

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

<p>Marcus Todd, Plaintiff, v. American Federation of State, County, and Municipal Employees, Council 5; Minnesota Department of Human Services, Defendants.</p>	<p>Court File No. _____</p> <p>COMPLAINT JURY TRIAL DEMANDED</p>
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INTRODUCTION

1. Since mid-2018, Defendant American Federation of State, County, and Municipal Employees, Council 5 has used Plaintiff Marcus Todd’s forged signature to force him into membership and deduct dues from his paycheck. DHS has complied with Council 5’s demand for dues from Mr. Todd’s paycheck. When Mr. Todd demanded that the dues deductions cease, Council 5 refused, even going so far as to falsely claim to Mr. Todd that it doesn’t matter that his signature is a forgery—he has to pay anyway.

2. And even if there were no forgery involved, the Application fails to advise Mr. Todd of his First Amendment right to not pay anything to a government union, so it cannot constitute a valid waiver of First Amendment rights under *Janus v. AFSCME, Council 31*, 148 S. Ct. 2448 (2018).

3. This lawsuit seeks to stop this illegal practice and recoup the money taken from Mr. Todd’s paycheck without his informed consent. Under the Supreme Court’s

decision in *Janus*, Council 5 never had valid consent to take any money from Mr. Todd's paycheck, and thus Council 5's actions violate the First Amendment.

4. Because Council 5's actions in taking Mr. Todd's dues demonstrate an intentional disregard for Mr. Todd's rights, Mr. Todd seeks an injunction, compensatory damages, punitive damages, and recoverable costs and attorney fees in this action.

PARTIES

5. Plaintiff Marcus Todd resides in Nicollet County, Minnesota.

6. Defendant AFSCME Council 5 is a local union organization and unincorporated Minnesota association affiliated with the American Federation of State, County, and Municipal Employees. Its offices are located at 300 Hardman Avenue South, South Saint Paul, Minnesota 55075.

7. Defendant Minnesota Department of Human Services is a state agency with its main office located at 540 Cedar Street, Saint Paul, Minnesota 55101.

JURISDICTION AND VENUE

8. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 28 U.S.C. § 1367.

9. Venue is proper because a substantial part of the events giving rise to the claims occurred in the District of Minnesota. *See* 28 U.S.C. § 1391(b)(2).

STATEMENT OF THE CLAIM

**Marcus Todd Joined AFSCME Before *Janus* Because
He Was Forced Into an Unconstitutional Choice**

10. Mr. Todd is a security counselor who works for the Minnesota Department of Human Services at DHS' Minnesota Sex Offender Program (MSOP) in St. Peter.

11. In 2014, when Mr. Todd began working for DHS, he was forced into an unconstitutional choice: join Council 5 and pay 100% dues, or pay an agency fee of nearly that amount and get no say in Council 5's misuse of his fee payments.

12. Against his will, Mr. Todd joined Council 5 in 2014, but Mr. Todd never provided informed consent to join Council 5, and he never knowingly or voluntarily waived any right not to be a member of Council 5 and not to pay dues.

13. Council 5 and DHS deducted dues from Mr. Todd's paycheck from 2014 forward.

**After *Janus* in 2018, AFSCME Forged Mr. Todd's Signature
on a Dues Checkoff and Deducted Dues Based on That Forgery**

14. *Janus* was decided on June 27, 2018. Not surprisingly, around the same time, Council 5 began scrambling to "paper" its memberships by getting DHS employees to sign paper "Welcome Cards."

15. Mr. Todd was aware, at that time, that Council 5 had representatives approaching other employees at MSOP St. Peter to sign them up for union membership. At the time, Mr. Todd recalls the union's representatives visiting with other DHS employees at the MSOP St. Peter location with these paper applications in hand.

16. Mr. Todd recalls that Council 5's representatives who were discussing membership with other DHS employees in MSOP St. Peter used paper applications and did not bring iPads or any other electronic device to sign up employees for union membership.

17. Mr. Todd is informed and believes that electronic or computer devices were not permitted in the facility for Council 5's purposes.

18. Mr. Todd had only been forced into membership in 2014 and did not give consent or waive any rights at that time, and he never had any interest in becoming a member of AFSCME, as membership provides no value to him, and Mr. Todd disagrees with much of Council 5's political advocacy.

19. In addition, Council 5's representation of Mr. Todd during collective bargaining is not consideration for his membership, as Council 5 has a pre-existing legal duty to represent Mr. Todd at the bargaining table, and a promise to perform a pre-existing legal duty does not establish consideration.

20. Council 5 or one of its agents or principals forged Mr. Todd's signature on a membership and/or dues checkoff application in June 2018, prior to his July 6, 2018 paycheck. Council 5 began to deduct dues based on the forged "Application" from Mr. Todd's paycheck beginning with the July 6, 2018 paycheck.

21. The signature on what Council 5 claims is Mr. Todd's application does not come close to matching Mr. Todd's signature. A copy of the "Application" is attached hereto as Exhibit 1, and several comparators with Mr. Todd's authentic signature are attached as Exhibit 2.

22. Since *Janus* was decided, and specifically since Mr. Todd's July 6, 2018 paycheck, Council 5 has deducted dues from Mr. Todd's paycheck based on a forgery and without his consent in violation of the First Amendment.

23. Before the 2018 forgery, Mr. Todd never gave free and informed consent to be a member of Council 5. He was never adequately informed of his First Amendment right to refuse membership or his right to not have any money taken from him without his consent via agency fees. Council 5's deductions of dues from Mr. Todd's paycheck prior to the 2018 forgery violate the First Amendment.

24. In July 2020, after discussing the possibility of withdrawing from union membership with a coworker, Mr. Todd requested his union card from Council 5 so that he could obtain the information needed to resign his union membership and stop dues deductions.

25. On July 16, 2020, Mr. Todd sent Council 5 a written notification that he was resigning his union membership and demanded that dues deductions cease. That notification is attached hereto as Exhibit 3.

26. Council 5 processed Mr. Todd's union resignation, but has refused to stop dues deductions until after Mr. Todd sends subsequent notice during an opt-out window in May 2021.

27. Mr. Todd again wrote to Council 5 on August 14, 2020 demanding stoppage of his dues deduction. Mr. Todd demonstrated again that the application on which Council 5 was relying was a forgery. A copy of this letter is attached as Exhibit 4. Council 5 still refused to stop dues deductions.

28. Mr. Todd's counsel wrote to Council 5 on September 15, 2020 demanding yet again that Council 5 stop dues deductions. A copy of this letter is attached as Exhibit 5.

29. Rather than stop dues deductions, Council 5's attorney responded via letter, indicating that Council 5 believed it had a right to keep Mr. Todd's dues, even if they were obtained by use of a forgery. A copy of this letter is attached as Exhibit 6.

30. In the year 2018, before July 6, 2018, DHS and Council 5 deducted \$352.26 in dues from Mr. Todd's paychecks without his clear, voluntary, knowing waiver of his First Amendment rights.

31. Before 2018, from 2014 through 2018, DHS and Council 5 deducted additional dues from Mr. Todd's paycheck in an amount to be determined at trial.

32. From July 6, 2018 through February 14, 2021, DHS and Council 5 have deducted approximately \$1,930.82 from Mr. Todd's paychecks without his consent.

33. DHS continues to make these illegal deductions, Council 5 continues to receive these deductions, and Mr. Todd's damages continue to accrue.

The Application Is Not Valid Consent to Continued Dues Deductions Once Any Consent Was Explicitly Revoked in July 2020

34. The Application on which Council 5 relies to continue taking money from Mr. Todd without his consent states that dues deductions can only be terminated if an employee "revoke[s] [the authorization] by sending written notice to both [his] employer and Minnesota AFSCME Council 5 during the period not less than thirty (30) and not more than forty-five (45) days before the annual anniversary date of this authorization."

35. Therefore, the Application only provides a 15-day window in which an employee can stop the unlawful deduction of union dues within an entire calendar year. Council 5 does not impose a comparable administrative limit on itself for *beginning* dues deductions.

36. The Application also fails to meaningfully inform employees of their First Amendment rights by merely stating that “I recognize that my authorization of dues deductions, and the continuation of such authorization from one year to the next, is voluntary and not a condition of my employment.” The Application does not provide enough information to constitute “clear and compelling” evidence of voluntary consent to dues deductions—especially not for future years.

37. The Application, even if it were not a forgery, does not constitute a valid waiver of First Amendment rights under *Janus*. And, the Application does not constitute a valid reason for Council 5 to continue taking Mr. Todd’s money after he explicitly revoked any authorization in July 2020.

Council 5 and DHS Act Under Color of State Law

38. The law of Minnesota authorizes Council 5, DHS, and their affiliates to extract money from public employees via dues checkoff and the employer and union’s collective bargaining agreement without clear and compelling evidence of the employee’s freely given waiver of First Amendment rights. *See* Minn. Stat. § 179A.06, Subd. 6; Minn. Stat. § 179A.20, Subd. 1.

39. Council 5, DHS, and their affiliates were acting under color of state law at all relevant times by deducting dues from Mr. Todd's paychecks without clear and compelling evidence of his freely given waiver of First Amendment rights.

Article III Standing

40. Mr. Todd has Article III standing to bring his claims.

41. He has suffered injury-in-fact because money was taken from his paychecks by DHS and Council 5 without his consent, both before and after his resignation and demand for dues stoppage from Council 5.

42. Further, Mr. Todd has suffered injury-in-fact by being prohibited from terminating his dues deduction authorization and stopping unconstitutional dues deductions because of Council 5's unduly burdensome and unreasonable window period for resigning from union membership.

43. Mr. Todd's injuries were caused by Defendants' unconstitutional behavior, and the injuries will be redressed by a refund of the money that Council 5 and DHS have extracted and continue to unconstitutionally extract from Mr. Todd, appropriate penalties and fees, declaratory relief, and an injunction against continued violations.

44. Absent injunctive relief from the Court, Council 5 and DHS' deprivations of Mr. Todd's First Amendment rights are capable of repetition.

CAUSES OF ACTION

45. Plaintiff has set forth a short and plain statement showing his entitlement to relief that is substantially plausible under *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), *Ashcroft v. Iqbal*, 556 U.S. 662, and *Johnson v. City of Shelby*, 135 S.Ct. 346

(2014), and further identifies discrete claims for relief, which include but are not limited to the following.

46. This Court has pendent jurisdiction to determine Plaintiff's state law claims under 28 U.S.C. § 1367. *See Knight v. Alsop*, 535 F.2d 466 (8th Cir. 1976).

Count One
42 U.S.C. §§ 1983, 1988
28 U.S.C. § 2201

Council 5 and DHS' Pre-*Janus* Deductions

47. Plaintiff incorporates the preceding paragraphs by reference.

48. In 2014, Plaintiff was unconstitutionally forced to choose to either pay 100% of dues and have a nominal voice within Council 5, or pay nearly that amount and have no vote at all.

49. Had Plaintiff been informed of his First Amendment right not to pay anything to the union as a non-member at the time, he would have so chosen.

50. Thus, Plaintiff never freely waived his First Amendment rights by joining Council 5 against his will in 2014.

51. Council 5 and DHS deducted dues payments from Plaintiff's paycheck prior to *Janus* without clear and compelling evidence of Plaintiff's freely given waiver of First Amendment rights.

52. Because of these deductions, Plaintiff was forced to subsidize Council 5's speech, with which he disagrees.

53. Council 5 and DHS' deductions thus violate the First Amendment pursuant to *Janus*.

54. Plaintiff is entitled to money damages, penalties, punitive damages, fees, injunctive relief, and declaratory relief to redress, remedy, and prevent future violations of his rights by Council 5 and DHS.

Count Two
42 U.S.C. §§ 1983, 1988
28 U.S.C. § 2201

Council 5 and DHS' Post-*Janus* and Pre-Resignation Deductions

55. Plaintiff incorporates the preceding paragraphs by reference.

56. In June 2018, Council 5 forged Plaintiff's signature on an Application.

57. From July 6, 2018 through July 2020, when Plaintiff tendered his resignation, Council 5 illegally deducted dues from Plaintiff's paycheck based on a forged Application.

58. Council 5 and DHS deducted dues payments from Plaintiff's paycheck after *Janus* and before Plaintiff's tendered resignation in July 2020 without clear and compelling evidence of Plaintiff's freely given waiver of First Amendment rights.

59. Because of these deductions, Plaintiff was forced to subsidize Council 5's speech, with which he largely disagrees.

60. Council 5 and DHS' deductions thus violate the First Amendment pursuant to *Janus*.

61. Plaintiff is entitled to money damages, penalties, punitive damages, fees, injunctive relief, and declaratory relief to redress, remedy, and prevent future violations of his rights by Council 5 and DHS.

Count Three
42 U.S.C. §§ 1983, 1988
28 U.S.C. § 2201

Council 5 and DHS' Post-Resignation Deductions

62. Plaintiff incorporates the preceding paragraphs by reference.

63. In July 2020, even though he never freely waived his First Amendment rights to not subsidize Council 5, to ensure the illegal dues deductions stopped, Plaintiff tendered his resignation to Council 5 and demanded that Council 5 stop dues deductions.

64. Council 5 refused to stop dues deductions.

65. In August 2020, Plaintiff informed Council 5 that the Application it was relying on for dues deductions was a forgery, and again demanded that Council 5 stop dues deductions. Council 5 refused to stop dues deductions.

66. In September 2020, Plaintiff's counsel again demanded that Council 5 stop dues deductions from Plaintiff's paycheck.

67. Council 5's response was that it would continue deducting dues until Plaintiff opted out of dues deductions during a 15-day period in May 2021. Council 5 responded, in part, that it could continue doing so even if the Application was a forgery.

68. Council 5 refused to stop dues deductions.

69. Council 5 and DHS deducted dues payments from Plaintiff's paycheck after his resignation from Council 5, and even after being notified that the Application was a forgery, without clear and compelling evidence of Plaintiff's freely given waiver of First Amendment rights.

70. Because of these deductions, Plaintiff was forced to subsidize Council 5's speech, with which he largely disagrees.

71. Council 5 and DHS' deductions thus violate the First Amendment pursuant to *Janus*. Even if the Application were not a forgery (which it is), the Application is not a sufficient waiver of First Amendment rights under *Janus*.

72. Council 5's dues deductions even after knowledge that the Application was a forgery constitute intentional, malicious, willful, and/or reckless disregard for Plaintiff's First Amendment rights.

73. Plaintiff is entitled to money damages, penalties, punitive damages, fees, injunctive relief, and declaratory relief to redress, remedy, and prevent future violations of his rights by Council 5 and DHS.

Count Four
42 U.S.C. §§ 1983, 1988
28 U.S.C. § 2201

Council 5's 15-Day Opt-Out Window Is Unconstitutional

74. Plaintiff incorporates the preceding paragraphs by reference.

75. The Application on which Council 5 relies to continue taking money from Plaintiff without his consent states that dues deductions can only be terminated if an employee "revoke[s] [the authorization] by sending written notice to both [his] employer and Minnesota AFSCME Council 5 during the period not less than thirty (30) and not more than forty-five (45) days before the annual anniversary date of this authorization."

76. Therefore, the Application only provides a 15-day window in which an employee can stop the unlawful deduction of union dues within an entire calendar year.

Council 5 does not impose a comparable administrative limit on itself for *beginning* dues deductions.

77. Under *Janus*, in order for an opt-out system to be constitutional, it must allow for opt-out of the dues check-off system where the employee determines, for example, that he or she no longer supports the speech being promoted or shares the views of the speaker.

78. Council 5's opt-out system does not allow for immediate opt-out, and so it violates the Supreme Court's waiver doctrine related to an employee's exercise of First Amendment rights.

79. There is no credible administrative justification for failing to allow an opt-out of a dues check-off where there is no comparable ban on opting in at any time.

80. Because Council 5's opt-out window is limited to a 15-day period once per year, it is unconstitutional under the First Amendment.

81. Plaintiff is entitled to injunctive relief allowing him to opt-out of any dues deductions immediately, and punitive damages, fees, and declaratory relief as well.

**Count Five
Conversion**

82. Plaintiff incorporates the preceding paragraphs by reference.

83. Council 5 and DHS willfully interfered with Plaintiff's personal property (his paycheck in the amount of Council 5's dues deductions) without lawful justification, which deprived Plaintiff, the lawful possessor of that property, of use and possession of the same, from 2014 through the present day.

84. Plaintiff holds a property interest in the money deducted by Council 5 and DHS from his paycheck as dues to Council 5.

85. Council 5 and DHS deprived Plaintiff of that interest.

Count Six
Money Had and Received/Unjust Enrichment

86. Plaintiff incorporates the preceding paragraphs by reference.

87. By unlawfully deducting union dues or fees from Plaintiff's paycheck, Council 5 and DHS have had a benefit conferred upon them since 2014.

88. Council 5 and DHS "knowingly appreciated and accepted" that benefit.

89. Council 5 and DHS' acceptance and retention of that benefit is inequitable under these circumstances.

90. Council 5 and DHS are liable to Plaintiff for retaining the union dues or fees unlawfully deducted from Plaintiff's paychecks, and Plaintiff is entitled to an award of damages against Council 5 and DHS for the same or for aiding and abetting the same.

Count Seven
Civil Theft

91. Plaintiff incorporates the preceding paragraphs by reference.

92. Council 5 and DHS have stolen property from Plaintiff by unlawfully deducting union dues or fees from Plaintiff's paycheck since 2014.

93. Council 5 and DHS have wrongfully and surreptitiously taken Plaintiff's wages for the purpose of keeping them or using them.

94. Council 5 and DHS are liable to Plaintiff for the value of the property taken from Plaintiff, or for aiding and abetting the taking of the same.

95. Plaintiff seeks money damages and punitive damages under Minn. Stat. § 604.14, Subd. 1 for Council 5 and DHS' civil theft, or for aiding and abetting the same.

Count Eight
Tortious Interference With Contractual Relations
(Council 5)

96. Plaintiff incorporates the preceding paragraphs by reference.

97. The agreement for Plaintiff to provide services as an employee to DHS constitutes a valid and enforceable contract between them. Plaintiff and Council 5 were aware of the contract.

98. Council 5's interference with Plaintiff's contractual relations with DHS, by wrongfully forcing the deduction of dues payments from Plaintiff's paycheck in violation of his constitutional rights through DHS, was intentional and intended to procure breach of that contract by said deductions, was without justification, and was perpetrated with actual malice to injure Plaintiff.

99. As a direct and proximate result of Council 5's interference and acts, Plaintiff's performance under his contract with DHS was made more expensive, less remunerative, and more difficult and burdensome. Plaintiff has suffered damages as a direct and proximate result of Council 5's actions.

Count Nine
Unlawful Wage Deductions
Minn. Stat. § 181.79

100. Plaintiff incorporates the preceding paragraphs by reference.

101. Minnesota Statutes § 181.79 provides: "No employer shall make any deduction, directly or indirectly, from the wages due or earned by any employee.... to

recover any other claimed indebtedness running from employee to employer, unless the employee, after the loss has occurred or claimed indebtedness has arisen, voluntarily authorizes the employer in writing to make the deduction or unless the employee is held liable in a court of competent jurisdiction for the loss or indebtedness.”

102. Defendants violated Minn. Stat. § 181.79 by making deductions from Plaintiff’s wages without written authorization, as the only written authorization was forged and/or was not properly obtained pursuant to *Janus*.

103. Defendants are liable to Plaintiff for twice the amount of deduction taken under Minn. Stat. § 181.79, Subd. 2.

PRAYER FOR RELIEF

Mr. Todd respectfully requests that the Court grant him relief as follows after a trial by jury, which is demanded:

A. An award of money damages for union dues unlawfully deducted from Mr. Todd’s paychecks from 2014 through July 6, 2018;

B. An award of money damages for union dues unlawfully deducted from Mr. Todd’s paychecks from July 6, 2018 through his tendering of his resignation in 2020;

C. An award of money damages for union dues unlawfully deducted from Mr. Todd’s paychecks from his tendering of his resignation in 2020 through the date of any judgment;

D. A declaration that Council 5 and DHS’ practice of deducting union dues from Plaintiff’s paycheck without clear and compelling evidence of a knowing, intelligent, and voluntary waiver of Plaintiff’s First Amendment rights is unlawful and a violation of

Plaintiff's rights under the First and Fourteenth Amendments to the United States Constitution;

E. A declaration that Council 5 and DHS' imposition of an unreasonably short and once-a-year time window to resign from union membership and discontinue dues deductions violates Plaintiff's rights under the First and Fourteenth Amendments to the United States Constitution and the Supreme Court's waiver doctrine related to constitutional rights;

F. An injunction prohibiting Council 5 and DHS from continuing the unlawful practices set forth in this Complaint, including unlawful dues deductions without prior affirmative consent to the waiver of constitutional rights, and the imposition of an unreasonably short time window to resign from union membership and stop unconstitutional dues deductions;

G. An award of attorney fees in favor of Plaintiff and against Council 5 and DHS upon Plaintiff prevailing in this litigation and upon post-judgment application for the same, pursuant to 42 U.S.C. § 1988 and Minn. Stat. § 15.472;

H. An award of punitive damages against Council 5 and DHS because of Council 5 and DHS' intentional, willful, malicious, and/or reckless disregard for Plaintiff's First Amendment rights, and also under Minn. Stat. §§ 604.14 and 181.79; and

I. An award of all other relief that the court may deem just, proper, or equitable.

UPPER MIDWEST LAW CENTER

Dated: March 5, 2021

/s/ James V. F. Dickey

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Attorneys for Plaintiff

Moisten Here and Seal Shut to Return

Welcome to AFSCME Council 5!



001000

A Join our Union! Become an AFSCME member with Dues Authorization

TODD	MARCUS	FISHER	STATE
Last	First	Middle	Employer
520 SIOUX LN	SAINT PETER	56082	SECURITY COUNSELOR
Address	City	ST Zip	Job Title
(507) 459-9431	(507) 985-2509		
Home Phone	Work Phone	Cell Phone	
Home Email	Work Email		

By providing my phone number, I understand that AFSCME and its affiliates may use automated calling technologies and/or text message me on my cell phone on a periodic basis. Carrier message and data rates may apply to such texts. You will receive approximately 5 messages each month.

I hereby request membership with and authorize Minnesota AFSCME Council 5 to represent me for the purpose of collective bargaining with my employer and to negotiate and conclude all agreements respecting wages, hours and other conditions of employment.

I recognize that my authorization of dues deductions, and the continuation of such authorization from one year to the next, is voluntary and not a condition of my employment.

Additionally, I hereby request and voluntarily authorize my employer to deduct from my wages an amount equal to the regular monthly dues applicable to members of Minnesota AFSCME Council 5, and further that such amount so deducted be sent to Minnesota AFSCME Council 5 for and on my behalf. This authorization shall remain in effect and shall be irrevocable unless I revoke it by sending written notice to both my employer and Minnesota AFSCME Council 5 during the period not less than thirty (30) and not more than forty-five (45) days before the annual anniversary date of this authorization. This authorization shall be automatically renewed as an irrevocable check-off year to year unless I revoke it in writing during the above described window period, irrespective of my membership in the Union.

The invalidity or unenforceability of any particular provision hereof shall not affect the other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted. By submitting this form, it shows that I agree with the terms above.

[Signature]
Employee's Signature

20-Jun-2018

Date

B Elect our Bosses! Become a PEOPLE member

YES! I want to contribute to our political fund! As public workers, AFSCME members elect our bosses. My PEOPLE membership will help ensure we elect pro-worker politicians who will protect our benefits and pensions, and fight for working families across America.

I hereby authorize Minnesota AFSCME Council 5 to file this payroll deduction with my employer and authorize my employer and associated agencies to deduct each pay period the amount certified in the box provided as a voluntary contribution to AFSCME PEOPLE. Amounts so deducted are to be remitted within 30 days of the deduction to the office of Minnesota AFSCME Council 5 for transmittal to AFSCME PEOPLE, P.O. Box 65334, Washington, D.C. 20035-5334, to be used for the purpose of making political contributions and expenditures. My contribution is voluntary, and I understand that it is not required as a condition of membership in any organization, or as a condition of continued employment, and is free of reprisal. I understand that any contribution guideline is only a suggestion and I am free to contribute more or less than that amount and will not be favored or disadvantaged due to the amount of my contribution or refusal to contribute, and that I may revoke this authorization at any time by giving written notice to Minnesota AFSCME Council 5.

\$10 per pay period \$8 per pay period \$6 per pay period Other amount: _____ per pay period

Employee's Signature

20-Jun-2018

Date

In accordance with the federal law, AFSCME PEOPLE will accept contributions only from members of AFSCME and their families. Contributions from other persons will be returned. Contributions or gifts to AFSCME PEOPLE are not deductible as charitable contributions for federal income tax purposes.

C Your Temporary AFSCME Membership Card

AFSCME Council 5
Temporary Membership Card

Full Name (Print Clearly)

Council 5 use only –
This is NOT your
official Member #
001000

Our Mission

We advocate for excellence in services for the public, dignity in the workplace, and opportunity and prosperity for all workers

Retain the card to the left as your proof of membership until your permanent card arrives. Note the number on the card is for reference only and is NOT your official AFSCME member number.

American Federation of State, County, and Municipal Employees Council 5
300 Hardman Avenue So
South St Paul, MN 55075

AFSCME Council 5 Executive Director:

Effective immediately, I resign membership in all levels of American Federation of State, County, and Municipal Employees Council 5.

I do not consent to any payment or withholding of dues, fees, or political contributions to the union or its affiliates. If you believe I have given consent in the past, that consent is revoked, effective immediately.

The right to be free from forced union payments is guaranteed under the First Amendment of the Federal Constitution as recognized by *Janus v. AFSCME*. I insist that you immediately cease deducting any and all union dues or fees from my paycheck or account, as is my constitutional right. This notification is permanent and continuing in nature, until I sign indicating otherwise.

Further exaction of union dues or fees against my will violates my constitutional rights. If you refuse to process such cessation of payment, I request that you:

- promptly provide me with a copy of any dues deduction authorization — written, electronic, or oral — the union has on file for me; and
- promptly inform me, in writing, of exactly what steps I must take to effectuate my constitutional rights and stop the deduction of dues/fees.

I understand that AFSCME Council 5 has arranged to be the sole provider of workplace representation services for all employees in my bargaining unit. I understand further that, in exchange for the privilege of acting as the exclusive bargaining representative, AFSCME Council 5 must continue to represent me fairly and without discrimination in dealings with my employer and cannot, under any circumstances, deny me any wages, benefits, or protections provided under the collective bargaining agreement with my employer.

Please reply promptly to my request.

Marcus Todd
520 Sioux Lane
St Peter, Minnesota 56082
(507) 459-9431

MSOP St Peter
Security Counselor

Signature and Date:  07/16/2020

Do not contact me with any future membership solicitations or union materials.

To Whom It May Concern,

The credit inquiry on 5/21/15 was for financing my car lease, the inquiry on 6/3/15 was to get pre-approval for a home loan, and the inquiry on 6/26/15 was for a credit card I acquired due to it having more favorable terms and benefits.

The previous address of [REDACTED] MN is my mother's address and the home I grew up in. I have used this as a permanent address for the past few years in order to keep mailing situations more simple.

My mother, Sandra Todd who lives at [REDACTED] MN, will be remaining at her residence in Winona and will not be occupying the property we wish to purchase at [REDACTED] MN.

Thank you,

 8/10/15

Marcus Todd

8/10/2015

Minnesota Sex Offender Program
Department of Human Services
Security Counselor Job Coach Application

Name: Marcus Todd

Classification: Security Counselor

Dept./Work Area: A-Team

Watch (if applicable): 3rd

This criteria will be used in the selection of Job Coaches:

1. Job performance is satisfactory.
2. Prior relevant work experience as an MSOP security counselor for at least one year.
3. Technical knowledge necessary for successful performance of the job
4. Availability and willingness to actively participate in training.
5. A positive attitude regarding position and the program.
6. Supervisor support for participation.
7. Ability to commit to a minimum of one year of participation.
8. Ability to give constructive feedback through exceptional verbal and teaching skills with excellent report writing skills
9. Must be invested in the success of other employees.

I have reviewed the above criteria to become a Job Coach. I understand that I will not supervise new employees, nor will I perform supervisory tasks. I agree to assist in the training of new employees. I understand this will be accomplished during regular working hours. I understand and agree to the following:

- I am willing and able to commit to one year of participation.
- I will meet with and train new employees assigned to me.
- I will be available to current employees for Job Coach Program training opportunities.
- I will learn and utilize Job Coach Program training methods.
- I will follow MSOP principles of personal accountability, respect for others, and community responsibility.

Employee Signature: 

Date: 10/3/17

Forward this application to your Supervisor.

THIS SECTION IS TO BE FILLED OUT BY SUPERVISOR OF EMPLOYEE.

YES The employee meets the above criteria and would make a good role model and instructor. I support this individual to participate in the Job Coach Program, including attendance at Job Coach Program training events and refresher sessions.

NO Comments:

Supervisor Printed Name: _____

Date: _____

Supervisor Signature: _____
Forward this application to Learning & Development

Job Coach Steering Committee Decision : YES
 NO

Date: _____

Mid-Probationary and Probationary Review Form

Employee Name: Marcus Todd

Employee's EID: [REDACTED]

Supervisor Name: Marc Zika

Supervisor's EID: [REDACTED]

Probation Start Date: 8/8/14

Probation Scheduled End Date: 2/8/14

Appraisal Period: (08/08/2014 to 12/23/2014)

Mid-Probationary and End of Probation Review

Does the employee:

1. Exhibit sufficient technical/analytical skills and learning abilities to be able to learn the job duties?

Yes No Needs Improvement

Comments (required for No or Needs Improvement):

2. Exhibit good working relationships with co-workers and customers and contribute positively to the work environment?

Yes No Needs Improvement

3. Exhibit reliability in attendance and adherence to work deadlines?

Yes No Needs Improvement

Comments (required for No or Needs Improvement):

4. Produce quality and timely work?

Yes No Needs Improvement

Comments (required for No or Needs Improvement):

5. Demonstrate ability and willingness to learn and adapt to new learning situations?

Yes No Needs Improvement

Comments (required for No or Needs Improvement):

6. Do you have concerns about the employee's performance?

No Yes (please explain):

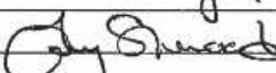
End Probationary only: Should the employee be certified? Yes No*

*Employee must be notified in writing prior to end date. Contact your HR Consultant if contemplating non-certification.

Additional Comments: Marcus has been a positive addition to the Pexton 1 North team and has been consistently demonstrating the general duties and responsibilities of a security counselor.

Employee Signature (I have reviewed the contents)  Date: 12/23/14

Supervisor Signature: Marc Zika Date: 12-23-14

Manager Signature:  Date: 12-29-14

ADDENDUM TO PURCHASE AGREEMENT

This form approved by the Minnesota Association of REALTORS®, which disclaims any liability arising out of use or misuse of this form. © 2011 Minnesota Association of REALTORS®, Edina, MN

1. Date _____

2. Page _____

3. Addendum to Purchase Agreement between parties, dated June 18 2015 pertaining to the
4. purchase and sale of the property at _____ MN

5. _____

6. In the event of a conflict between this Addendum and any other provision of the Purchase Agreement, the language
7. in this Addendum shall govern.

8. _____

9. The radon system will be installed
10. at 520 Sioux Lane. The Bill will be
11. sent to Seller after the installation.

12. The seller will pay up to \$2,000. Any
13. balance over \$2,000 will be paid by
14. the buyer.

15. The installation will occur after the
16. closing.

17. _____

18. _____

19. _____

20. _____

21. _____

22. _____

23. _____

24. _____

25. _____

26. _____

27. _____

28. _____

29. _____

30. _____

31. _____ (Seller) _____ (Date) Alty (Buyer) 7/1/15 (Date)

32. _____ (Seller) _____ (Date) [Signature] (Buyer) 7/1/15 (Date)

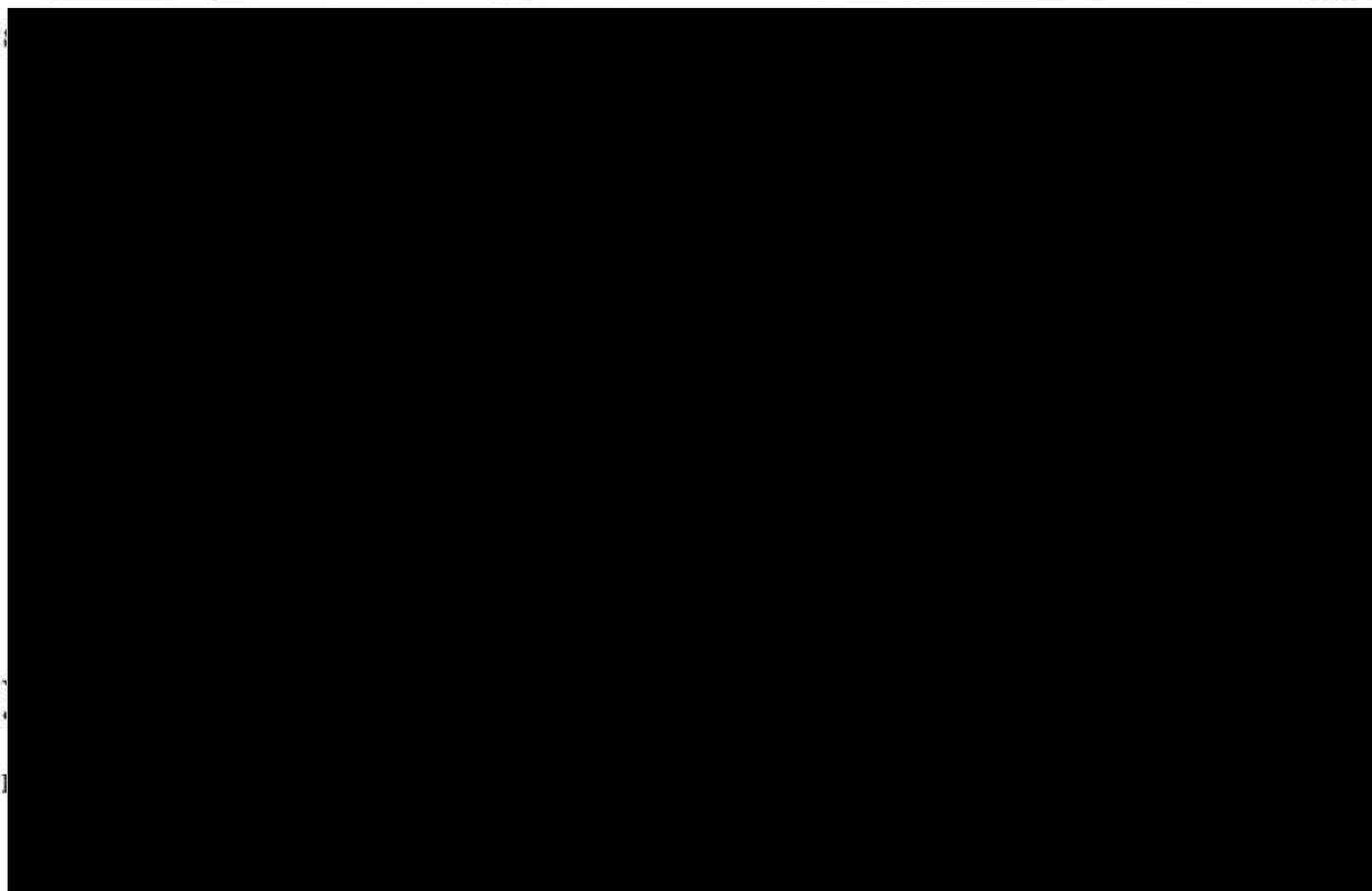
33. **THIS IS A LEGALLY BINDING CONTRACT BETWEEN BUYERS AND SELLERS.**
34. **IF YOU DESIRE LEGAL OR TAX ADVICE, CONSULT AN APPROPRIATE PROFESSIONAL.**

SPOUSE Certification Form



Employee Information			
Last Name <i>Todd</i>	First Name <i>Marcus</i>	Middle Initial <i>F</i>	Employee ID # [REDACTED]
Mailing Address [REDACTED]	City [REDACTED]	State <i>MN</i>	Zip Code [REDACTED]
Agency <i>MSOP</i>	Work Phone Number <i>507-985-3001</i>	Home Phone Number [REDACTED]	

Spouse Information	
Last Name <i>Todd</i>	First Name [REDACTED] Middle Initial [REDACTED]
Gender <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	[REDACTED]

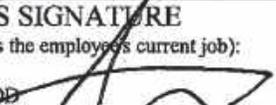


Certification

By completing and signing this form, I certify that the information I have provided is true, complete, and accurate. I understand that knowingly providing false, incomplete, or misleading information may be fraud or intentional misrepresentation of a material fact and may result in denial or loss of benefits, I may be required to repay any claims paid during the period the spouse as ineligible, and I may be subject to disciplinary action.

Employee Signature *[Signature]* Date *11/20/16*

Position Description: Section A

State of Minnesota Department of Human Services		EMPLOYEE NAME & ID# : Todd, Marcus [REDACTED]	
ADMINISTRATION/DIVISION: Minnesota Sex Offender Program (MSOP)		ACTIVITY:	
CLASSIFICATION TITLE: Security Counselor	WORKING TITLE (if different): Security Counselor	POSITION NUMBER:	
PREPARED BY / DATE prepared or revised: Terry Kneisel & Troy Sherwood 3/21/16	PREVIOUS INCUMBENT:	APPRAISAL PERIOD: From: 4/12/16 To:	
EMPLOYEE SIGNATURE (this position description accurately reflects my job): 	DATE: 4/12/16	SUPERVISOR'S SIGNATURE (this document reflects the employee's current job): Courtland, Adam GS/OB  EMPLOYEE ID# [REDACTED]	DATE: 4/13/16

POSITION PURPOSE:

Monitor and closely supervise clients civilly committed to the Minnesota Sex Offender Program (MSOP) at the Moose Lake or St. Peter facilities as Sexually Dangerous Persons (SDP) or Sexual Psychopathic Personalities (SPP). The person in this position will ensure a safe and secure environment in which a therapeutic atmosphere can be maintained. Interaction with clients will be in accordance with facility policies and procedures in order to provide a consistently therapeutic environment, which supports MSOP's mission, vision and goals. The person in this position will model pro-social and therapeutic behavior by displaying warm, empathetic, rewarding and directive interactions. When needed, this person will intervene with the client population to protect the public, staff and clients.

The incumbent must be able to perform the essential functions of the job, with or without reasonable accommodation.

I verified that this position should be covered under the Corrections Employee Retirement Plan in accordance with MN Statute §352.91.


 APPOINTING AUTHORITY'S SIGNATURE 4-13-16
Date

REPORTABILITY:

Reports to: Group Supervisor or Assistant Group Supervisor

Supervises: MSOP clients

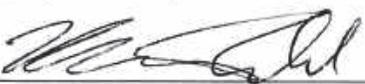
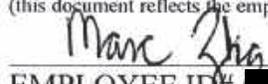
DIMENSIONS:

Budget: None

Clientele:

- 1) Direct service recipients include clients residing at MSOP as well as their families and their legal representatives.
- 2) Other clients include internal MSOP staff and management; judicial and governmental representatives (State and County); attorneys; community resource personnel; and the general public.

Position Description: Section A

State of Minnesota Department of Human Services		EMPLOYEE NAME & ID# : Marcus Todd ID# [REDACTED]	
ADMINISTRATION/DIVISION: Minnesota Sex Offender Program (MSOP)		ACTIVITY: Operations	
CLASSIFICATION TITLE: Security Counselor	WORKING TITLE (if different): Security Counselor	POSITION NUMBER:	
PREPARED BY / DATE prepared or revised: Terry Kneisel & Troy Sherwood-3/21/16	PREVIOUS INCUMBENT:	APPRAISAL PERIOD: From: To:	
EMPLOYEE SIGNATURE (this position description accurately reflects my job): 	DATE: 9/17/19	SUPERVISOR'S SIGNATURE (this document reflects the employee's current job):  EMPLOYEE ID# [REDACTED]	DATE: 9-17-19

POSITION PURPOSE:

Monitor and closely supervise clients civilly committed to the Minnesota Sex Offender Program (MSOP) at the Moose Lake or St. Peter facilities as Sexually Dangerous Persons (SDP) or Sexual Psychopathic Personalities (SPP). The person in this position will ensure a safe and secure environment in which a therapeutic atmosphere can be maintained. Interaction with clients will be in accordance with facility policies and procedures in order to provide a consistently therapeutic environment, which supports MSOP's mission, vision and goals. The person in this position will model pro-social and therapeutic behavior by displaying warm, empathetic, rewarding and directive interactions. When needed, this person will intervene with the client population to protect the public, staff and clients.

The incumbent must be able to perform the essential functions of the job, with or without reasonable accommodation.

I verified that this position should be covered under the Corrections Employee Retirement Plan in accordance with MN Statute §352.91.


APPOINTING AUTHORITY'S SIGNATURE

9/17/19
Date

REPORTABILITY:

Reports to: Group Supervisor or Assistant Group Supervisor

Supervises: MSOP clients

DIMENSIONS:

Budget: None

Clientele:

- 1) Direct service recipients include clients residing at MSOP as well as their families and their legal representatives.
- 2) Other clients include internal MSOP staff and management; judicial and governmental representatives (State and County); attorneys; community resource personnel; and the general public.

American Federation of State, County, and Municipal Employees Council 5
300 Hardman Avenue So
South St Paul, MN 55075

AFSCME Council 5 Executive Director:

Effective immediately, I resign membership in all levels of American Federation of State, County, and Municipal Employees Council 5.

I do not consent to any payment or withholding of dues, fees, or political contributions to the union or its affiliates. If you believe I have given consent in the past, that consent is revoked, effective immediately.

The right to be free from forced union payments is guaranteed under the First Amendment of the Federal Constitution as recognized by *Janus v. AFSCME*. I insist that you immediately cease deducting any and all union dues or fees from my paycheck or account, as is my constitutional right. This notification is permanent and continuing in nature, until I sign indicating otherwise.

Further exaction of union dues or fees against my will violates my constitutional rights. If you refuse to process such cessation of payment, I request that you:

- promptly provide me with a copy of any dues deduction authorization — written, electronic, or oral — the union has on file for me; and
- promptly inform me, in writing, of exactly what steps I must take to effectuate my constitutional rights and stop the deduction of dues/fees.

I understand that AFSCME Council 5 has arranged to be the sole provider of workplace representation services for all employees in my bargaining unit. I understand further that, in exchange for the privilege of acting as the exclusive bargaining representative, AFSCME Council 5 must continue to represent me fairly and without discrimination in dealings with my employer and cannot, under any circumstances, deny me any wages, benefits, or protections provided under the collective bargaining agreement with my employer.

Please reply promptly to my request.

Marcus Todd
520 Sioux Lane
St Peter, Minnesota 56082
(507) 459-9431

MSOP St Peter
Security Counselor

Signature and Date:  07/16/2020

Do not contact me with any future membership solicitations or union materials.

August 14, 2020

Sent by U.S. Mail and Email

Christine Harriman, Field Representative-Member Action Center
AFSCME, Council 5
300 Hardman Avenue South
South St. Paul, MN 55075
Council5@afscmemn.org

Re: Demand for Immediate Acknowledgement of Resignation and
Cessation of Dues Deduction Based on Forged "Welcome" Card

Dear Ms. Harriman:

I have received your July 16, 2020 email, responding to my email and my resignation and cessation of dues deduction letter of July 16, 2020, together with the "Welcome to AFSCME Council 5" card, dated June 20, 2018, which you enclosed and assert prevents me from resigning or stopping dues deductions until May 6-21, 2021.

I deny that this card was ever signed by me. The "signature" thereon is a forgery. I have enclosed several examples of my signature from documents contemporaneous to the "Welcome" card, which clearly show no resemblance to this "signature." Accordingly, I demand again that my resignation be acknowledged and that dues deductions stop immediately.

Please confirm in writing that this will be done. If not, I plan to authorize legal action against AFSCME, Council 5.

Very truly yours,



Marcus Todd
520 Sioux Lane
St. Peter, MN 56082

Enclosures

Cc: Douglas P. Seaton, President,
Upper Midwest Law Center



September 15, 2020

Sent by U.S. Mail and Email

Christine Harriman, Field Representative-Member Action Center
AFSCME, Council 5
300 Hardman Avenue South
South St. Paul, MN 55075
Christine.Harriman@afscmemn.org
Council5@afscmemn.org

Re: Forgery of Union Membership and Dues Deduction Authorization Card

Dear Ms. Harriman:

I represent Mr. Marcus Todd, who wrote to you on August 14, 2020, concerning the refusal of AFSCME, Council 5 ("Council 5") to confirm his membership resignation and termination of any alleged dues deduction authorization.

Your letter to him of July 16, 2020 replying to his original resignation and dues deduction authorization termination of July 16, 2020, asserted that he was bound by a "Welcome to AFSCME Council 5" card to continue dues and membership until May 6-21, 2021.

This card, however, is a forgery, as Mr. Todd demonstrated in his letter of August 14, 2020. You have failed to respond to this letter, and Mr. Todd continues to have dues deducted from his pay and his union membership resignation has not been recognized.

I demand that Mr. Todd receive a confirmation of his resignation, and the termination of his dues deduction authorization, and that Council 5 refund him the \$1,643.31 in dues payments Council 5 has received since June 20, 2018, no later than close of business September 25, 2020.

Very truly yours,

A handwritten signature in blue ink that reads "Douglas P. Seaton". The signature is written in a cursive style.

Douglas P. Seaton
Attorney for Marcus Todd

cc: Mr. Marcus Todd

300 Hardman Avenue S.
South St. Paul, MN 55075
(651) 450-4990
(651) 455-1311 fax



211 West 2nd Street
Duluth, MN 55802
(218) 722-0577
fax (218) 722-6802

Douglas P. Seaton
Upper Midwest Law Center
8421 Wayzata Boulevard, Suite 105
Golden Valley, MN 55426
Doug.Seaton@UMWLC.org

Re: Marcus Todd

Dear Mr. Seaton,

My name is Josie Hegarty and I am an attorney on staff with AFSCME Council 5. Please direct any further correspondence from your office regarding your client to my attention. This letter is in response to your letter of September 15, 2020 regarding your client Marcus Todd.

You stated in your letter that that the signature we have on file for your client is a forgery and that Mr. Todd has demonstrated this through his communications with AFSCME. We disagree on both points and believe that if this issue proceeds to litigation, we would prevail.

As I am sure you are aware, electronic signatures are enforceable under Minnesota law and attributable to a person through the context and surrounding circumstances at the time of the signature's creation. Minn. Stat. § 325L.09. The membership card that we have on file for Mr. Todd was created through the use of an electronic signature through a secure system by which AFSCME members can access information about their membership. This signature was made on June 20, 2018. Mr. Todd paid dues following this signature on each of his paychecks and made no request to be let out of his dues obligation until July 16, 2020. In this request, he provided his AFSCME member number and specifically requested a copy of his union card with signing date, and any information he needed in order to be let out of membership. He made no contentions whatsoever that his membership card had a fraudulent signature until August 14, 2020.

Given these circumstances, we do not agree that your client has demonstrated that the signature is fraudulent. Instead, the circumstances point to your client having used his own personal information to access the electronic system to sign a membership card in 2018, and that in doing so, he understood he was agreeing to membership in AFSCME, which would include dues deductions from his paycheck and a specific time frame during which he could revoke this dues authorization. We do not believe that an alternative series of events is plausible.

Page 2

Further, even if there are facts to which we are currently unaware that your client could present during litigation that would raise doubts about the authenticity of his signature on the membership card, we still do not believe your client's claim would prevail. "A party who with full knowledge of the facts receives and retains the proceeds or the benefits of his unauthorized signature upon an instrument ratifies the signature." *Strader v. Haley*, 12 N.W.2d 608, 614, (Minn. 1943). Even if your client could raise doubts as to his authorization of the signature on the membership card, his actions would be viewed as demonstrating acquiescence to such signature. Dues were deducted from your client's paychecks for over two years before he requested to cease union membership. His request stated his AFSCME member number and clearly demonstrated that he believed he had signed a union card, as he requested a copy of such a card as well as the signing date and instructions for how to cease his membership. Such behavior demonstrates he understood that he had agreed to be a member of AFSCME and that such membership entails the payment of dues and specific parameters for ceasing such dues payment.

As your client was informed on July 16, 2020, he may revoke his dues authorization during the next opt-out period, which is May 6-21, 2021, by providing a written dated request with a handmade signature. He may provide this document through mail to our South Saint Paul office at the address below or by sending a scanned copy of this request to council5@afscmemn.org.

If you have any relevant facts that you believe would change the outcome of a lawsuit, please provide that information so that we may consider it. We believe this issue can be resolved without proceeding to litigation. I look forward to hearing from you.

Thank you.



Josie "JD" Hegarty
(she / her // they / them)
Staff Attorney
AFSCME Council 5
300 Hardman Ave S
South Saint Paul, MN 55075
612-772-3119
jd.hegarty@afscmemn.org