

<p>STATE OF MINNESOTA</p> <p>COUNTY OF HENNEPIN</p> <p>Douglas Benson, Duane Gajewski, Jessica Dykhuis, Lindzi Campbell, Sean Campbell, Thomas Trisko and John Rittman, Plaintiffs,</p> <p>v.</p> <p>Jill Alverson, in her official capacity as the Hennepin County Local Registrar and State of Minnesota Defendants,</p> <p>and</p> <p>Minnesota Family Council, Proposed Defendant-Intervenor</p> <hr/>	<p>DISTRICT COURT</p> <p>FOURTH JUDICIAL DISTRICT</p> <p>Court File No. 27 CV 10 11697</p> <p>Case Type: Other Civil</p> <p>PLAINTIFFS' NOTICE OF TAKING OF DEPOSITION OF MINNESOTA FAMILY COUNCIL IN ACCORDANCE WITH MINN. R. CIV. P. 30.02(f)</p>
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TO PROSPECTIVE DEFENDANT-INTERVENOR MINNESOTA FAMILY COUNCIL, BY AND THROUGH COUNSEL, PLEASE TAKE NOTE:

Pursuant to Minn. R. Civ. P. 26, 30, 30.02(f), 33.01, 34.01, and 37.01 – 37.04, plaintiff notes the taking of the deposition of such witness(es) of the Minnesota Family Council, a nonprofit corporation under the laws of Minnesota and designated as a nonprofit corporation under section 501(c)(4) of the Internal Revenue Code, in accordance with Minn. R. Civ. P. 30.02(f), at the law office of Peter J. Nickitas Law Office, LLC, 431 S. 7th St., Suite 2446, 24th Floor Conference Room, Minneapolis, Minnesota 55415, at 2:00 p.m., 6 October 2010. The deposition shall take place before a

licensed court reporter, an officer authorized to administer affirmations and oaths, and a videographer.

In designating person(s) to appear for deposition under Minn. R. Civ. P. 30.02(f), defendant must make a “conscientious, good-faith endeavor to designate persons having knowledge of matters sought by [the interrogator].” See Protective Nat’l Ins. Co. of Omaha v. Commonwealth Ins. Co., 137 F.R.D. 267, 278 (D. Neb. 1989) (Fed. R. Civ. P. 30(b)(6)). If Defendant fails to designate “person(s)” with knowledge, sanctions may be imposed. See Arctic Cat, Inc. v. Injection Research Specialists, Inc., 210 F.R.D. 680, 682 - 83 (D. Minn. 2002) (Erickson, M.J.) (costs imposed for enduring [Fed. R. Civ. P.] 30(b)(6) deposition “predestined for failure”). If the defendant fails to designate prepared witnesses, defendant may be required to redesignate witness(es) to answer questions about the described area of inquiry. See FDIC v. Butcher, 116 F.R.D. 196, 201 - 02 (E.D. Tenn. 1996) (FDIC ordered to redesignated 30(b)(6) witnesses). Defendant’s duty to designate prepared Rule 30(b)(6) witness(es) is analogous to the Rule 33 duty to answer interrogatories directly and without evasion. See In re Analytical Systems, Inc., 71 B.R. 408, 412 - 13 (Bankr. N.D. Ga. 1987) (Rule designed to “curb the bandying’ by which officers or managing agents of a corporation are deposed in turn, but disclaim knowledge of facts that are clearly known by someone in the organization and thereby to the corporation[;]” motion to compel granted).

Defendant must not only produce such number of persons as will satisfy the request, but must also prepare them so that they may give complete, knowledgeable, and binding answers on behalf of the organization. See Prokosch v. Catalina Lighting, Inc.,

193 F.R.D. 633, 638 (D. Minn. 2000) (Erickson, M.J.) (mutual obligation under Rule 30(b)(6) for painstakingly specific questions and complete, unevasive, and binding answers). Defendant's duty to prepare its designee(s) so that they can give knowledgeable and binding answers attaches not just to matters personally known to the designee(s), but also to subjects that the organization should reasonably know. See Hooker v. Norfolk So. Ry. Co., 204 F.R.D. 124, 126 (S.D. Ind. 2001)(motion to compel 30(b)(6) depositions granted); Poole ex rel. Elliot v. Textron, Inc., 192 F.R.D. 494, 504 - 05 (D. Md. 2000) (failure of corporate spokesman in identified areas not inquiring party's problem; award of 75% of attorney time and costs granted).

The scope of the deposition is not limited to the matters specified in the Notice of Deposition, but is limited only as provided generally in Minn. R. Civ. P. 26.02. The matters set forth in the deposition notice therefore constitute the minimum, not the maximum, about which the deponent(s) must be prepared to speak. See Detoy v. City and County of San Francisco, 196 F.R.D. 362, 366 - 67 (N.D. Cal. 2000)(once 30(b)(6) obligation is met, the scope of inquiry only limited by Fed. R. Civ. P. 26(b)(1).

Progressive American Ins. Co. shall be referred to as "Progressive" throughout this notice.

In accordance with Minn. R. Civ. P. 30.02(f) and 26.02, the designated Rule 30.02(f) witness(es) shall be required to provide full and truthful answers, without limitation, to the following questions, and provide the following documents:

INTERROGATORIES

Questions for Minnesota Family Council Deposition – 10/06/10

1. Identify all individual members of the Minnesota Family Council. You may respond with a current membership list.
2. State whether the Minnesota Family Council is a membership organization.
3. State the mission of the Minnesota Family Council.
4. Identify the tax-exempt status of the Minnesota Family Council.
5. Identify the members of the board of directors of the Minnesota Family Council.
6. Identify all officers of the Minnesota Family Council.
7. State the annual membership fee for a member of the Minnesota Family Council.
8. State the date on which the first election for members of the Board of Directors of the Minnesota Family Council took place.
9. Identify the number of individuals who cast votes in said election.
10. State the date on which the most recent election for members of the Board of Directors of the Minnesota Family Council took place.
11. Identify the number of individuals who cast votes in said election.
12. Identify the five largest sources of income for the Minnesota Family Council in 2009.
13. Identify the five largest sources of income for the Minnesota Family Council in 2010.
14. What studies does the Council cite to claim that children fare better in households with opposite-sex parents than same-sex parents?
15. Who are the authors?
16. In what publications do these studies appear?
17. What tests of these studies has taken place?

18. What is the error rate for these studies?
19. What peer review has taken places in connection with these studies?
20. Who conducted the peer review?
21. Describe the context of the claimed peer reviews.
22. Describe the manner in which the marriages of Minnesota Family Council members are harmed by same-sex marriages.
23. Described the harm to heterosexual marriages in Massachusetts, Vermont, Connecticut, New Hampshire, and Iowa that has taken place since recognition of same-sex marriage in each state.
24. Set forth data that demonstrate a correlation between change in heterosexual divorce rates and the recognition of same-sex marriages in any state.
25. Set forth data that eliminate independent variables as cause(s) for change in heterosexual divorce rates.
26. Set forth data that demonstrate a correlation between change in juvenile delinquency rates and the recognition of same-sex marriages in any state.
- 27 Set forth data that eliminate independent variables as cause(s) for change in juvenile delinquency rates.
28. Set forth data that demonstrate a correlation between change in births out of wedlock and the recognition of same-sex marriages in any state.
29. Set forth data that eliminate independent variables as cause(s) for change in births out of wedlocks in states that recognize same-sex marriages.
30. Set forth data that eliminate independent variables as cause(s) for change in births out of wedlocks of Caucasian babies in states that recognize same-sex marriages.

31. Set forth data that demonstrate a correlation between increased incidence of criminal sexual conduct and recognition of same-sex marriages in any state.
32. Set forth data that eliminate independent variables as cause(s) of increased incidence of criminal sexual conduct in states that recognize same-sex marriage.
33. Set forth data that demonstrate a correlation between increased incidence of pedophilia and recognition of same-sex marriages in any state.
34. Set forth data that eliminate independent variables as cause(s) of increased incidence of pedophilia in states that recognize same-sex marriage.
35. Specify the harm that will inure to any Minnesota Family Council member's freedom of speech from the adoption of same-sex marriage in Minnesota.
36. Specify the harm that will inure to any Minnesota Family Council member's freedom of peaceful exercise of conscience from the adoption of same-sex marriage in Minnesota.
37. Specify the harm that will inure to any Minnesota Family Council member's right to self-determination from the adoption of same-sex marriage in Minnesota.
38. Specify the harm that will inure to any Minnesota Family Council member's right to peaceful intimate association from the adoption of same-sex marriage in Minnesota.
39. Identify any and all Minnesota Family Council members who will divorce should Minnesota allow same-sex marriage.
40. Identify any and all Minnesota Family Council members who will not marry should Minnesota adopt same-sex marriage.
41. Identify any and all Minnesota Family Council members who will not have children should Minnesota adopt same-sex marriage.

42. Identify any and all Minnesota Family Council members who will lose their homes should Minnesota adopt same-sex marriage.
43. Identify any and all Minnesota Family Council members who will lose their jobs should Minnesota adopt same-sex marriage.
44. Define the property interest of Minnesota Family Council in the Minnesota Defense of Marriage Act.
45. Define the transactional interest of Minnesota Family Council in the Minnesota Defense of Marriage Act.
46. Set forth specific facts that show that the outcome of this present lawsuit will prohibit Minnesota Family Council from campaigning for a state constitutional amendment that bans same-sex marriage in Minnesota.
47. Identify each and every collusive act known to Minnesota Family Council, its attorneys, its members, or its agents, between plaintiffs and Jill Alverson.
48. Identify each and every collusive act known to Minnesota Family Council, its attorneys, its members, or its agents, between plaintiffs and the Hennepin County Attorney.
49. Identify each and every collusive act known to Minnesota Family Council, its attorneys, its members, or its agents, between plaintiffs and the Attorney General.
50. Identify each and every collusive act known to Minnesota Family Council, its attorneys, its members, or its agents, between plaintiffs and the Solicitor General.
51. Set forth the sum of money that the Minnesota Family Council has spent to date on television ads that compare and contrast Messrs. Dayton's, Horner's, and Emmer's stands on same-sex marriage.

52. Set forth specific facts that show that this lawsuit injures the ability of the members of the Minnesota Family Council to participate in state or national elections in 2010.
53. Set forth specific facts that show that this lawsuit injures the ability of the members of the board of Minnesota Family Council to participate in state or national elections in 2010.
54. Set forth specific facts that show that this lawsuit injures the ability of the Minnesota Family Council to participate in state or national elections in 2010.
55. Set forth data that detail monetary contributions from Alliance Defense Fund to Minnesota Family Council in 2009.
56. Set forth data that detail monetary contributions from Alliance Defense Fund to Minnesota Family Council in 2010.
57. Set forth data that detail monetary contributions from Minnesota Family Initiative to Minnesota Family Council in 2009.
58. Set forth data that detail monetary contributions from Minnesota Family Initiative to Minnesota Family Council in 2010.
59. Define the term “demographic winter”.
60. What criteria establish the existence of “demographic winter”.
61. What makes “demographic winter” an issue that concerns Minnesota Family Council.
62. Define the injury that “demographic winter” inflicts upon any and every specific individual member of the Minnesota Family Council.
63. Define the injury that “demographic winter” inflicts upon the board members of the Minnesota Family Council.
64. Define the injury that “demographic winter” inflicts upon the officers of the Minnesota Family Council.

65. Define the injury that “demographic winter” inflicts upon the Minnesota Family Council as an entity.
66. Set forth the manner by which same-sex marriage causes “demographic winter”.
67. Identify nations that currently experience “demographic winter”.
68. Identify states of the United States that currently experience “demographic winter”.
69. By what measure do the states named in Question 68 suffer “demographic winter”?
70. By what measure does Minnesota suffer “demographic winter”?
71. By what measure will adoption of same-sex marriage cause, or contribute to, “demographic winter” in Minnesota?
72. Set forth all facts that define Minnesota Family Council as a membership organization as opposed to a local chapter of a national litigation organization.
73. Set forth in specific detail the amount by which the state taxes of any Minnesota Family Council member will increase as the result of adoption of same-sex marriage in Minnesota.
74. Set forth in specific detail the amount by which the local taxes of any Minnesota Family Council member will increase as the result of adoption of same-sex marriage in Minnesota.
75. Set forth in specific detail the injury that same-sex marriage inflicts upon any specific member of the Minnesota Family Council that did not exist in the case of *Lilly v. City of Minneapolis*, 527 N.W.2d 107 (Minn. Ct. App. 1995), review denied, (Minn. Mar. 29, 1995).
76. Set forth in specific detail the injury that same-sex marriage inflicts upon the Minnesota Family Council that did not exist in the case of *Lilly v. City of Minneapolis*, 527 N.W.2d 107 (Minn. Ct. App. 1995), review denied, (Minn. Mar. 29, 1995).

Requests for Production of Documents

1. All data that set forth the current membership list of the Minnesota Family Council.

2. The IRS Form 990 of the Minnesota Family Council from 2009.
3. The IRS Form 990 of the Minnesota Family Council from 2010.
4. The articles of incorporation of the Minnesota Family Council.
5. The by-laws of the Minnesota Family Council.
6. The articles of incorporation of the Minnesota Family Institute.
7. The by-laws of the Minnesota Family Institute.
8. Tangible data that respond to questions above.
9. Tangible data that identify Minnesota Family Council as a membership organization in contrast to a local chapter of a national litigation organization.
10. All reports filed by the Minnesota Family Council, its agents, its employees, or its representatives in accordance with Chapter 10A of the Minnesota Statutes, with specific but not limited regard to Minn. Stat. §§ 10A.02, 10A.025, 10.027, 10A.03, 10A.04, 10A.05, 10A.07, 10A.08, and 10A.09.

DATED: September 28, 2010.

Respectfully submitted:

PETER J. NICKITAS LAW OFFICE, LLC

/s/ Peter J. Nickitas

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