

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

CASE TYPE: Civil - Other

David Feinwachs,

Court File No.: _____

Plaintiff,

v.

**DEFENDANT MINNESOTA
COUNCIL OF HEALTH PLANS'
ANSWER TO COMPLAINT**

Minnesota Council of Health Plans,

Defendant.

Defendant Minnesota Council of Health Plans (“MCHP”), for its Answer to Plaintiff’s Complaint, admits, denies, and alleges as follows:

FIRST DEFENSE

In response to each of the numbered paragraphs of the Complaint, MCHP answers as follows:

1. MCHP is without information sufficient to admit or deny the allegations contained in Paragraph 1 of the Complaint.
2. With respect to the allegations contained in Paragraph 2 of the Complaint, MCHP admits that it is a trade association with a membership comprised of licensed nonprofit health plans, which include Blue Cross Blue Shield/Blue Plus of Minnesota, HealthPartners, Medica, Metropolitan Health Plan, PreferredOne, Sanford Health Plan and UCare. MCHP’s mission is to promote the delivery of high-quality, affordable, and accessible health care and strengthen Minnesota’s position as one of the nation’s healthiest states, including through lobbying at the Minnesota legislature.

3. With respect to the allegations contained in Paragraph 3 of the Complaint, MCHP admits that Julie Brunner is MCHP's Executive Director and one of its registered lobbyists.

4. With respect to the allegations contained in Paragraph 4 of the Complaint, MCHP admits, upon information and belief, that Plaintiff was general counsel for the Minnesota Hospital Association (MHA). MCHP never employed Plaintiff, so it is without information sufficient to admit or deny the remaining allegations contained in Paragraph 4 of the Complaint.

5. With respect to the allegations contained in the first sentence of Paragraph 5 of the Complaint, MCHP admits, upon information and belief, that the MHA is a nonprofit trade association with a membership comprised of hospitals. With respect to the allegations contained in the remaining sentences of Paragraph 5 of the Complaint, MCHP alleges that Plaintiff purports to quote documents that presumably speak for themselves. To the extent that Plaintiff's allegations differ from the explicit terms of the documents themselves, Plaintiff's allegations are denied.

6. MCHP is without information sufficient to admit or deny the allegations contained in Paragraph 6 of the Complaint. These allegations concern Plaintiff's work for a third party. MCHP never employed Plaintiff.

7. MCHP is without information sufficient to admit or deny the allegations contained in Paragraph 7 of the Complaint. These allegations concern Plaintiff's work for a third party and his characterizations of his work for a third party. MCHP never employed Plaintiff.

8. With respect to the allegations contained in Paragraph 8 of the Complaint, MCHP admits, upon information and belief, that Lawrence Massa is currently the President and Chief Executive Officer of MHA.

9. MCHP is without information sufficient to admit or deny the allegations

contained in the first sentence of Paragraph 9 of the Complaint. These allegations concern a third party. With respect to the allegations contained in the second sentence of Paragraph 9 of the Complaint, MCHP admits, upon information and belief, that Minnesota's Pre-Paid Medical Assistance Program (PMAP) began in 1983. MCHP further admits that, under PMAP, the State of Minnesota contracts with and makes capitated payments to health plans to deliver health care to eligible recipients, and that health plans pay health care providers for medical services provided to eligible recipients under Medicaid/Medical Assistance. With respect to the allegations contained in the third sentence of Paragraph 9 of the Complaint, MCHP admits, upon information and belief, that prior to 1983, the State of Minnesota administered Medical Assistance by paying fees for services directly to health care providers. With respect to the allegations contained in the fourth sentence of Paragraph 9 of the Complaint, MCHP alleges, upon information and belief, that the PMAP program, under which the State of Minnesota contracts with health plans for the delivery of health care to eligible recipients, was designed to improve access to providers for recipients of Medicaid/Medical Assistance, to improve health outcomes for recipients, and to save the State of Minnesota money. MCHP denies the remaining allegations in Paragraph 9 of the Complaint.

10. With respect to the allegations contained in the first sentence of Paragraph 10 of the Complaint, MCHP admits that the State of Minnesota has made annual capitated payments to health plans to deliver health care under PMAP. The amounts of those payments are available through the Department of Human Services. MCHP denies the allegations contained in the second sentence of Paragraph 10 of the Complaint. MCHP is without information sufficient to admit or deny the allegations contained in the third sentence of Paragraph 10 of the Complaint. These allegations concern a third party.

11. MCHP is without information sufficient to admit or deny the allegations contained in the first sentence of Paragraph 11 of the Complaint. These allegations concern the actions of a third party. With respect to the allegations contained in the second sentence of Paragraph 11 of the Complaint, MCHP admits that Plaintiff testified on February 23, 2010, in support of a bill amendment that was introduced in the Minnesota House of Representatives by Minnesota State Representative Jim Abeler during the 2010 regular legislative session. With respect to the allegations contained in the third sentence of Paragraph 11 of the Complaint, MCHP alleges that the bill amendment introduced by Representative Abeler is a document that presumably speaks for itself. To the extent that Plaintiff's allegations differ from the explicit terms of the document itself, Plaintiff's allegations are denied. With respect to the allegations contained in the fourth sentence of Paragraph 11 of the Complaint, MCHP alleges that Representative Abeler withdrew his proposed bill amendment the same day it was introduced.

12. MCHP denies the allegations contained in the first sentence of Paragraph 12 of the Complaint, but affirmatively states that Ms. Brunner believed Plaintiff was distorting the health plans' position and the facts regarding the PMAP program. MCHP admits that Ms. Brunner met with Mr. Massa at some point after the hearing on the bill amendment introduced by Representative Abeler, but denies that Ms. Brunner told Mr. Massa to prohibit Plaintiff from testifying at the legislature and denies the other remaining allegations contained in the second sentence of Paragraph 12 of the Complaint. MCHP denies the allegations contained in the third sentence of Paragraph 12 of the Complaint. MCHP is without information sufficient to admit or deny the allegations contained in the fourth sentence of Paragraph 12 of the Complaint. These allegations concern the actions of a third party.

13. With respect to the allegations contained in the first sentence of Paragraph 13 of

the Complaint, MCHP admits that Plaintiff was present at several hearings during the 2010 regular legislative session (which ended on May 16, 2010, not May 31, 2010, as alleged in the Complaint), denies that Ms. Brunner instructed or insisted that Plaintiff be prohibited from testifying at the legislature, and is without information sufficient to admit or deny the allegations concerning any instructions he may have received from a third party. With respect to the allegations contained in the second sentence of Paragraph 13 of the Complaint, MCHP admits that Ms. Brunner remarked to Mr. Massa that Plaintiff was pacing in the back of the hearing room similar to how an expectant father would pace.

14. MCHP admits, upon information and belief, the allegations contained in the second sentence of Paragraph 14 of the Complaint. MCHP is without information sufficient to admit or deny the remaining allegations contained in Paragraph 14 of the Complaint. These allegations concern the actions of third parties.

15. MCHP is without information sufficient to admit or deny the allegations contained in the first sentence of Paragraph 15 of the Complaint. These allegations concern interactions between Plaintiff and a third party and the actions of Plaintiff. With respect to the remaining allegations contained in Paragraph 15 of the Complaint, MCHP alleges that Plaintiff purports to summarize a video allegedly produced by Plaintiff that presumably speaks for itself. To the extent that Plaintiff's allegations summarizing the video allegedly produced by Plaintiff differ from the explicit content of the video itself, Plaintiff's allegations are denied.

16. With respect to the allegations contained in the first sentence of Paragraph 16 of the Complaint, MCHP admits that Ms. Brunner met with Mr. Massa on August 18, 2010, but denies that Ms. Brunner complained about the content of the video referenced in Paragraph 15 of the Complaint. MCHP did not learn about the video referenced in Paragraph 15 of the

Complaint until October. With respect to the allegations contained in the second sentence of Paragraph 16 of the Complaint, MCHP denies that Ms. Brunner instructed or insisted that the MHA disengage from the MPC. MCHP is without information sufficient to admit or deny the remaining allegations contained in Paragraph 16 of the Complaint. These allegations concern the actions of Plaintiff and a third party.

17. MCHP is without information sufficient to admit or deny the allegations contained in the first and second sentences of Paragraph 17 of the Complaint. These allegations concern the actions of Plaintiff and third parties. With respect to the allegations contained in the third sentence of Paragraph 17 of the Complaint, MCHP alleges that Plaintiff purports to refer to a video allegedly produced by Plaintiff that presumably speaks for itself. To the extent that Plaintiff's allegations regarding the video allegedly produced by Plaintiff differ from the explicit content of the video itself, Plaintiff's allegations are denied. MCHP further denies Plaintiff's characterization of the August 2010 report of the United States Government Accountability Office (mistakenly referred to in the Complaint as the "General Accounting Office"), a document that presumably speaks for itself and does not discuss or concern the PMAP program in Minnesota or Minnesota health plans. To the extent that Plaintiff's allegations regarding the document differ from the explicit terms of the document itself, Plaintiff's allegations are denied.

18. With respect to the allegations contained in the first sentence of Paragraph 18 of the Complaint, MCHP admits that Ms. Brunner met with Plaintiff and Mr. Massa on September 8, 2010, in Mr. Massa's office. MCHP is without information sufficient to admit or deny the allegations contained in the second sentence of Paragraph 18 of the Complaint. These allegations concern the actions of a third party. With respect to the allegations contained in the third sentence of Paragraph 18 of the Complaint, MCHP denies that Ms. Brunner said the words

attributed to her (“If we go down, we’re taking you with us”), and affirmatively states that Ms. Brunner recalls saying words to the effect that Plaintiff’s position was not in the best interest of the constituents of either the MCHP or the MHA. With respect to the allegations contained in the fourth sentence of Paragraph 18 of the Complaint, MCHP denies that Ms. Brunner said the words attributed to her (Plaintiff was “bad mouthing her to legislators”). With respect to the allegations contained in the seventh sentence of Paragraph 18 of the Complaint, MCHP denies that Ms. Brunner said the words attributed to her (“I will do whatever it takes to protect our members”). MCHP denies the allegations contained in the remaining sentences of Paragraph 18 of the Complaint.

19. MCHP is without information sufficient to admit or deny the allegations contained in Paragraph 19 of the Complaint. These allegations concern the actions of Plaintiff and a third party.

20. With respect to the allegations contained in the first and second sentences of Paragraph 20 of the Complaint, MCHP alleges that Plaintiff purports to quote a document that presumably speaks for itself. To the extent that Plaintiff’s allegations differ from the explicit terms of the document itself, Plaintiff’s allegations are denied. MCHP admits the allegations contained in the last sentence of Paragraph 20 of the Complaint.

21. With respect to the allegations contained in the first sentence of Paragraph 21 of the Complaint, MCHP admits that Blue Cross Blue Shield, HealthPartners, and Medica are among the largest nonprofit organizations in Minnesota. With respect to the allegations contained in the second sentence of Paragraph 21 of the Complaint, MCHP denies that health plans have unaudited and unregulated control over public health care program money. Three state agencies and a federal agency all ensure health plans are accountable through numerous

independent audits, regular reports, and requests for information. Information about how health care dollars are spent is publicly available through the Minnesota Department of Health, Minnesota Department of Human Services, Minnesota Department of Commerce, and U.S. Centers for Medicare & Medicaid Services. For example, health plans serving Minnesotans enrolled in public health care programs provide the Department of Human Services with more than 205 reports every year. MCHP denies the remaining allegations contained in Paragraph 21 of the Complaint.

22. MCHP is without information sufficient to admit or deny the allegations contained in Paragraph 22 of the Complaint. These allegations concern the actions of a third party. With respect to the allegations contained in the fourth sentence of Paragraph 22 of the Complaint, MCHP alleges that Plaintiff purports to quote a document that presumably speaks for itself. To the extent that Plaintiff's allegations differ from the explicit terms of the document itself, Plaintiff's allegations are denied.

23. MCHP is without information sufficient to admit or deny the allegations contained in Paragraph 23 of the Complaint. These allegations concern the actions of a third party. Further, MCHP alleges that Plaintiff purports to quote a document that presumably speaks for itself. To the extent that Plaintiff's allegations differ from the explicit terms of the document itself, Plaintiff's allegations are denied.

24. MCHP is without information sufficient to admit or deny the allegations contained in Paragraph 24 of the Complaint. These allegations concern the actions of a third party.

25. MCHP denies the allegations contained in Paragraph 25 of the Complaint. Moreover, these allegations contain a legal conclusion as to which no response is required.

26. MCHP denies the allegations contained in the first sentence of Paragraph 26 of the Complaint. With respect to the allegations contained in the second sentence of Paragraph 26 of the Complaint, MCHP alleges that, at a Republican fundraising event on December 1, 2010, during a conversation with a friend who lived across the street from Plaintiff, Kathryn Kmit privately expressed that she and other MCHP staff members had personal safety concerns regarding Plaintiff because he was publicly blaming the MCHP's members (health plans) for the termination of his employment with the MHA, and because of his expressed interest in guns.

27. With respect to the allegations contained in the first sentence of Paragraph 27 of the Complaint, MCHP admits that Ms. Brunner, Nancy Feldman, and Ghita Worchester met with Minnesota State Senator John Marty. With respect to the allegations contained in the second sentence of Paragraph 27 of the Complaint, MCHP alleges that Ms. Brunner recalls saying something to the effect that she believed Plaintiff was relying on inaccurate facts and that he was "using" Senator Marty.

28. MCHP is without information sufficient to admit or deny the allegations contained in Paragraph 28 of the Complaint.

**COUNT ONE: INTENTIONAL INTERFERENCE
WITH A BUSINESS RELATIONSHIP**

29. In response to Paragraph 29 of the Complaint, MCHP incorporates and adopts by reference Paragraphs 1-28 of this Answer.

30. MCHP states that the allegations in Paragraph 30 of the Complaint contain a legal conclusion as to which no response is required. MCHP nevertheless denies the allegations in Paragraph 30 of the Complaint.

31. MCHP states that the allegations in Paragraph 31 of the Complaint contain a legal conclusion as to which no response is required. MCHP nevertheless denies the allegations in

