contributions from special sources during a two-year period cannot exceed an amount equal to 20 percent of the voluntary spending limit for that office during that period.

30. The special sources limit of 20 percent of the so-called voluntary spending limit for each office for the 2013-14 period is as follows:

- \$730,200 for the offices of Governor and Lieutenant Governor (running on the same ticket);
- \$125,200 for Attorney General;
- \$83,500 for Secretary of State and for Auditor;
- \$6,000 for a state senate seat (with no election until 2016); and
- \$12,500 for a state house seat.

31. Although a candidate can accept any one contribution, standing alone, at the maximum individual contribution limit, the special sources limit mandates that contributions from PACs, lobbyists, and ordinary citizens who contribute more than half the individual limit have to be returned if the candidate has already exceeded the special sources limit. Alternatively, a candidate can choose to return a previously accepted special sources contribution and accept a new one from a different donor.

32. When a contribution is large enough that it qualifies as a “special source,” the entire contribution counts toward a candidate’s special sources limit, not just the amount that exceeds half the individual limit.

33. For example, a state house candidate who raises 25 contributions of \$500 has raised \$12,500, none of which counts toward the special sources limit. However, a candidate who raises 25 contributions of \$500.01 has raised \$12,500.25, all of which counts toward the special sources limit (and, indeed, exceeds the limit by 25 cents).

34. Because “large contributors” are special sources, a candidate has an incentive to accept contributions from PACs and lobbyists before contributions from ordinary citizens that are more than half the individual limit. This is because any money from a PAC or lobbyist will be counted toward the special sources limit, but money from an ordinary citizen will only count once the citizen contributes more than half the individual limit. For

example, if a state house candidate first accepts 12 different \$1,000 contributions from 12 different PACs, she could then accept 12 contributions of \$500 from ordinary citizens, for a total of \$18,000. However, if she instead first accepted 12 contributions of \$1,000 from the same 12 ordinary citizens, she would then be allowed to accept only \$500 from all PACs or lobbyists combined, for a total of only \$12,500.

Enforcement of the Special Sources Limit

35. Candidates who exceed the special sources limit can be fined up to four times the amount that contributions exceed the special sources limit. Minn. Stat. § 10A.28, subd. 2(4).

36. If the Board finds there is reason to believe a candidate has accepted special sources contributions in excess of the candidate's special sources limit, the Board is mandated to investigate the candidate. It first must make an effort to "correct the matter by informal methods" and enter into a conciliation agreement with the candidate. Minn. Stat. § 10A.28, subd. 3. If no conciliation agreement is reached then the Board is mandated to make a public finding of probable cause and is then further mandated to bring an action, or transmit the finding to a county attorney who is mandated to bring an action "in the District Court of Ramsey County or, in the case of a legislative candidate, the district court of a county within the legislative

district” to collect the penalty of up to four times the amount of the excessive contribution. Minn. Stat. § 10A.28, subd. 4.

37. The Board regularly fines candidates for exceeding the special sources limit whether the violation is intentional or not.

The Plaintiffs

38. The special sources limit has affected, and will continue to affect, all of the Plaintiffs, whether as candidates or donors.

39. The donor Plaintiffs are not able to make contributions of more than half the individual limit because a candidate has exceeded his or her special sources limit, and are otherwise dissuaded from doing so because the contribution triggers a unique penalty for the candidate of their choice. Donors are thus not able to speak and associate as much as they would like. The special sources limit, as applied to contributions of more than half the individual limit, therefore chills the donor Plaintiffs’ speech and association rights.

40. Because of the special sources limit the candidate Plaintiffs are not able to raise as much money from ordinary citizens as they would like and have to spend more time raising more contributions in smaller amounts. They are not as able to associate with ordinary citizens and not as able to speak to voters, both because of less time and less money. The special

sources limit, as applied to contributions of more than half the individual limit, therefore chills the candidate Plaintiffs' speech and association rights.

Doug Seaton

41. Plaintiff Doug Seaton is an attorney who lives and practices law in Edina, Minnesota. Seaton cares deeply about public policy issues and financially supports candidates who share his views. This especially includes candidates who want to reduce government's involvement in the economy and protect economic liberty.

42. Seaton is not a lobbyist as that term is defined by Minnesota Statutes. Minn. Stat. § 10A.01, subd. 21.

43. Seaton has given contributions to many candidates in various state and federal races in prior elections, including for the Minnesota Legislature and in Minnesota state-wide races, including governor, attorney general, and auditor.

44. On several occasions Seaton has wanted to contribute an amount to a candidate for Minnesota state office for more than half the contribution limit but has not been able to do so because it would be considered a special sources contribution.

45. On some of these occasions, Seaton has withheld from attempting to contribute more than half the individual limit because he knew that the

candidate would have reached his or her special sources limit or was in danger of doing so.

46. One example of withholding a contribution is when Seaton contributed \$250 to State Representative Pat Mazorol in 2010, the maximum amount Seaton could contribute, at that time, without making a special source contribution. Seaton would like to have given more but he knew that if he did it either would have been rejected or would have complicated the candidate's fundraising strategy.

47. Another example of withholding a contribution is when Seaton contributed \$250 to State Representative Ron Erhardt in 2006, the maximum amount Seaton could contribute, at that time, without making a special source contribution. Seaton would like to have given more but he knew that if he did it either would have been rejected or would have complicated the candidate's fundraising strategy.

48. Where Seaton has withheld from attempting to contribute an amount of more than half the individual limit the special sources limit has chilled his exercise of his First Amendment rights of speech and association.

49. Additionally, sometimes Seaton has made a contribution of more than half the individual limit and the candidate's campaign has contacted him after receiving his contribution and told him it cannot accept anything more than half the limit because of the special sources cap.

50. Where a campaign cannot accept Seaton's contribution of more than half the individual limit because it has already maxed out the special sources limit, Seaton's exercise of his own First Amendment rights of speech and association has been denied.

51. By prohibiting and dissuading Seaton from making contributions that a candidate could accept but for the special sources limit, Seaton's own First Amendment rights of speech and association have been denied as his speech has been chilled.

52. Seaton plans to make contributions to candidates for Minnesota state office in amounts greater than half the individual contribution limit for the relevant office in the 2014 election cycle, the 2016 election cycle, and in other future election cycles.

53. For example, he plans to give an amount of over \$500 to Plaintiff Linda Runbeck in 2014, and to the endorsed Republican candidates in his state senate district. However, because giving over \$500 would impact those candidates' special sources limits, and lower the total amount of money the candidate is able to raise, he is reluctant to do so. Further, he may not even be able to make such a contribution if the candidate has already reached the special sources limit and the candidate does not want to return an existing special source contribution in order to be able to accept Seaton's special source contribution.

54. It is a violation of Seaton's First Amendment rights of free speech and association that a perfectly legal contribution becomes illegal because other people have also made perfectly legal contributions.

Van Carlson

55. Plaintiff Van Carlson is an entrepreneur who lives in Circle Pines, Minnesota. He runs his own business helping match workers with employers in the food manufacturing industry. Carlson cares deeply about public policy issues, especially issues that affect values and the family. After ignoring politics for a long time because he thought he could not change anything, in recent years Carlson has decided he should get involved and try and make a difference. To that end, among other actions, he has given money to various candidates and causes, including to Plaintiff Linda Runbeck, his state representative, in prior elections.

56. Carlson is not a lobbyist as that term is defined by Minnesota Statutes. Minn. Stat. § 10A.01, subd. 21.

57. At times Carlson has wanted to contribute an amount to a candidate for more than half the contribution limit but has not been able to do so because it would be considered a special sources contribution. Sometimes Carlson has withheld from contributing those funds, and sometimes the candidate's campaign has contacted him after receiving his

contribution and told him it cannot accept anything more than half the limit because of the special sources cap.

58. For example, in 2012 Carlson contributed \$250 to Runbeck's campaign and \$250 to his state senator Roger Chamberlain's campaign, the highest amount allowed at that time without becoming a special source. But for the special sources limit, Carlson would have contributed more.

59. By prohibiting and dissuading Carlson from making contributions that a candidate could accept but for the special sources limit, Carlson's own First Amendment rights of speech and association have been denied as his speech has been chilled.

60. Carlson would like to make contributions to candidates for Minnesota state office in amounts greater than half the individual contribution limit for the relevant office in the 2014 election cycle, the 2016 election cycle, and in other future election cycles. For example, he plans to give an amount of over \$500 each to Runbeck and Chamberlain in 2014. However, because giving over \$500 to either would impact those candidates' special sources limits, and lower the total amount of money the candidate is able to raise, he is reluctant to do so. Further, he may not be able to make such a contribution at all if the candidate's campaign tells him he or she has already reached the special sources limit and the candidate does not want to

return an existing special source contribution in order to be able to accept Carlson's special source contribution.

61. Carlson has already given Runbeck's campaign \$100 in the 2013-14 period. Thus, giving more than \$400 more will turn Carlson into a "special source."

62. It is a violation of Carlson's First Amendment rights of free speech and association that a perfectly legal contribution becomes illegal because other people have also made perfectly legal contributions.

Linda Runbeck

63. Plaintiff Linda Runbeck is the Minnesota state representative for District 38A. In addition to past public service at the state and local level, Runbeck ran and was elected to her current position in 2010 and in 2012. She is running for reelection in 2014 and plans to run in future elections as well.

64. The special sources limit has forced, is forcing, and will force her campaign to change its behavior. This includes sending checks back to individuals who have attempted to make campaign contributions of more than one half the individual limit, asking married donors who pay from a joint checking account if part of the contribution is made in their spouses' name, and choosing not to solicit contributions of more than one half the

individual limit even though those contributions on their own are perfectly legal.

65. In the 2010 election Runbeck's special sources donors were virtually all individual donors, with several checks split between the spouses. She then maxed out her special sources cap. This meant she had to return some contributions and strategize about how to fundraise going forward, because she could no longer raise any amount more than \$250 per donor, one half of what was then the individual contribution limit of \$500.

66. Complying with the special sources limit in 2010 was a very time consuming process for Runbeck, taking hours of work.

67. In raising money during the 2012 campaign, Runbeck again found she had raised "too much" in special sources money. This meant she again had to strategize about how to fundraise going forward, because people continued to send in checks that were more than half the individual limit, while, at the same time, lobbyists and PACs made contributions. This juggling exercise was exceedingly time-consuming for Runbeck with paperwork, phone calls, accepting and then returning checks and developing a fundraising strategy to maximize contributions while not exceeding the limit.

68. This included contacting married donors who pay from a joint checking account to explain the complicated law and to see if both spouses

were making, and splitting, a contribution or if the signing spouse on the check was making the entire contribution in his or her own name only. Most told Runbeck the donation was meant to be split between the two spouses. One donor expressed irritation and said it was not. Whether both spouses or only one was contributing made a difference if the total contribution was more than half the individual limit because if only one spouse was contributing it was a special sources contribution, but if both were, then it was not.

69. In the end, in the 2012 election, Runbeck decided to return several contributions, including a \$250 contribution from an individual who had earlier given \$200, a \$50 contribution from an individual who contributed \$300, and a \$500 contribution from a PAC. Runbeck raised all but approximately \$950 of the special sources limit for that year. She did not max out her special sources limit because she had already returned several checks as part of a cautious strategy to not dare to exceed the limit.

70. If it were not for the special sources limit's applicability to contributions by ordinary citizens, Runbeck would be able to raise more funds and reduce the amount of time she has to spend on fundraising. This would enable her to speak to her constituents more.

71. Runbeck plans to raise enough “special sources” contributions in the 2013-14 period, and in future election periods, that she will max-out her special sources contributions and reach the special sources limit

Scott Dutcher

72. Plaintiff Scott Dutcher is an attorney who lives in Brandon, Minnesota and works in nearby Alexandria, Minnesota. Dutcher has been very involved in politics for many years, including volunteering on campaigns, serving on party committees, and running for office. He was elected to and serves on the Brandon City Council and ran for state house in District 12A in 2012. He may run for office in District 12A again in 2014, and plans to run for state office in a future election, either state house, state senate, or a state-wide race. He has not dissolved his 2012 campaign committee and still files its required reports with the Board.

73. Dutcher lost the 2012 election by 255 votes out of over 21,000 total votes cast. He feels that if he had not had to devote so much time to fundraising, and could have raised more money in larger contributions, he could have devoted more time to speaking to the voters and perhaps have won the election.

74. Dutcher maxed out the special sources limit while running for election in 2012. In order to not exceed the special sources limit Dutcher had to return checks to donors, including an individual who had tried to

contribute more than one half the individual limit, and several PACs. The individual gave him \$100 and then another \$200 a few months later, after Dutcher had reached his special sources cap. Because this would make the individual's entire set of contributions a "special source," Dutcher was forced to refund him \$50.

75. But for the special sources limit's applicability to contributions from ordinary citizens, Dutcher would be able to raise and spend more funds and reduce the amount of time he has to spend on fundraising. This would enable him to speak more to voters.

76. If he runs for office in 2014, Dutcher plans to raise enough "special sources" contributions in the 2013-14 period that he will max-out his special sources limit. Dutcher will have the same plans when he runs for a legislative or state-wide office in a future election.

HARM TO PLAINTIFFS

Campaign Contributions Are Necessary for Democratic Government

77. A functioning democratic system requires political candidates to be able to speak to voters about why they should be elected to office.

78. In order to perform all but the most basic means of communicating with voters a candidate needs money and property. Otherwise a candidate could not create, purchase, and distribute campaign supplies such as flyers, buttons, and bumper stickers; could not create

television, radio, newspaper, and online ads and purchase air time or space for them; and could not even purchase gasoline to use to drive to campaign events.

79. Because candidates need money to speak to their voters, all candidates, other than those wealthy enough to entirely finance their own campaigns, need other individuals and entities to associate with them by giving them money.

80. The right to give contributions to candidates and the right of candidates to solicit and receive contributions are rights of free speech and association protected by the First Amendment to the United States Constitution.

The Special Sources Limit Does Not Prevent Quid Pro Quo Corruption

81. The only government interests that can potentially justify a limitation on contributions are to prevent *quid pro quo* corruption or the appearance of *quid pro quo* corruption.

82. The Minnesota Legislature has already determined that contributions made at the maximum individual limit are not corrupting.

83. Nevertheless, the special sources limit restricts contributions below the amount the legislature has determined is not corrupting.

84. The special sources limit does not prevent *quid pro quo* corruption. Instead, it limits the total amount that a number of separately acting individuals can give a candidate.

85. The special sources limit therefore merely arbitrarily limits the number of different individuals who can contribute more than half the individual limit.

86. For example, a candidate for state house may accept individual contributions in the amount of \$1,000 each. However, because the special sources limit is \$12,500, once 12 ordinary citizens give the candidate \$1,000 each, subsequent donors may give no more than \$500 each. Even if a candidate returns an earlier \$1,000 contribution so that she can take a later one, she is still limited to taking \$1,000 from no more than 12 separate ordinary citizens. Further, to the extent the candidate accepts contributions from PACs and lobbyists this diminishes the number of ordinary citizens who can give her more than \$500.

87. The special sources limit does not prevent corruption or the appearance of corruption because there is no reason to believe that contributions of more than \$500 made after a candidate has reached the special-sources limit are more corrupting or create a greater appearance of corruption than identical contributions made before a candidate has reached the special sources limit.

88. Because of the special sources limit, any contribution Doug Seaton makes to a candidate for Minnesota state office in excess of that limit will reduce the total amount of money that candidate can raise in order to speak to the voters. Seaton, therefore, at times restricts the amount of his contributions to only one half of the individual limit even though he would like to give more. This includes the contributions of only \$250 that he made to Pat Mazorol in 2010 and Ron Erhardt in 2006. This chills Seaton's free speech and association rights and will continue to chill his rights in the 2014 election season and in future elections.

89. Because of the special sources limit some candidates have refused and will refuse to accept contributions from Seaton at more than half the individual contribution limit for their office even though they legally could accept a contribution of more than half the individual contribution limit—and would accept such contributions—but for the special sources limit.

90. Seaton would like to contribute money to candidates at more than one half the individual contribution limit even though the individual contribution limits for Minnesota state offices were raised by the legislature in 2013.

91. In 2014 Seaton would like to contribute more than \$500 to the endorsed candidates for state representative in his district and to Plaintiff Linda Runbeck.

92. Because of the special sources limit, any contribution Van Carlson makes to a candidate for Minnesota state office in excess of that limit will reduce the total amount of money that candidate can raise in order to speak to the voters. Carlson therefore at times restricts the amount of his contributions to only one half of the individual limit even though he would like to give more. For example, Carlson contributed exactly half of the individual limit to his legislators, Runbeck and Senator Chamberlain, in 2012 even though he wanted to give more. The special sources limit therefore has chilled Carlson's free speech and association rights and will continue to chill his rights in the 2014 election season and in future elections.

93. Because of the special sources limit, candidates have refused and will refuse to accept contributions from Carlson at more than half the individual contribution limit for their office even though they legally could accept a contribution of more than half the individual contribution limit—and would accept such contributions—but for the special sources limit. This chills Carlson's free speech and association rights.

94. Carlson would like to contribute money to candidates at more than one half the individual contribution limit even though the individual contribution limits for Minnesota state offices were raised by the legislature in 2013. He would like to contribute more than \$500 to both Runbeck and Chamberlain's campaigns.

95. Because of the special sources limit, Linda Runbeck cannot raise as much money in contributions as she otherwise could with the same amount of time and resources committed to fundraising. This was true in the 2010 and 2012 elections and will be true in the 2014 election and future elections, even with the higher individual limits the legislature enacted in 2013. Runbeck therefore cannot speak as much to her constituents about the important political issues of the day. In order to raise the same amount of money as she could if the special sources limit did not apply to contributions of over half the individual limit, she must solicit contributions from more people and spend more time fundraising. This lowers the amount of time and money she can spend in directly speaking to voters.

96. Because of the special sources limit, Runbeck has had to send checks back to individuals and PACs who would like to contribute money to her.

97. Examples of checks Runbeck has had to send back are, in the 2012 campaign alone, a \$250 contribution from an individual who had earlier given \$200, a \$50 contribution from an individual who contributed \$300, and a \$500 contribution from a PAC.

98. Because of the special sources limit, Runbeck's campaign has had to contact married individual donors who pay on a joint account and ask if part of the contribution is in their spouses' name.

99. Because of the special sources limit, Runbeck cannot associate with ordinary citizens to the degree she could if contributions they make that are more than half the individual contribution limit were not considered special sources.

100. Because of the special sources limit, Scott Dutcher cannot raise as much money in contributions as he otherwise could with the same amount of time and resources committed to fundraising. This was true in the 2012 election and will be true in future elections when he runs for office again, even with the higher individual limits the legislature enacted in 2013. Dutcher therefore cannot speak as much to the voters about whether he should be elected. In order to raise the same amount of money as he could if the special sources limit did not apply to contributions of over half the individual limit, he must solicit contributions from more people and spend more time fundraising. This reduces the time and money he can spend in order to directly speak to voters.

101. Because of the special sources limit Dutcher's campaign has had to send checks back to individuals and PACs who would like to contribute money to him. For example, he had to return \$50 contributed from an ordinary citizen because the individual had already contributed \$250 and Dutcher had reached his special sources limit.

102. Because of the special sources limit Dutcher's campaign has had to contact individual donors who pay on a joint account and ask if part of the contribution is in their spouses' name.

103. Because of the special sources limit Dutcher cannot associate with ordinary citizens to the degree he could if contributions they make that are more than half the individual contribution limit were not considered special sources.

CONSTITUTIONAL VIOLATION

Count 1: First Amendment Rights of Free Speech and Association

104. The allegations contained in paragraphs 1 – 103 are incorporated by reference as if fully set forth herein.

105. The First Amendment of the United States Constitution states, in relevant part, "Congress shall make no law. . . abridging the freedom of speech . . . or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

106. The First Amendment of the United States Constitution is binding on the State of Minnesota and its public officials through the Fourteenth Amendment's Due Process and Privileges or Immunities clauses.

107. The act of contributing money to a candidate in order for the candidate to use to speak to the voters, and the act of receiving that money, is

an act protected by the First Amendment as a right of free speech and association.

108. A restriction on the giving of money to a candidate in order for the candidate to use to speak to the voters is a restriction on the free speech and association rights of both the candidate and her donors.

109. Minnesota's special sources limit of Minn. Stat. § 10A.27, subd. 11, as applied to "large contributions," violates the free speech and association rights of candidates and donors. It is not justified by the only government interests that can justify a limitation on contributions: preventing *quid pro quo* corruption or the appearance of *quid pro quo* corruption.

110. The only interest advanced by the special sources limit is an illegitimate interest in leveling the electoral playing field.

111. Minnesota's special sources limit of Minn. Stat. § 10A.27, subd. 11, as applied to "large contributions," is not narrowly tailored to serve a compelling governmental interest.

112. Minnesota's special sources limit of Minn. Stat. § 10A.27, subd. 11, as applied to "large contributions," is not closely drawn to match a sufficiently important interest.

113. By enforcing Minnesota's special sources limit of Minn. Stat. § 10A.27, subd. 11, as applied to "large contributions," through fines,

prosecutions, and/or actions for injunctions, Defendants are violating Plaintiffs' clearly-established rights. Absent a declaration of Plaintiffs' constitutional rights, Defendants will continue to violate Plaintiffs' rights.

114. Unless Minnesota's special sources limit of Minn. Stat. § 10A.27, subd. 11, as applied to "large contributions," is declared unconstitutional and Defendants' employees, agents, representatives and successors are enjoined from enforcing it, through fines, prosecutions, and/or actions for injunctions, Plaintiffs have suffered, are in imminent danger of suffering, and/or will continue to suffer irreparable harm.

115. For reasons including but not limited to those stated in this Complaint, Plaintiffs have no other adequate legal or other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request relief as follows:

1. Enter a judgment declaring that Minnesota's special sources limit of Minn. Stat. § 10A.27, subd. 11, as applied to "large contributions," violates the First and Fourteenth Amendments of the United States Constitution;

2. Temporarily, preliminarily, and permanently restrain and enjoin Defendants and their employees, agents, representatives and successors from

preventing individuals from contributing up to the maximum amount allowed under Minnesota's individual contribution limits without regard to the special sources limit of Minn. Stat. § 10A.27, subd. 11;

3. Temporarily, preliminarily, and permanently restrain and enjoin Defendants and their employees, agents, representatives and successors from preventing candidates for state office from accepting contributions from individuals up to the maximum amount allowed under Minnesota's individual contribution limits without regard to the special sources limit of Minn. Stat. § 10A.27, subd. 11;

4. Award attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and

5. Award such other further legal and equitable relief as the Court deems just, equitable and proper.

Dated: April 9, 2014

Respectfully submitted,

/s/ Anthony B. Sanders
Anthony B. Sanders (No. 0387307)
Katelynn K. McBride (No. 0392637)
Lee U. McGrath (No. 0341502)
INSTITUTE FOR JUSTICE
527 Marquette Ave., Suite 1600
Minneapolis, Minnesota 55402
Tel.: (612) 435-3451
Fax: (612) 435-5875
Email: asanders@ij.org, kmcbride@ij.org,
lmcgrath@ij.org

Attorneys for Plaintiffs