



The Office of
Minnesota Attorney General Keith Ellison
helping people afford their lives and live with dignity, safety, and respect • www.ag.state.mn.us

May 21, 2025

The Honorable Leonardo Castro
Ramsey County District Court
15 Kellogg Boulevard West
St. Paul, MN 55102

Re: *Minnesota Gun Owners Caucus v. Walz, et al.*, Court File No. 62-cv-25-1083

Dear Judge Castro:

The Minnesota Gun Owner's Caucus sued several government officials because they believe the 2024 Omnibus bill violates Minnesota's single-subject clause. MGOC specifically challenges the Binary Trigger Amendment, which clarifies the definition of a "trigger activator." Trigger activators are criminally banned in Minnesota. Minn. Stat. § 609.67.

MGOC brought a pre-discovery summary judgment motion. Defendants opposed. As relevant here, MGOC relied on associational standing but did not submit declarations from any member attesting that they were harmed by the Binary Trigger Amendment. The Court then directed MGOC to submit such declarations for *in camera* review. Defendants noted that they should be allowed to view the declarations as well, subject to an appropriate protective order. MGOC disagreed, and the Court ordered a discovery conference for May 23, 2025, at 11:00 a.m.

Defendants appreciate MGOC's concerns about publicly disclosing its members' identities since members may be concerned that they could be prosecuted for owning criminally banned devices. But this concern can be resolved by protecting MGOC's member declarations under an Attorneys' Eyes Only ("AEO") designation. This way, Defendants may access information within the member declarations to understand and be able to test the facts that MGOC relies on in seeking judgment against Defendants. That right is fundamental to the adversarial system. *See* Minn. R. Civ. P. 26.02(b).

Associational standing requires that the members on whose behalf suit is brought "would [] have standing in their own right." *Minn. Voters All. v. Hunt*, 10 N.W.3d 163, 170 (Minn. 2024) (quotations removed). So those members must be treated like a party to the lawsuit. *See Do No Harm v. Pfizer Inc.*, 96 F.4th 106, 117 (2d Cir. 2024) *vacated and superseded on reh'g on other grounds*, 126 F.4th 109 (2d Cir. 2025). That means that members must be named at summary judgment. *Religious Sisters of Mercy v. Becerra*, 55 F.4th 583, 602 (8th Cir. 2022).

Identifying members with standing is necessary for the Court's assessment of jurisdiction, to be sure. *See Clapp v. Sayles-Adams*, 15 N.W.3d 648, 652 (Minn. 2025). But it is also important for Defendants' ability to test those facts through discovery. That is why courts rarely allow parties to proceed by pseudonym, and even more rarely allow a party's identity to be hidden from opposing parties and their counsel. *See Murphy v. Harpstead*, 2022 WL 17960690, at *1-2 (D.

The Honorable Leonardo Castro
May 21, 2025
Page 2

Minn. Dec. 27, 2022) (noting the court identified no case in which Minnesota's federal court allowed a plaintiff to conceal their identity from the parties and the parties' counsel at the later stages of a case and denying class settlement objectors the ability to do so); *see also In re Anonymous Online Speakers*, 661 F.3d 1168, 1176-7 (9th Cir. 2011) (requiring disclosure of identities of anonymous political speakers for discovery purposes subject to a protective order); *Does I-XXIII v. Adv. Textile Corp.*, 214 F.3d 1058, 1069 (9th Cir. 2000) (noting the importance of balancing anonymity with opposing party's ability to litigate the case as a case progresses); *Does v. Rodriguez*, 2007 WL 684114, at *3 (D. Colo. Mar. 2, 2007) (allowing plaintiffs to proceed anonymously at a case's early stages only where they were willing to engage in discovery). Defendants are not aware of any authority supporting the idea that summary judgment would be appropriate when one of the parties has not had access to facts underlying a necessary element of a claim, including standing.

In short, shielding MGOC's members' identifying details from Defendants' counsel when disposition of the case is on the line, thereby precluding any opportunity for relevant discovery on those members' attestations, would also shield MGOC from adversarial testing of, and any appeal based on, standing. Such an outcome would severely undermine the adversarial process and prejudice Defendants.

To balance MGOC's confidentiality concerns with Defendants' need to access the information on which MGOC bases its dispositive motion, Defendants propose the following material protective order terms to govern the at-issue declarations:

- MGOC shall submit unredacted declarations from members under seal to the Court and its staff and under Attorneys' Eyes Only ("AEO") designation to Defendants' counsel.
- AEO documents can be viewed only by Defendants' counsel and their litigation support staff. Defendants' counsel affirm that they themselves have no prosecutorial or arresting authority. Defendants' counsel will not share AEO designated documents with any attorney that prosecutes criminal matters. All AEO documents will be destroyed or returned within 30 days of the resolution of the matter.
- MGOC shall also file and provide public versions of member declarations, with all identifying information (including names and counties of residence) redacted. Non-identifying, case-relevant information must be available to Defendants and their employees, and should be made available to the public.

With respect to jurisdictional discovery, Defendants do not currently seek it because they do not yet know the content of the declarations. It may be that none is required; it may also be that MGOC's members' declarations raise legitimate jurisdictional questions Defendants may seek to explore in connection with MGOC's summary judgment motion. Defendants therefore do not waive their right to jurisdictional discovery, but believe that question is not ripe for resolution now.

Sincerely,
s/ Emily B. Anderson
Assistant Attorney General (#0399272)
emily.anderson@ag.state.mn.us
Attorney for State Defendants