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STATE OF MINNESOTA **DISTRICT COURT**

COUNTY OF RAMSEY **SECOND JUDICIAL DISTRICT**

Minnesota Gun Owners Caucus, Plaintiff, v. 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.	Case Type: Civil Other/Misc. The Honorable Leonardo Castro Court File No. 62-CV-25-1083 **PLAINTIFF'S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

INTRODUCTION

Tellingly, Defendants barely try to argue that the Jumbo Omnibus Bill actually complies with the Constitution. Instead they spill most of their ink on a technical argument about the form of proof for standing that—at best for Defendants—will serve little purpose other than delaying the inevitable outcome of this case. MGOC has adequately proven its standing, Defendants' legal arguments about justiciability are unavailing, and Defendants concede that the Jumbo Omnibus Bill violates the Constitution. So the Court should enter summary judgment in MGOC's favor.

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ARGUMENT

I. Plaintiff Has Standing to Bring Its Single Subject and Title Clause Challenge to the Jumbo Omnibus Bill.

Unable to defend the Jumbo Omnibus Bill on the merits, Defendants are forced to resort to standing arguments (State Mem. 6-12; Moriarty Mem. 2) that are desperate long-shots, hyper-technical time-wasters, or both. Defendants would have the Court believe that one of Minnesota's leading gun-rights organizations somehow lacks standing to challenge a law banning certain kinds of firearms. MGOC exists to serve its members' exercise of their right to bear arms—so of course a law *prohibiting* certain arms requires MGOC to make efforts and divert resources to inform, advise, and protect its membership. That gives MGOC organizational standing. Moreover, MGOC members actually own the now-banned arms, so MGOC also has associational standing to challenge the ban. Defendants' quibbles with the precise form of proof on these issues should not carry the day—and if they do, MGOC should be given a chance to promptly remedy matters so the Court can reach the merits.

Start with organizational standing. "The Minnesota Supreme Court has adopted a liberal standard for organizational standing," and "Minnesota courts recognize impediments to an organization's activities and mission as an injury sufficient for standing." *All. for Metro. Stability v. Metro. Council*, 671 N.W.2d 905, 913-14 (Minn. Ct. App. 2003) (citing *Snyder's Drug Stores, Inc. v. Minn. State Bd. of Pharmacy*, 221 N.W.2d 162, 166-67 (Minn. 1974)).

Here, the Binary Trigger Amendment plainly impedes MGOC's mission. MGOC's mission involves advocating for the defense and restoration of the right to keep and bear arms. (Strawser Aff. ¶4.) Accordingly, MGOC monitors, tracks, and opposes legislation that affects its members' rights to bear arms and keeps its members abreast of such legislation. (Strawser Aff. ¶¶5, 7.) When such legislation is passed, like the Binary Trigger Amendment, that negatively affects MGOC's

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members' rights to possess their lawfully acquired arms and threatens them with loss of liberty and property. (Strawser Aff. ¶35.) The Binary Trigger Amendment's threat of incarceration or $35,000 fine, or both, poses a direct injury to MGOC's ability to rely on its members for contributions and support, whether that be in donations or volunteering or otherwise. (*Id*.) This presents more than a mere "setback" to MGOC's mission; it's a direct impairment of MGOC's ability to maintain its activities. Moreover, it's hard to imagine a party more aggrieved by a statute rolling back gun owners' rights than an organization like MGOC whose *raison d'être* is preserving and defending those rights. Therefore, MGOC has direct organizational standing for both its claims.[1]

As for associational standing, MGOC has submitted an affidavit stating that at least three of its members actually own now-banned binary triggers. (Strawser Aff. ¶¶25-27.) Defendants appear to concede that, if that is true, then MGOC has associational standing to sue. Defendants argue only that this evidence is not "admissible" because it supposedly relies on hearsay. (State Mem. 10; *compare with* Strawser Aff. ¶¶25-27.) But any hearsay included in Mr. Strawser's affidavit with respect to MGOC's members' standing to sue in their own right meets the residual exception to hearsay (Minn. R. Evid. 807) because: (1) its declarant, Mr. Strawser, offers it in his capacity as Chairman and representative of MGOC, and the statements relate to MGOC's own members, thus there are "circumstantial guarantees of trustworthiness;" (2) the statements pertain to material facts on the issue of MGOC's members' individual standing; (3) since MGOC's members who are in possession of the now-illegal binary triggers wish to remain anonymous for fear of prosecution, Mr. Strawser's statements are more probative on MGOC's members' standing than anything short of anonymous affidavits, which would attest to the same facts; and (4) the general purpose of the

[1] MGOC addresses Defendants' arguments (see State Mem. 19) concerning its Remedies Clause claim in its memorandum opposing dismissal (Doc. 32 at 29-30), and incorporates those arguments by reference.

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hearsay rules and the interests of justice are best served by admitting the facts of Mr. Strawser's affidavit because the principal issue before the Court is not the members' substantive rights but the procedural unconstitutionality of the Jumbo Omnibus Bill.

However, to any extent that the Court finds Defendants' hearsay argument to have technical merit, it should recognize the overall standing argument's utter lack of *substantive* merit. Even if Defendants were right, MGOC could fix the problem simply by re-filing affidavits that describe its organizational efforts in more detail, or that say the same thing about its associational standing in a non-hearsay format. Then, since Defendants' other arguments are purely legal in nature, they would have no other arguments to delay the Court's adjudication of the merits. That would make this the kind of situation contemplated by Rule of Civil Procedure 56.05(a): on summary judgment, "[i]f a party fails to properly support an assertion of fact ... the court may *** give an opportunity to properly support or address the fact." In short: if the Court is of the view that more factual detail is needed to support MGOC's organizational standing, or that a more direct statement is needed to support MGOC's associational standing, it should grant MGOC leave to submit such a statement so that the Court can proceed to decide the merits.

Therefore, the Court should find that MGOC has adequately proven organizational and associational standing, or at least defer consideration of MGOC's summary judgment motion and grant leave for MGOC to file affidavits to cure any shortcoming in jurisdictional proof that the Court may find.

II. The Jumbo Omnibus Bill Violates the Single Subject and Title Clauses.

A. The Jumbo Omnibus Bill Lacks a Single Subject Identified in its Title.

As the Supreme Court has explained, the analysis under the Single Subject and Title Clauses proceeds in two steps: the first step requires determining whether the bill as a whole covers

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a single subject identified in its title; if it does, the second step requires determining whether the particular provisions of the bill that affect the plaintiff are germane to that subject. *Associated Builders & Contractors v. Ventura*, 610 N.W.2d 293, 305-07 (Minn. 2000); *Otto v. Wright Cty*., 910 N.W.2d 446, 457 (Minn. 2018); *see also* MGOC Mem. Opp. Mot. to Dismiss (Doc. 32) at 26-27. Here, the Jumbo Omnibus Bill fails at both steps—and indeed, Defendants barely bother to contest the point.

At Step One, the Jumbo Omnibus Bill obviously does not contain a single subject, but instead covers at least thirteen: transportation (Articles 1-3, 17), labor (Articles 4, 6, 8-11), combative sports (Article 5), state employees (Articles 12, 72-73), housing (Articles 14-16), health occupations and licensing (Articles 18-33, 61, 65), higher education (Articles 34-35), firearms (Article 36), agriculture (Articles 37-38), energy (Articles 13, 39-45, 58), human services (Articles 46-55, 62-64, 66-67), healthcare (Articles 56-57, 59-60), and taxes (Articles 68-71). Defendants do not dispute this at all.

Remarkably, Defendants ***do*** dispute what the title of the Jumbo Omnibus Bill even is. (State Mem. 4.) The background facts appear to be agreed upon: the Bill that the House voted on, and the bill that the Senate voted on, were both entitled "related to taxation." But before the Bill was presented for the Governor's signature, someone replaced that with a novella-length title beginning "relating to the operation and financing of state government." That re-titled version was what the governor signed.[2]

At one level, this dispute is immaterial. Whether the Jumbo Omnibus Bill's title is "taxation" or "the operation and financing of state government," it is abundantly clear that neither of

[2] It is more than a little ironic, then, that Defendants accuse ***MGOC*** (State Mem. 4) of "attempt[ing] to rewrite the title ... of the 2024 omnibus."

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these subjects is a "common theme" embracing "the great weight of the ... provisions" in the Jumbo Omnibus Bill. *Cf. Assoc. Builders*, 610 N.W.2d at 305. Thus, under either title, the Jumbo Omnibus Bill fails step one of the analysis and must be struck down.

But to any extent that the Jumbo Omnibus Bill's title does matter, Defendants' argument on this score is rather shocking—and is certainly shockingly wrong. Although the Constitution requires every law both to (1) pass a vote of the Legislature and (2) have a title, Defendants claim that, somehow, the Legislature does not have to vote on the law's title. Instead, someone—maybe ***anyone*****,** for all Defendants seem to care—can simply hit the "delete" button on the title that both Houses of the Legislature voted on, make up a completely new title, write it in, and send the bill off for the Governor's signature.

Defendants should re-watch *Schoolhouse Rock.* Bills become laws by the Legislature voting on them. There is no "except-for-the-title" carveout to that rule. Indeed, in explaining the Constitution's Title Clause in particular, the Supreme Court has stated that "[t]he purpose of the title is to inform **the members of the legislature** of the Act's content." *Essling v. Markman,* 335 N.W.2d 237, 240 n.2 (Minn. 1983) (citation omitted; emphasis added). Moreover, courts look to "the title . . . for the purpose of ascertaining the legislature's intent" in enacting the law. *Id.* (citation omitted). If Defendants were correct that the title of a bill could be changed after the Legislature enacted it, these rules would be senseless—or, worse, invitations for fraud and manipulation about the meaning of the laws.

Here, then, if the Legislature did not vote on the title the Governor signed, then the Jumbo Omnibus Bill may not have any valid title at all—which by itself would facially violate the Constitution's Title Clause. To any extent that the Jumbo Bill does have a title, however, it is the one that the House and Senate voted to approve: "taxation."

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In all events, the Jumbo Omnibus Bill is not legislation on a single subject identified in its title. As MGOC has explained in other briefing, that means that the Jumbo Bill must be struck down in its entirety. Defendants note that the courts "will not strike down a germane provision of law simply because other provisions in the law are not germane" (State Mem. 17 (quoting *Otto*, 910 N.W. at 457), but they have skipped over the dispositive question: Germane to what? As both *Otto* and *Associated Builders* illustrate, before the court even gets to the germaneness analysis, it must determine whether a law *has* a single predominating subject identified in its title. If it does, then provisions germane ***to that single subject*** can be saved by severing and striking only non-germane provisions. But the Jumbo Bill here fails at that first step—it has no single predominating subject, so there is nothing for severable provisions to be germane *to*. As a result, the whole thing must fall.

B. If the Jumbo Bill had a Single Subject, Firearms Regulation Certainly is Not Germane to It.

If the Jumbo Bill mostly covered a single subject that was identified in its title, the second step in the analysis would be to determine whether the provision that specifically affects MGOC—the firearms regulations—is "germane" to that single subject. But Defendants do not even contest that point here. Regardless whether the Jumbo Bill's purported single subject were "taxation" or "the operation and financing of state government" (which, we note, is actually two subjects), it is beyond plain that none of those subjects remotely embraces whether Minnesotans should be able to possess a certain type of gun trigger. At the barest minimum, therefore, Article 36 of the Jumbo Bill (covering "Firearms") should be struck, including Section 2 in particular, the Binary Trigger Amendment.

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C. Defendants' Attempt to Litigate the Details of "Legislative Fraud or Unfair Surprise" Is Legally Irrelevant and Factually Unsuccessful.

The preceding two-step analysis—single subject followed by germaneness—is plainly mapped out by the Supreme Court's recent decisions. The Supreme Court additionally has identified two important *purposes* animating the Single Subject and Title Clauses: **(1)** "to prevent what is called 'logrolling legislation' or 'omnibus bills,' by which a number of different and disconnected subjects are united in one bill, and then carried through by a combination of interests," *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891), and **(2)** "'to prevent surprise and fraud upon the people and the legislature' by failing to provide notice of 'the nature of the proposed legislation' and the 'interests likely to be affected' by the legislation," *Otto*, 910 N.W.2d at 456 (quoting *Johnson*, 50 N.W. at 924). Here, then, MGOC has detailed the chaotic legislative process leading to the Jumbo Omnibus Bill's enactment in order to illustrate and emphasize how it violated both the letter and the spirit of the Single Subject and Title Clauses.

Defendants misconstrue this. They suggest, although they do not quite say, that the Court should ignore a violation of the plain terms of the Single Subject and Title Clause if it concludes, after an open-ended inquiry, that there was no "legislative fraud [or] unfair surprise." (State Mem. 14.) This is thoroughly wrong both legally and factually.

First, as a matter of law, the Supreme Court has never suggested that courts should ignore violations of the Single Subject and Title Clauses' ***actual terms*** based on a purported finding that fraud or unfair surprise supposedly were avoided by some alternative means. To the extent that Defendants are inviting this Court to do so, it should decline the invitation.

Second, as a matter of fact, the Jumbo Omnibus Bill did indeed present the kind of procedural irregularities that the Single Subject and Title Clauses are meant to guard against. Defendants do not dispute that House and Senate leadership, racing against the impending end-of-session

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deadline to legislate, forced their members to vote on 1,400 pages of legislation with just minutes to review what it said. Since it was humanly impossible to read even a small portion of the gargantuan bill in the time between introduction and vote, a single-subject title and a cohesive subject-matter were practically the *only* ways that legislators could make even a hasty assessment of the merits of what they were voting on. Unfortunately, those safeguards were utterly absent here, leaving legislators completely unable to make an informed assessment of whether to vote for the Jumbo Bill. Indeed, ***after*** the votes, someone apparently recognized that the title legislators had voted on ("taxation") was misleading, and so completely re-wrote it. Even if positive indicia of fraud or unfair surprise were necessary, it is hard to think of a more concrete example than that one.

Defendants' recitation of "what happened" (State Mem. 15 *et seq.*) shows only that the House had previously considered and passed the Binary Trigger Amendment as a standalone bill, and that the Senate had considered and passed a different bill (not the final version) on binary triggers. None of these proposals became law. Instead, at the very end of the legislative session, House leadership bundled the Binary Trigger Amendment into the Jumbo Omnibus Bill's 1,400 other pages of legislation, and required members to vote on the whole package with only minutes to review. Then, the Senate received, for the first time, the Binary Trigger Amendment buried in the 1,400-plus page Jumbo Omnibus Bill with less than thirty minutes left in the session to pass legislation; and the senators had only a handful of minutes between taking up the Jumbo Bill and voting on it. (*See* State Mem. 3-4; 15-16; *compare with* MGOC Mem. 7.) This history shows that senators never had a meaningful chance to review and decide whether to agree to the conference committee's version of the Binary Trigger Amendment. This is exactly the kind of situation the Single Subject and Title Clause is intended to prevent. *State v. Cassidy*, 22 Minn. 312, 322 (1875)

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(describing the single-subject clause's purpose as "to secure to every distinct measure of legislation a separate consideration and decision, dependent solely upon its individual merits.").

In short, the Jumbo Omnibus Bill as a whole is practically the textbook definition of the kind of unfair legislative surprise that the Single Subject and Title Clauses are meant to prevent. Defendants cannot prevail by arguing that, as to the Binary Trigger Amendment in particular, it is possible to imagine other circumstances under which there could have been an *even greater* risk of fraud or where legislators could have been *even more* surprised. That simply is not the test under the Single Subject and Title Clauses.

Thus, MGOC has shown that the Jumbo Omnibus Bill violates the Constitution's Single Subject and Title Clauses.

CONCLUSION

The Court should grant summary judgment in favor of MGOC. In the alternative, the Court should grant MGOC leave to submit additional evidence in support of its standing, and then consider the merits of the motion.

Dated: May 6, 2025

Respectfully submitted,

UPPER MIDWEST LAW CENTER

/s/ Nicholas J. Nelson
Douglas P. Seaton (#127759)
James V. F. Dickey (#393613)
Nicholas J. Nelson (#391984)
12600 Whitewater Drive, Suite 140
Minnetonka, MN 55343
(612) 428-7000
nicholas.nelson@umlc.org

ATTORNEYS FOR PLAINTIFF

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ACKNOWLEDGMENT

The undersigned acknowledges that sanctions may be imposed pursuant to Minn. Stat. § 549.211.

Dated: May 6, 2025

/s/ Nicholas J. Nelson
Nicholas J. Nelson (#391984)