

IN SUPREME COURT  
STATE OF NORTH DAKOTA

RECALLND,  
Petitioner,)

Supreme Court No. \_\_\_\_\_

**COMPLAINT** vs.)

Secretary of State, Al Jaeger,  
Respondent.)

COMES NOW THE PETITIONER and for its civil cause of action, hereby states as follows:

I.

That The Supreme Court of North Dakota has original jurisdiction in this matter pursuant to the North Dakota State Constitution, Article III, Sections 6 and 7.

II.

That On May 3, 2010, RECALLND requested that the Secretary of State approve a petition to circulate for the purpose of recalling North Dakota Senator Kent Conrad.

III.

That on May 13, 2010, North Dakota Attorney General Wayne Stenehjem published an opinion in which he concluded that the North Dakota State Constitution does not allow for the recall of a United States senator.

IV.

That on May 13, 2010, the Secretary of State claimed to have no authority to approve circulation of RECALLND's petition, basing his decision on the Attorney General's opinion.

V.

That the Secretary of State erred in denying a petition to RECALLND when he relied on the Attorney General's opinion.

VI.

That the Secretary of State may not approve or deny an application to circulate a petition based on the constitutionality of the subject matter. The Secretary of State's discretion is limited to whether the request is in proper form.

VII.

That the Attorney General erred in his interpretation of both Article III, § 6 of the Constitution of North Dakota and the legislative history and thus came to a faulty conclusion of law.

VIII.

That the North Dakota State Constitution permits the recall of the state's representatives in the United States Congress, as indicated by the plain meaning of the language. Further, that the North Dakota State Constitution, prior to the 1979 revisions, expressly addressed the recall of the state's representatives in the United States Congress. The legislative history of the revisions to the North Dakota Constitution indicates that, despite the change in language, there was no intention to change the previous structure of the recall provisions except as to the number of signatures required. The Constitution of the United States does not preclude the recall of United States senators by the electorate of their respective states.

WHEREFORE, the Petitioner hereby requests the following relief:

1. That this Court issue a Declaratory Order compelling the Secretary of State to approve the Committee's application.
2. That this Court issue such other relief as The Court deems necessary or appropriate.

Dated this 14th day of July, 2010.

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