

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

Ethylon B. "E.B." Brown, Benjamin  
E. Myers, Robert "Bob" Scott,  
Shannon Hartfiel, Robert Wilson,  
William J. Brown, Dokor Dejvongsa,  
Steve Jackson, DeEtte Davis, Tamara  
Hardy, Lafayette Butler, Jernel McLane,  
Frank Essien, Kenya Weathers, and  
Jerry Moore,

Civil Case No. \_\_\_\_\_,

Plaintiffs,

**SUMMONS**

v.

Michael "Kip" Brown, John "P.J." Hubbard,  
Robert Hodson, Ann McCandless,  
Don Samuels (in his individual and  
official capacities), Barbara Johnson  
(in her individual and official capacities),  
Michael Martin (in his individual and  
official capacities), City of Minneapolis,  
Minnesota, Stacy Sorenson,  
Attorney Doe Defendant #1," and  
John Does 2-5,

Defendants.

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**THE STATE OF MINNESOTA TO THE ABOVE-NAMED DEFENDANTS:**

**YOU ARE HEREBY SUMMONED** and required to serve upon Plaintiff's Attorneys, an Answer to the Complaint which is herewith served upon you, within TWENTY (20) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

Rule 114 of the Minnesota General Rules of Practice, provides information about alternative dispute resolution mechanisms (ADR) including but not limited to mediation, the Court's authority to order such ADR, and its impact on the case.

Dated: January 28, 2009

**ATTORNEYS FOR PLAINTIFF**

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official capacities), Barbara Johnson  
(in her individual and official capacities),  
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Minnesota, Stacy Sorenson,  
Attorney Doe Defendant #1," and  
John Does 2-5,

Defendants.

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Civil Case No. \_\_\_\_\_,

**COMPLAINT/  
COMPLAINT FOR DECLARATORY  
JUDGMENT/  
DEMAND FOR INJUNCTION**

**SUMMARY OF CLAIMS**

The Jordan Area Community Council, ("JACC"), is a duly-organized Minnesota Non-profit Corporation, pursuant to Minn. Stat. Chap. 317A. As of November 2008, JACC had duly-elected Officers (chair, vice-chair, treasurer, and secretary). These Officers also comprise the Executive Committee, pursuant to JACC's Bylaws. The Bylaws specify the process that is required in order to remove an Officer. On January 14, 2009, a rogue team of Jordan community members, who had recently been added to the Board as directors (but not as officers), staged a coup and unlawfully claimed to be "Officers," and the "Executive Committee." They were aided and abetted by the City of Minneapolis (including at a minimum

Council President Barbara Johnson, Council Member Don Samuels, Inspector Michael Martin, of the Fourth Precinct Police Department, and an unnamed Minneapolis “City Attorney”).

One of the first acts of the rogue “officer(s),” was unlawfully to remove the Executive Director, Jerry Moore, in breach of his written employment contract. The rogue team has contacted Franklin Bank and professed to be in charge of JACC’s bank account, and has changed the lock on JACC headquarters, thereby freezing the legitimate Officers and Executive Committee out. At the present time, the bank account is frozen while the bank investigates who is the proper authority for the Corporation. The rogue team has contacted the surrounding neighborhood organizations, community partners, major funders, elected officials, the police department, the media, and others claiming to be the legitimate Officers of JACC.

Plaintiffs sue under Minn. Stat. §317A.751 for declaratory judgment that the Executive Committee (E.B. Brown, Chair, Benjamin E. Myers, Vice Chair, Bob Scott, Treasurer, and Shannon Harfiel, Secretary) are the lawful and duly elected Officers of JACC, and rightfully in charge of the corporation. Plaintiffs seek a declaratory judgment that the rogue interlopers are unlawfully claiming authority over the corporation, and they, and anyone aiding and abetting them (including but not limited to Barbara Johnson, Don Samuels, Michael Martin, and unnamed City Attorney(s)) must cease and desist from taking any actions in this unlawful capacity, and that all actions taken while claiming to be Officers and/or the Executive Committee of JACC, were *ultra vires* and null and void *ab initio*.

Plaintiffs also sue those who intentionally interfered with the contract/Bylaws of JACC, and/or who aided and abetted same.

This complaint contains additional claims of intentional interference with contract, and aiding and abetting. Jerry Moore sues JACC and/or tortfeasors because he was ousted from his Executive Director position: i) based on ultra vires and void actions); ii) without

respecting the process requirements of his written employment agreement; and/or iii) he sues those who intentionally interfered with his employment agreement with JACC.

## **PARTIES**

### ***Plaintiffs***

1. Plaintiff Ethylon B. "E.B." Brown is a resident of Hennepin County, a "voting member" of JACC, and a "director" for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. She was duly elected an Officer (Chair) in November 2008, and as such was duly a member of the Executive Committee as of January 2009. She has never resigned her Officer position, and never acquiesced in the unlawful takeover. She sues in her capacity as voting member, director, and Officer.

2. Plaintiff Benjamin E. Myers is a resident of Hennepin County, a "voting member" of JACC, and a "director" for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. He was duly elected an Officer (Vice Chair (he is also ex officio Vice Chair due to his capacity as immediate past Chair)) in November 2008, and as such was duly a member of the Executive Committee as of January 2009. He has never resigned his Officer position, and never acquiesced in the unlawful takeover. He sues in his capacity as voting member, director, and Officer.

3. Plaintiff Robert "Bob" Scott is a resident of Hennepin County, a "voting member" of JACC, and a "director" for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. He was duly elected an Officer (Treasurer) in November 2008, and as such was duly a member of the Executive Committee as of January 2009. He was disgusted by the events of January 14, 2009, but sues now in his capacity as voting member and director.

4. Plaintiff Shannon Hartfiel is a resident of Hennepin County, a “voting member” of JACC, and a “director” for purposes of Minn. Stat. §317A.751 and under the Bylaws of the corporation. She was duly elected an Officer (Secretary) in November 2008, and as such was duly a member of the Executive Committee as of January 2009. She has never resigned her Officer position, and never acquiesced in the unlawful takeover. She sues in her capacity as voting member, director, and Officer.

5. Plaintiff Robert Wilson is a resident of Hennepin County. He is a director of JACC and a voting member, and he sues in both those capacities.

6. Plaintiff Steve Jackson is a resident of Hennepin County. He is a director of JACC and a voting member, and he sues in both those capacities.

7. Plaintiff Dokor Dejvongsa is a resident of Hennepin County. She is a former director of JACC and a voting member. She sues in her capacity as voting member.

8. Plaintiff William J. Brown is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

9. Plaintiff Kenya Weathers is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

10. Plaintiff DeEett Davis is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

11. Plaintiff Tamara Hardy is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

12. Plaintiff Jernel McLane is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

13. Plaintiff Lafayette Butler is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

14. Plaintiff Frank Essien is a resident of Hennepin County and a voting member of JACC, and sues in that capacity.

15. Plaintiff Jerry Moore is a resident of Hennepin County and was hired by JACC as Executive Director, pursuant to a definite term written employment contract. He sues as an individual, but he also is/was a member of JACC by virtue of his employment with JACC.

### ***Defendants***

16. **Defendant Jordan Area Community Council (“JACC”)** is a non-profit corporation duly organized under the law of the State of Minnesota (Chapter 317A), and granted 501(c)(3) status by the Internal Revenue Service. It began its corporate status as the Jordan Area Action Committee, in 1965, duly filing its Articles of Incorporation and Bylaws with the Minnesota Secretary of State, Charter No. F-780. The corporation changed its name and filed Articles of Incorporation with the Secretary of State in 1970 (Attachment A hereto). Change of address forms have been filed since that date. JACC is a nominal defendant for purposes of the declaratory judgment under Minn. Stat. §317A.751. It is a defendant for purposes of Jerry Moore’s breach of contract claim. JACC is not a part of the City of Minneapolis, and nothing in its Articles of Incorporation or Bylaws allow the City of Minneapolis to dictate its actions or governance. It is governed by its Articles and Bylaws, and pursuant to state statute.

17. Defendant Michael “Kip” Browne is a resident of Hennepin County, and a member of JACC. He was elected a director in October 2007. He worked with Minneapolis Council Member Don Samuels to stage a coup of JACC governance, and as a result of the illegal process (which failed to follow JACC Bylaws or state statute), he is now claiming that he is the

“Chair” of JACC and its Executive Committee. Those actions were *ultra vires*, and he has no legitimate authority to govern JACC as Chair, or take actions on JACC’s behalf as such. He is sued in his individual capacity. Michael Browne holds no current position within the City of Minneapolis. Upon information and belief he is not authorized to seek/use services from attorneys at the Minneapolis City Attorney’s Office, and/or those attorneys are not authorized to provide legal opinions to him.

18. Defendant John “P.J.” Hubbard is a resident of Hennepin County, and a member of JACC. He was elected a director in October 2007. He worked with Michael Browne to stage a coup of JACC governance, and as a result of the illegal process (which failed to follow JACC Bylaws or state statute), he is now claiming that he is the “Vice Chair” of JACC. Those actions were *ultra vires*, and he has no legitimate authority to govern JACC as Vice Chair, or take actions on JACC’s behalf as such. He is sued in his individual capacity.

19. Defendant Robert Hodson is a resident of Hennepin County, and a member of JACC. He was elected a Director on January 12, 2009. He worked with Michael Browne to stage a coup of JACC governance, and as a result of the illegal process (which failed to follow JACC Bylaws or state statute), he is now claiming that he is the “Treasurer” of JACC. Those actions were *ultra vires*, and he has no legitimate authority to govern JACC as Treasurer, or take actions on JACC’s behalf as such. He is sued in his individual capacity.

20. Defendant Anne McCandless is a resident of Hennepin County, and a member of JACC. She was elected a Director on January 12, 2009. She worked with Michael Browne to stage a coup of JACC governance, and as a result of the illegal process (which failed to follow JACC Bylaws or state statute), she is now claiming that she is the “Secretary” of JACC. Those actions were *ultra vires*, and she has no legitimate authority to govern JACC as Secretary, or take actions on JACC’s behalf as such. She is sued in her individual capacity. Anne McCandless specifically sought “endorsements” from key political and/or other figures she and those she



was working with deemed to have power, and specifically used their “endorsements” to work to effectuate the coup.

21. Don Samuels is a resident of Hennepin County, and a Minneapolis City Council Member. He is neither a director or officer of JACC, and his position as City Council Member does not give him any authority over JACC. Samuels is the Chair of the Public Safety Committee, and as such holds sway over Minneapolis Police officers. He is sued in his individual capacity, and in his official capacity (he is alleged to be a Policymaker for purposes of Section 1983). He is sued for intentionally interfering with the Bylaws as contract, and/or for aiding and abetting, and violation of First Amendment rights.

22. Barbara Johnson is a resident of Hennepin County, and a Minneapolis City Council Member, serving now as President of the Council. She is neither a director or officer of JACC, and her position as City Council Member does not give her any authority over JACC. She is sued in her individual capacity, and in her official capacity (she is alleged to be a Policymaker for purposes of Section 1983). She is sued for intentionally interfering with the Bylaws as contract, and/or for aiding and abetting, and violation of First Amendment rights.

23. Michael Martin is a resident of Hennepin County, and is the Inspector of the Minneapolis Police Department in the Fourth Precinct. He is sued in his individual and official capacities (he may be a Policymaker for purposes of Section 1983). He is sued for intentional interference with the Bylaws as contract, and/or for aiding and abetting, and violation of First Amendment rights.

24. Stacy Sorenson is a resident of Hennepin County. She is associated with the Minneapolis Neighborhood Revitalization Program (“NRP”), which has a major influence in the communities in Minneapolis, including but not limited to because it disburses funds to neighborhood associations/corporations. Sorenson is sued in her individual capacity, but upon information and belief she is an employee of NRP and NRP is responsible for her actions

under the theory of *respondeat superior*. Sorenson worked with various other defendants herein to coordinate a public release of “endorsements” of the rogue team. She intentionally interfered with the Bylaws contract, and/or aided and abetted that tort.

25. The unknown Assistant and/or City Attorney (Doe Defendant #1) is presumed to be a resident of Hennepin County, and is sued in his or her individual and official capacities.

26. John Does 2-5 are reserved for additional defendants whose identities become known during discovery.

27. For purposes of immunities, the actions of government officials alleged herein constitute deliberate indifference, reckless disregard for the rights of Plaintiffs, and/or malice.

28. The City of Minneapolis is sued because its officials are sued in part in their official capacity, under the theory of *respondeat superior* for the torts, and under *Monell* theory for purposes of Section 1983 liability, because of the stature of the Council Members, either as Chief Policymakers, ratification, or other *Monell* theory of liability.

## **JURISDICTION**

The Minnesota Court System has jurisdiction over this action, pursuant to Minn. Stat. §317A.751 (Plaintiffs include more than one director, as well as more than 10% of the voting members of JACC), state common law claims, and also over the claims under 41 U.S.C. §1983.

## **VENUE**

This case is properly venued in the Fourth Judicial District Court. All elected officials who are sued reside in Hennepin County.

## FACTUAL STATEMENT

1. All of the facts alleged in the “Parties” Section above are adopted by reference.
2. The JACC Bylaws (Attachment B hereto) provide for a Board of Directors. (Att. B, Art. V). The Board is representative of the organization and its actions are binding on the organization. The Board is responsible for the overall policy and direction of JACC. Board members serve 2-year terms, but are eligible for re-election. Att. B, Art. V, Sec. 1b. The Board is to hold regular board meetings at a pre-determined time once per month. Art. V, Sec. 2d. JACC held its regular board meetings on the second Wednesday of each month. Attempts to remove Board members must, pursuant to Bylaws Art. V, Sec. 4, proceed through all 4 steps in order.
3. The JACC Bylaws also provide for Board Officers: Chair, Vice Chair, Treasurer and Secretary. (Att. B, Art. VI, Sec. 1). The immediate past Chair serves *ex officio* as the Vice Chair, by function of Bylaws, for one year. Att. B, Art. VI, Sec. 2. Pursuant to Art. VI, Sec. 2, the officers shall be elected annually by the Board of Directors. The Officers can only be removed from office by following the precise steps set forth in Art. V, Sec. 4 (Att. B, Art. VI, Sec. 3).
4. The Bylaws also provide for an Executive Committee, which is comprised of the Officers of the organization (Chair, Vice Chair, Treasurer, and Secretary). The Executive Committee is to set forth the agenda for the monthly board meetings, act in place of the full Board of Directors when deemed necessary for time-specific decisions, and other duties not specified. Att. B, Art. VI, Sec.
5. The Minneapolis City Attorney’s Office does not hold any position in JACC, and it is not the corporate counsel for JACC. JACC did not retain any attorney in the Minneapolis City Attorney’s Office to provide legal counsel to JACC or its members, and if such attorney had been interested in that role, the legitimate Executive Committee and Executive Director would

have objected on the basis of conflict of interest. The actions, legal opinions and/or persuasion of the Unknown City Attorney, and their impact in affecting the opinions of those individuals or entities that JACC does business with (and even relies upon to operate its non-profit) are obvious a this letter from Stacy Sorenson at the Minneapolis Neighborhood Revitalization Program (“NRP”). Sorenson wrote on January 16, 2009,

Dear Council Member Samuels, Council Member Johnson, and Mr. Browne:

...

Based on these events and on the advice that we have received from the Assistant City Attorney on this issue, the NRP will recognize the JACC board with its full complement of members as elected on January 12<sup>th</sup> and with the officers elected on January 14<sup>th</sup>.

Upon information and belief the Minneapolis City Attorney’s Office may provide some services to NRP. However, that Office has no authority to determine the dispute now put before this Court, as to whether the rogue team that claims election on January 14 is official, and the efforts of this “Assistant City Attorney” to persuade individuals and/or entities to aid and abet the rogue team has been part of why this is such a serious situation. Indeed, Plaintiffs allege that the rogue team has worked hand in hand with various city officials, including but not limited to those who are defendants herein, in order to effectuate the take over and claim *de facto* control of the corporation.

5.5 Although there are some contractual relations between the City and JACC, and the City has a minimal oversight function regarding funds, the City of Minneapolis does not have a role in the internal governance of JACC. The City does have, however, great power and influence due to its status as a government entity and as such the dispersal vale and sometime fiscal agent for purposes of the disbursement of federal and state funds. This power and influence was used unlawfully in this situation, with City Officials misusing their authority in order to assert their will and/or political agenda, and not for any legitimate oversight function.

6. Board Directors serve 2-year staggered terms. By the end of 2008, six board seats were up for election. Michael Browne chaired the Nominations Committee. Certain voting members were disturbed that they were not considered to be eligible to be voted for in the election, due to the Nominations Committee inventing certain “hoops” that had to be jumped through, and then essentially ensuring that certain individuals were unable timely to jump through those hoops.

7. Pursuant to Art. V, Sec. 1c of the Bylaws, JACC is to hold an annual meeting each October to elect new board members to fill all vacant seats (of those leaving the Board by virtue of their term expiring, or for other reason). The newly elected board members are then installed in November for a two-year term. Att. B, Art. V, Sec. 3. JACC held its annual meeting to elect board members to fill the six vacant seats on October 23, 2008. At the meeting, Michael Browne, who was the Chair of the Nominations Committee, and another Director alleged irregularities in the nominations process. The election was postponed to January 2009 by majority vote of the JACC members.

8. According to the JACC bylaws, Art. VI, Sec. 2, all Officers shall be elected by the Board annually during the October Board meeting. [Note that the election of Officers, according to the Bylaws, precedes the installation of the newly elected board members.] JACC’s October 2008 Board Meeting was continued to November, and Officers were duly elected on November 12, 2008. At that meeting, the Board held its annual Officer elections, and the following were duly voted in: Chair: E.B. Brown; Vice Chair (both by ex officio status pursuant to Bylaw and also voted in): Benjamin Myers; Treasurer: Bob Scott; and Secretary: Shannon Hartfiel. These Officers formed the Executive Committee, by function of the Bylaws. Pursuant to the JACC Bylaws, the newly elected Officers/Executive Committee were to serve for one year. Att. B, Art. VI, Sec. 2.

9. The JACC Executive Committee and the Executive Director Jerry Moore began to voice disagreement with the agenda of Council Members Don Samuels and Barbara Johnson about what to do with the Federal HUD monies that were flowing through the State to the Jordan neighborhood. The Executive Committee and the Jerry Moore were seen by Samuels and Johnson as a thorn in the side of their political agenda, which included control over where the monies went and which individuals and entities profited from the monies. These individuals were exercising their First Amendment rights to criticize government. They were attempting to have a voice in the way in which federal monies were going to be used in their community, an important socio-political issue.

10. Elections for the six board seats opening up were delayed until January 12, 2009. Between October 2008 to January 12, 2009, at no time did anyone, let alone the Board, take action to change the Bylaws to call for a second election of Officers within one year, or at the same time that six Board of Director seats were being filled as a matter of course (because the terms of those holdings those seats was up).

11. On January 12, 2009, elections were held from those that the Nominating Committee said were eligible. Among those elected to the board were Robert Hodson and Anne McCandless. Michael Browne, P.J. Hubbard, Robert Hodson, and Anne McCandless are closely aligned with Minneapolis Council Member Don Samuels.

12. On January 14, 2009, JACC held its monthly board meeting. During that meeting, *ultra vires*, and in violation of the Bylaws, Michael Browne and Anne McCandless led a coup and takeover of JACC. First, the Board began discussing whether to fire Jerry Moore, the Executive Director. It remains unclear whether any legitimate board action was taken on that point; at no point did the assembled group follow the requirements of the written employment agreement between Jerry Moore and JACC. When legitimately-elected Chair, still filling her one-year term, E.B. Brown began to declare that that Michael Browne and his

followers were out of order and started to disagree with Michael Browne about the termination of Jerry Moore, Michael Browne called for an immediate voice vote to oust the Chair, Vice Chair, Treasurer and Secretary. This purportedly carried on a voice vote of 8-6. The eight voting to oust the duly elected Executive Committee included the board members just elected on January 12, 2009, who are closely aligned with Don Samuels.

13. Very soon after the voice vote (which did not comply with the Bylaws for removal of Officers), the rogue group began to claim that it had authority to take action for JACC. Michael Browne, claiming to be the Chair, sent a letter instructing Jerry Moore not to take any action as ED. The rogue team called for the Ackerberg group to come change the locks on the JACC offices. The *de jure* officers were literally “locked out.”

14. The rogue team began to assemble political cover and endorsements. The rogue team has contacted the surrounding neighborhood organizations, community partners, major funders, elected officials, the police department, the media, and others claiming to be the legitimate Officers of JACC, and manipulating, misrepresenting, cajoling or otherwise coopting individuals and entities to take part in the coup, or to aid and abet it. On January 16, 2009, Council Members Barbara Johnson and Don Samuels, in their official capacities, and on City of Minneapolis letterhead, stated, “[W]e would like to congratulate and officially recognize the newly elected board and its officers of the Jordan Area Community Council (JACC).” Attachment C hereto. The letter made a list of the officers and board members, according to them. Notably, Benjamin Myers, who was Vice Chair for one year following his term as Chair, pursuant to the Bylaws, was listed in the Council Member’s letter merely as “ex officio member” and not described as an officer, at all.

15. On or about January 17, 2009, Megan Goodmundson, who has held a position as Campaign Co-Chair for Don Samuels’ political campaign(s), and who is closely aligned with Samuels in his political agenda as well as this “takeover project,” posted a notice of press

release for the “new” (rogue) Executive Committee of JACC, stating that Michael “Kip” Browne was holding a press conference (purportedly on behalf of JACC). The interlopers held this at the JACC office.

16. During that meeting, Michael Browne announced that the City Attorney had opined that the “new” board had to elect “new” officers. He did not use a name. He did not say “Assistant” City Attorney, but it is unclear whether he meant to add that qualifier. He did not explain any legitimate reason for the City Attorney’s Office to be involved, at all, in opining about the internal governance of JACC. Indeed, Browne’s statement is evidence that the Defendants intentionally interfered with the JACC Bylaws contract, and/or aided and abetted.

17. While Michael Browne held his press conference purportedly on behalf of JACC, Minneapolis Council Member Samuels stood behind him. The two were clearly working together on the “project” of the illegitimate takeover of JACC. At one point during that press conference, Don Samuels crossed the room and physically accosted a citizen who he viewed as a supporter of the *de jure* Officers (and indeed, who was trying to ask Michael Browne about whether the takeover was illegal). The citizen was removed by police, who worked to further Samuels’ stated instructions, and/or pursuant to Samuels’ status as City Council Member and Chair of the Public Safety Committee. Samuels, notwithstanding his physical accosting of a citizen trying to assert First Amendment rights, took advantage of his position as City Council Member to influence police perceptions and actions, in favor of his agenda, and against the citizen.

18. On January 20, 2009, Michael Martin, the Inspector of the Minneapolis Police Department Fourth Precinct, released an email to the Fourth Precinct Minneapolis police Supervisors, carbon copy to: Anne McCandless, Don Samuels, Barbara Johnson, and others, stating,



The Jordan Area Community Council has elected a new board and fired former Executive Director Jerry Moore. ... I want to make it very clear that MPD employees shall only work with the current, legally elected board of JACC. Former Board Chair Ben Myers and former Executive Director Jerry Moore are no longer affiliated with the Board and no longer legally represent the neighborhood. The new Board Chair is Michael "Kip" Browne.

Plaintiffs herein dispute the facts asserted in this email, and include it here only to show Martin's interference with the JACC Bylaws and/or aiding and abetting the takeover (and not for the truth of his statements). Upon information and belief, the information included in Martin's email came from Don Samuels, and that Samuels in fact asked Minneapolis Police to support his rogue team in the takeover, again, using his influence as City Council Member in order to affect police perception and actions. Upon information and belief, Martin knew about the JACC Bylaws, and knew about the unlawful takeover, yet supported Browne and the rogue team because of the influence of Samuels or other City officials.

19. The *de jure* Officers sent various cease and desist letters to the rogue team, but the rogue team refused to do so.

20. Because of the manipulation and/or control of Minneapolis Police, by the rogue team or other Defendants herein, and the position taken by Inspector Martin that police will only deal with the rogue team, the MPD will not be able to perform a neutral investigation of any issues concerning JACC, and the MPD lacks authority to make a determination of this civil dispute. Plaintiffs allege that the police department is being misused, and in an intimidating fashion, in an attempt to effectuate the coup, including thinly-veiled threats that the legitimate Officers will be arrested and/or charged with a crime.

**COUNT I**  
**(For equitable Relief under Minn. Stat. §317A.751)**  
**(Against All Defendants)**

Plaintiffs reallege all allegations in this complaint as if fully set forth herein, and allege as follows.

21. JACC has between 50-100 voting members. More than 10 voting members (10%) are plaintiffs herein. At least one director is a plaintiff (indeed, multiple directors are plaintiffs herein). Plaintiffs were prejudiced because those in “control” (albeit without authority) of the corporation have acted fraudulently, illegally, or in manner unfairly prejudicial toward one or more members in their capacities as members, directors, or officers.

22. Plaintiffs seek a declaratory judgment that that the Executive Committee (E.B. Brown, Chair; Ben Myers, Vice Chair; Bob Scott, Treasurer; and Shannon Harfiel, Secretary) are the lawful Officers and the Executive Committee of JACC, and rightfully in charge of the corporation. Plaintiffs seek a declaratory judgment that the rogue interlopers are unlawfully claiming authority over the corporation, and they, and anyone aiding and abetting them (including but not limited to Barbara Johnson, Don Samuels, Michael Martin and unnamed City Attorney(s)) must cease and desist from taking any actions in this unlawful capacity, and that all actions taken while claiming to be Officers and/or the Executive Committee of JACC, were *ultra vires* and null and void *ab initio*.

23. Plaintiffs seek attorney fees, costs and disbursements, in addition to equitable relief, at least initially, a declaratory judgment that the legitimate Officers are the Officers and comprise the Executive Committee. Dissolution is not requested, and Plaintiffs allege that lesser relief would be adequate to permanently relieve the circumstances established herein.

**COUNT II**  
**(Intentional Interference with Contract)**

Plaintiffs reallege all allegations in this complaint as if fully set forth herein, and allege as follows.

24. JACC’s Bylaws, and Jerry Moore’s employment contract with JACC existed; and Defendants knew of the existence of the Bylaws, and the existence of Jerry Moore’s employment contract with JACC. Defendants Michael Browne, P.J. Hubbard, Robert Hodson, Anne McCandless procured the breach of the Bylaws contract. Michael Browne, P.J. Hubbard,

Robert Hodson, and Anne McCandless intentionally procured the breach of Jerry Moore's employment contract. None of these Defendants were justified in these actions/procurement of breach, and indeed, the reason for terminating Jerry Moore was his effectiveness as an ED that disagreed with the City Officials, or who was effectuating disagreements that the JACC Officers had with the City Officials. Any other basis stated for Moore's termination by the rogue team is pretext. The Defendants were damaged, Jerry Moore by losing his employment and/or other damages pursuant to the breach of the contract and failure to follow its terms, and Plaintiff members, Directors and Officers were damaged in that they lost their ability to do as they saw fit for JACC, and the community in which they lived.

25. Damages were proximately caused by the conduct of Defendants, and Plaintiffs are entitled to judgment and compensatory damages in excess of \$50,000, as well as costs and disbursements herein.

**COUNT III**  
**(Aiding and abetting the Tortious Conduct of Another)**

Plaintiffs reallege all allegations in this complaint as if fully set forth herein, and allege as follows.

26. The primary tortfeasors (Michael Browne, P.J. Hubbard, Robert Hodson, and Anne McCandless, the "rogue takeover team") committed a tort that caused injury to Plaintiffs (see above). Barbara Johnson, Don Samuels, Unknown City Attorney Doe #1, and Michael Martin knew that the conduct of those four on the rogue takeover team constituted a breach of the duty, and these Defendants substantially assisted the primary tortfeasors in the achievement of the breach.

27. Damages were proximately caused by the conduct of these Defendants, and Plaintiffs are entitled to judgment and compensatory damages in excess of \$50,000, as well as costs and disbursements herein.

**COUNT IV**  
**Violation of 42 U.S.C. §1983**  
**(Against Defendants Don Samuels, Barbara Johnson and Michael Martin)**

Plaintiffs reallege all allegations in this complaint as if fully set forth herein, and allege as follows.

28. This claim arises under Title 42 of the United States Code (Civil Rights Act of 1964, as amended), including but not limited to §1983.

29. Defendants acted alone and/or together (two or more in concert), and one or more of them committed some act to violate Plaintiffs rights, and Plaintiffs were damaged, prejudiced in their roles as active citizens attempting to have some control over their neighborhood, and as acting as they saw best behooved the neighborhood, in their capacities as Directors/Officers/Executive Committee of JACC, which included speaking out on issues even if they challenge City Council Member political agendas, and/or desires regarding who got the federal funds, and how it was used.

30. Defendants deprived Plaintiffs of their rights, privileges, and immunities secured by the United States Constitution, and specifically the Fourteenth and First Amendments to the United States Constitution, in conjunction with other rights, which grant the Plaintiffs the right to express their views, criticize government, and petition government for redress of just grievances.

31. Defendants Samuels, Johnson and Martin (and each of them) knew they were violating the federal law and constitutional rights of Plaintiffs and/or acted with intent and/or deliberate indifference to the rights of Plaintiffs as noted above, or with malice. The Defendants acted under color of law of a statute, ordinance, regulation, resolution, policy, custom or usage when they deprived Plaintiffs of their Constitutional rights, privileges, and

immunities. Defendants acted with reckless disregard or with deliberate indifference to the rights of Plaintiffs, or they acted with intent to harm.

32. As a direct and proximate result of the Defendants' conduct (some of which was perpetrated by Chief Policymakers), inaction, policy or customs as set forth in more detail above, Plaintiffs suffered the deprivation of his/her constitutional and/or federal statutory rights and suffered humiliation, mental anguish and suffering, and emotional distress, and Plaintiffs were prevented from exercising their right to freedom of expression/to speak, at a crucial time in the decision about how to use the federal funds, which gave an advantage to Samuels and that faction of the City Council that wanted to use the funds in that particular way.

33. The timing is extremely short for the decision process of how to utilize these federal funds, and decisions are being made at a rapid rate. Plaintiffs therefore seek to enjoin the Defendants from taking further action to stifle their speech, including their speech in their rightful roles as Directors, Officers and/or voting members of JACC.

34. By reason of the foregoing, Plaintiffs are entitled to a negative injunction against Defendants, prohibiting them from further harassing, threatening, retaliating, intimidating, or preventing Plaintiffs' expression or speech, and judgment for damages (including compensatory, nominal, presumed and/or punitive damages) and costs and attorney fees, in excess of \$50,000.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pray for relief in the form of an injunction against Defendants, and each of them, and/or as follows:

1. Equitable relief as requested above, and pursuant to the Court's authority under Minn. Stat. §317A.751, and for declaratory judgment pursuant to Minn. Chap. 555, as well as attorney fees, costs and disbursements for having to bring this action;

2. Damages in excess of \$50,000;

3. Interest on the aforesaid amounts, as well as costs and disbursements;

4. Issuing a temporary and/or permanent negative injunction prohibiting Defendants, or any others who have or would facilitate them, from: i) presenting the rogue takeover team as the Officers of JACC; ii) taking actions on behalf of JACC as if they were the Officers; and iii) interfering with the exercise of First Amendment rights of Plaintiffs and other similarly situated.

5. Plaintiffs seek punitive damages on all federal claims for those defendants for which a demand for punitive damages can lie.

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Plaintiffs hereby demand a trial by jury on all applicable Counts. Plaintiffs reserve the right to amend to add a claim for punitive damages under State law.

Dated: January 28, 2009

**ATTORNEYS FOR PLAINTIFFS  
JILL CLARK, P.A.**

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## **ACKNOWLEDGEMENT**

The undersigned hereby acknowledged that, pursuant to Minn. Stat. § 549.21, Subd. 2, costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party of parties in this litigation if the Court should find that the undersigned acted in bad faith, asserted a claim or defense that is frivolous and that is costly to the other party, asserted an unfounded position solely to delay the ordinary course of the proceedings or to harass, or committed a fraud upon the Court.

Dated: January 28, 2009

**ATTORNEYS FOR PLAINTIFFS  
JILL CLARK, P.A.**

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