

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

CIVIL COURT  
FOURTH JUDICIAL DISTRICT

Minnesota Gun Owners Caucus,  
Plaintiff,

Case No. 62-CV-25-1083

vs.

Tim Walz, Governor of Minnesota, in his  
official capacity, Keith Ellison, Attorney  
General of Minnesota, in his official  
capacity, Mary Moriarty, Hennepin County  
Attorney, in her official capacity, Drew  
Evans, Superintendent of the Minnesota  
Bureau of Criminal Apprehension, in his  
official capacity,

Defendants.

**DEFENDANT MARY MORIARTY’S  
MEMORANDUM OF LAW  
IN SUPPORT OF  
MOTION TO DISMISS**

**INTRODUCTION**

This case involves a challenge to a 2024 legislative amendment to the definition of a “trigger activator” to include “binary triggers,” a device that makes it possible for a firearm to discharge multiple bullets with a single pull of the trigger. H.F. 5247, 4th Engrossment, 93d Leg., Reg. Sess. (Minn. 2024) (the “2024 Omnibus Bill”). Plaintiff Minnesota Gun Owners Caucus (“MGOC”), a self-described gun-rights advocacy non-profit corporation,<sup>1</sup> claims that the 2024 amendment is invalid because it violates the single subject clause of the Minnesota Constitution, since the binary trigger amendment was contained in an omnibus bill (the “2024 Omnibus Bill”).

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<sup>1</sup> Complaint, ¶ 16.

MGOC sued against a variety of state officials<sup>2</sup>, as well as Mary Moriarty, in her official capacity as the Hennepin County Attorney.

Although the legislative change enacted in 2024 spans only two lines of text,<sup>3</sup> MGOC seeks a judgment declaring the full 2024 Omnibus Bill unconstitutional and enjoining its enforcement “in its entirety.” In the alternative, MGOC seeks the binary trigger amendment to be severed from the rest of the 2024 Omnibus Bill and then declared unconstitutional and enjoined. MGOC also seeks nominal damages, an award of costs and disbursements, and fees, without clearly identifying the party against whom such additional relief should be granted.

MGOC’s Complaint fails to state a claim because the relief it seeks cannot remedy the claimed harm or resolve the underlying controversy. In addition, since MGOC’s legal theories appear to apply equally to the State Defendants and Moriarty, and in the interests of judicial economy, Moriarty joins in and adopts the legal arguments in the State Defendants’ Memorandum of Law in Support of Motion to Dismiss.

### **FACTUAL BACKGROUND**

#### **I. The Factual Allegations in the Complaint**

MGOC’s Complaint contains exactly two paragraphs specifically concerning Defendant Moriarty: paragraph 72, alleging that she enforces the at-issue statute, and paragraph 22, alleging:

Mary Moriarty, named in her official capacity, is the County Attorney for Hennepin County, Minnesota. As County Attorney, [] Moriarty is charged with the enforcement of certain criminal and civil violations, including, as of January 1, 2025, crimes relating to mere ownership or possession of binary triggers. Minn. Stat. §388.051 (2023); Minn. Stat. §609.02 (2023); Minn. Stat. §609.67 (2024).

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<sup>2</sup> The State Defendants are Governor Tim Walz, Attorney General Keith Ellison, and Drew Evans, the Superintendent of the Minnesota Bureau of Criminal Apprehension, all in their official capacities.

<sup>3</sup> H.F. 5247, 4th Engrossment, 93d Leg., Reg. Sess. (Minn. 2024), at 582.9-582.10.

Compl. ¶¶ 72, 22.<sup>4</sup> Notably, nowhere in the Complaint does MGOC articulate any substantive challenge to the binary trigger amendment. Indeed, for at least 60 years, the Minnesota Legislature has made it a crime to use, possess, or own machine guns, and the original ban on trigger activators dates to 1993, long before MGOC existed.<sup>5</sup> MGOC’s Complaint does not explain how it or its members have been—or could be—uniquely harmed by Moriarty’s potential enforcement of the binary trigger amendment, such that enjoining its enforcement could be an appropriate equitable remedy. Instead, MGOC simply alleges that it, through its members, may wish to engage in criminal conduct in violation of that statute.<sup>6</sup>

## **ARGUMENT**

### **I. Legal Standard**

The district court may grant a motion to dismiss a complaint if it “fail[s] to state a claim upon which relief can be granted.” Minn. R. Civ. P. 12.02(e). A complaint must set forth a “legally sufficient claim for relief” to survive a motion to dismiss. *Weigand v. Walser Auto. Groups, Inc.*, 683 N.W.2d 807, 808 (Minn. 2004); *Tierney v. Arrowhead Concrete Works, Inc.*, 791 N.W.2d 540, 543 (Minn. App. 2010); *see generally* Minn. R. Civ. P. 12.02. Minnesota is a “notice pleading”

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<sup>4</sup> MGOC’s Complaint consists largely of repetitive, conclusory, and speculative allegations that are irrelevant to MGOC’s legal claims. *See e.g.*, Compl. ¶¶ 1-16, 24-28, 40-43, 48, 51-60, 66, 71-77, and 79-95. The repetition of these allegations does nothing to make MGOC’s claims more plausibly alleged.

<sup>5</sup> Minn. Sec. State File No. 833943600029, “Original Filing - Nonprofit Corporation (Domestic), (Business Name: Minnesota Gun Owners Caucus),” dated July 21, 2015; *Cf.* 1963 c. 753 art. 1 § 609.67 (prohibiting the possession of “any firearm designed to discharge, or capable of discharging automatically more than once by a single function of the trigger”); 1993 c. 326 art. 1 §§ 19, 20 (prohibiting possession of “trigger activators” designed to allow a firearm to operate with an otherwise prohibited rate of fire consistent with the foregoing definition); and 2023 c. 52 art. 4 § 15, 16 (substantively the same).

<sup>6</sup> *See generally* Compl.

jurisdiction that requires pleadings to include “information sufficient to fairly notify the opposing party of the claim against it.” *Walsh v. U.S. Bank N.A.*, 851 N.W.2d 598, 605 (Minn. 2014). Where the complaint fails to state a claim upon which relief can be granted, dismissal with prejudice and on the merits is appropriate. *Martens v. Minn. Mining and Manufacturing Co.*, 616 N.W.2d 732, 748 (Minn. 2000).

On a motion to dismiss, the court should “consider only the facts alleged in the complaint, accepting those facts as true” and “must construe all reasonable inferences in favor of the nonmoving party.” *Persigehl v. Ridgebrook Investment Ltd. Partnership*, 858 N.W.2d 824, 835 (Minn. App. 2015). However, the court is not bound by legal conclusions in the complaint. *Bahr v. Capella Univ.*, 788 N.W.2d 76, 80 (Minn. 2010); *Forslund v. State*, 924 N.W.2d 25, 33 (Minn. App. 2019). “[A] motion to dismiss should be denied if the court can infer from the allegations a factual basis to support each element of the Plaintiff’s claim.” *Hansen v. U. S. Bank Nat’l Ass’n*, 934 N.W.2d 319, 325 (Minn. 2019). In addition, the Court may consider materials outside the Complaint, such as matters of public record, and materials that are necessarily embraced by the pleadings without converting a motion under Rule 12 into one for summary judgment. *See N. States Power co. v. Minn. Metropolitan Council*, 684 N.W.2d 485, 490-91 (Minn. 2004).

## **II. The Complaint fails to state a claim upon which relief can be granted.<sup>7</sup>**

The Complaint fails to state a claim for which relief can be granted against Moriarty because the requested relief cannot remedy the harm alleged and would not resolve the present controversy.

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<sup>7</sup> As noted above, Moriarty also joins in and adopts the State Defendants’ arguments for dismissal.

Declaratory relief under Minn. Stat. § 555.01 *et seq.* requires “all persons ... who have or claim any interest which would be affected by the declaration” to be made parties to the action, and a declaration cannot “prejudice the rights of persons not parties to the proceeding.” Minn. Stat. § 555.11; *see also Cincinnati Ins. Co. v. Franck*, 621 N.W.2d 270, 275 (Minn. App. 2001) (noting that declaratory relief “cannot bind absent parties.”) Where declaratory relief cannot result in the complete adjudication of a controversy, “pragmatic concern for the efficient use of judicial resources” allows the court to “refuse to render or enter a declaratory judgment or decree.” *State Auto. & Cas. Underwriters v. Lee*, 257 N.W.2d 573, 575-76 (Minn. 1977) (*quoting* in relevant part Minn. Stat. § 555.06).

Even if every allegation in the Complaint—including those that are impermissibly conclusory or speculative—were wholeheartedly accepted by the court, MGOC’s requested relief cannot resolve the at-issue controversy. This is because MGOC’s members would still be subject to the possibility of criminal prosecution by any non-party charged with enforcement of the law. For example, even if the court were to enjoin Moriarty from enforcing the binary trigger amendment, the county attorneys in each of Minnesota’s remaining 86 counties could still file criminal charges under the statute. Further, the Complaint does not allege that members’ ownership of binary trigger activators is somehow lawful in the State of Minnesota, since Minnesota law already made it a crime to own devices purposed to modify a firearm’s rate of fire.<sup>8</sup> Notably, the harm MGOC alleges that its members may suffer is simply the natural consequence for what the Complaint acknowledges is criminal conduct.<sup>9</sup>

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<sup>8</sup> *See generally*, n. 5, *supra*.

<sup>9</sup> *See generally*, Compl.

A judgment granting MGOC all the relief it seeks<sup>10</sup> would not resolve the controversy raised in its Complaint, nor would it remedy or avoid the harm MGOC claims its members might suffer for their already-criminal conduct. The court should thus dismiss MGOC's claims against Moriarty.

### **CONCLUSION**

For the foregoing reasons, Moriarty respectfully requests that the Court grant her motion to dismiss and dismiss Plaintiff's claims with prejudice.

MARY F. MORIARTY  
Hennepin County Attorney

Dated: April 15, 2025

By: /s/Matthew Messerli

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<sup>10</sup> MGOC may not recover fees against Moriarty, as she is not a State Official. Minn. Stat. § 15.471.