

Melissa Lynn Hanson
82299 200th Street
Hayward, Minnesota
Sui Juris

***In the District Court for Freeborn County
Third Judicial District***

State of Minnesota,

Plaintiff,

v.

MELISSA LYNN HANSON,

Defendant.

Court File No. 24-CR-21-137/188

**Notice of Demurrer

and

Motion for Continuance of Trial

(Verified)**

I, Melissa Lynn Hanson, *sui juris*, a woman and one of the People and in this court of record¹ by this document Notice the court of the Demurrer to the Complaints and of other matter and move for continuance of the trial should the court overrule the demurrer.

Procedural Background

1. The Objection to Proceedings and Notice of Legal Issues/Defenses filed on November 15, 2021 and amended as filed on November 22, 2021.

¹ A **court of record** has four essential elements, two of which are that the judicial tribunal has attributes and exercises functions independently of the person of the magistrate designated generally to hold it and that **it proceeds according to the course of common law**. Black's Law Dictionary, 4th Ed., 425, 426.

2. A pretrial conference held on November 24, 2021 under criminal Rule 12.01 to hear and determine all motions made by parties under criminal Rule 12.02 and to hear and determine constitutional, procedural, and other issues that may be resolved before trial under criminal Rule 12.03.
3. The prosecutor, Kelly Dawn Martinez, failed to rebut – by way of any substantive legal reasoning or legal authority upon the facts of the case – the legal issues/defenses in the nature of a demurrer to the Criminal Complaints before the court and to the court's competent exercise of its general jurisdiction.
4. The court declined to make a determination on any legal issue/defense at the hearing in spite of having heard each party to the litigation and contrary to the requirements of Rule 12.02 and Rule 12.03 that a determination be made unless the hearing continued for that purpose.
5. To the best of my recollection, the court requested my entry of a plea by December 2, 2021 that I have not entered.
6. The court requested that I provide notice of whether or not to have one trial for both criminal cases or a separate trial for each case by December 2, 2021.
7. The court required a list of witnesses by December 2, 2021.
8. I gave notice of my agreement for media coverage of the public trial.

Notices

- I. All documents in the nature of demurrer to the Complaints and to the competency of the court to exercise its general jurisdiction shall be determined before I plead to the charges asserted in the Complaints.**

The right to judicial proceedings according to the common law as established by the Northwest Ordinance provide that I may demurrer to the Complaints before pleading to the charges therein. The office of the demurrer (motion to dismiss is the code pleading equivalent) is to test the legal sufficiency of the Complaint in any regard by which it may be tested. Pleading to the charges prior to testing the legal sufficiency of the Complaint presumes to accept the legal sufficiency and to join the issues as charged to be resolved within the framework of these sham cases on fact. As I have not entered a plea and have objected to the court's entry of a plea on my behalf, I reserve the right – preserved under common law and Criminal Rule 17.06, Subd. 2 and Subd. 4(1) – to enter a plea after ruling on the issues of law presented in the nature of a demurrer to the Complaint and to the jurisdiction of the court construed as motions to dismiss.

- II. If the court establishes that *in personam* jurisdiction obtained in both criminal cases and has not been lost as a result of acts inconsistent with due process of law², the charging documents shall be consolidated for trial under criminal Rule 17.03, Subd. 4.

In the matter of case no. 24-CR-21-137, I was ushered into an arraignment hearing while at court for another matter without having been first issued and served a valid summons and complaint in accordance with the criminal rules of procedure Rule 3. The issue raised at the arraignment hearing held on January 28, 2021. See Transcript, pg 10. The issue raised in the Motion to Dismiss filed February 16, 2021. The court proceeded as to join case nos. 24-CR-21-137 and 24-CR-21-188. I demurred to the jurisdiction of the court in open court at an arraignment hearing held on February 4, 2021 upon written challenges filed February 4, 2021. The court asserted an opinion that it had jurisdiction without finding of fact to conclude jurisdiction as a matter of law against the written challenges made thereto. The court further set a condition for release on bail that I must obey the executive orders and orders issued by the MDH – both void *ab initio* as the executive orders are constitutionally unenforceable against the People and private sector businesses and that MDH has no authority to enforce executive orders

² *Bode v. Minn. Dept. of Nat. Resources*, 594 NW 2d 257, 261 (Minn. App. 1999) (A judgment is void if the issuing court lacked jurisdiction over the subject matter, lacked personal jurisdiction over the parties through a failure of service that has not been waived, or acted in a manner inconsistent with due process); *Bradley v. St. Louis Terminal Warehouse Co.*, 189 F.2d 818, 824 (8th Cir.1951) (A judgment obtained without due process is a nullity and may be attacked directly or collaterally by parties or strangers.); *Bass v. Hoagland*, 172 F.2d 205, 208-209 (5th Cir.1949) (We believe that a judgment, whether in a civil or criminal case, reached without due process of law is without jurisdiction and void), cert. denied 338 U.S. 816, 70 S.Ct. 57, 94 L.Ed. 494 (1949); see 11 Wright and Miller, Federal Practice and Procedure § 2862 at 199-200.

as it is not an organization for emergency management established pursuant to chapter 12 for enforcement of executive orders under Minn. Stat. § 12.28.

To date, the court has acted without having established findings of fact from the record to conclude the competent exercise of its general jurisdiction as a matter of law against the written challenges made thereto.

The court under judge Bueltel issued a warrant of arrest in both cases for failure to appear at a hearing on new charges relating to violations of MDH orders and executive orders void *ab initio* when absent from the record is a summons and complaint issued and served in accordance with criminal rules of procedure Rule 3.

III. The court must address the following questions of law testing the legal sufficiency of the Complaint and the competency of the court to exercise its general jurisdiction.

From the onset of these cases, the record established grounds upon which to test the legal sufficiency of the complaints and to test the competency of the court to exercise its general jurisdiction – culminating in the Amended Notice of Legal Issues/Defenses.

The prosecutor failed to rebut the legal issues/defenses with any legal reasoning or authority on the record – resting on an empty assertion that the legal issues raised in challenges to the complaints and to the competent exercise of the court's general jurisdiction have no legal basis which is attorney-speak for not having any reason of law or authority to overcome the legal challenges.

Without any substantive rebuttal to the legal issues on the record, the court either must dismiss the case on any one of the un rebutted legal challenges testing the sufficiency of the complaint and the authority to commence the action or the competency of the court to exercise its general jurisdiction. Otherwise, it must assume the role of the prosecutor to rebut the legal challenges and then return to the role of the court to make a judicial determination on them. Not without the realm of possibility is for the court to ignore the legal challenges and proceed to trial in continuance of denying me the right to due process of law under the Rule of Law. The prosecutor has put the court into a position analogous to a student grading his own essay exam – eviscerating the adversarial process that would otherwise culminate in the ultimate questions of law for judicial determination. I frame the following questions of law from the challenges on the record:

Constitutional Test of Executive Orders

The test of the legal sufficiency of the complaints at the constitutional level rests upon the following authority:

"An unconstitutional law is void and is as no law. An offense created by it is not crime. A conviction under it is not merely erroneous but is illegal and void and cannot be used as a legal cause of imprisonment." *Ex parte Siebold*, 100 U.S. 371, 376 (1879).

"An unconstitutional act is not law. It confers no rights; it imposes no duties; affords no protection; it creates no office. **It is, in legal contemplation, as inoperative as though it had never been passed.**" *Norton v. Shelby County*, 118 U.S. 425, 442 (1886).

"Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them." -*Miranda v. Arizona*, 384 U.S. 436 (1966)

§ 256 Generally [16 Am Jur 2d, CONSTITUTIONAL LAW]:

The general rule is that an unconstitutional statute, whether federal or state, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it, an unconstitutional law, in legal contemplation, is as inoperative as if it had never been passed. Such a statute leaves the question that it purports to settle just as it would be had the statute not been enacted. No repeal of such an enactment is necessary.

Since an unconstitutional law is void, the general principles follow that it imposes no duties, confers no rights, creates no office, bestows no power or authority on anyone, affords no protection, and justifies no acts performed under it. A contract which rests on an unconstitutional statute creates no obligation to be impaired by subsequent legislation.

No one is bound to obey an unconstitutional law and no courts are bound to enforce it. Persons convicted and fined under a statute subsequently held unconstitutional may recover the fines paid.

The general principles stated above apply to the constitutions as well as to the laws of the several states insofar as they are repugnant to the Constitution and laws of the United States. Moreover, a construction of a statute which brings it in conflict with a constitution will nullify it as effectually as if it had, in express terms, been enacted in conflict therewith.

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9. There is no provision in the Minn. Const. delegating power to the governor to unilaterally direct and control the conduct of the People and private sector businesses in this state. The Minn. Const. prohibits the governor from creating general law operative as that enacted by the legislature. The Minn. Const. prohibits the legislature from delegation of any legislative function to the governor that would in effect operate having the full force and effect of general law as enacted by the legislature. ***Does the court have subject matter jurisdiction to enforce executive orders to the extent of general application to the People and private sector businesses under guise of having the full force and effect of enacted law in defiance of constitutional prohibitions and in absence of the grant of the power delegated to the governor to unilaterally direct and control the private conduct of the People and private sector businesses in the state of Minnesota?***

10. The legislature and the governor are prohibited under the state and federal constitutions from creating any rule, order, or law that would operate to interfere with the obligations of contract. The executive orders, *inter alia*, interfered with the operation of bars and restaurants whose terms of operation are established by license in the nature of a contract with the state. ***Does the court have subject matter jurisdiction to enforce executive orders that interfere with the obligations of contract?***
11. The executive orders altered substantial personal rights of the general population. The executive orders applied to the general population prior to enactment of law. The executive order disadvantaged the operation of my business and subjected me to criminal charges. ***Does the court have subject matter jurisdiction to enforce executive orders operating in effect as law ex post facto?***

12. The Minn. Const. specifies that the style of all laws of this state shall be: "Be it enacted by the legislature of the state of Minnesota". Neither the law underlying the codification of Minn. Stat., Chapter 12 nor the law underlying the codification of Minn. Stat. § 609.74(1) conform to the requirements specified by the Minn. Const. ***Does the court lose subject matter jurisdiction to enforce codified law when the style of the underlying law as enacted does not conform to the requirements dictated by the Minn. Const. that constitutionally give the law its full force and effect?***

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13. The criminal actions commenced in the name of "state of Minnesota" (this style capitalizing "s" in "state" referred to hereafter as "FOREIGN STATE") in non-conformance to the Minnesota Constitution setting forth that this state shall be called the "state of Minnesota" (Minn. Const. Art. II, sect 1) and the Enabling Act (11 Stat. 166-67) setting forth "be and they are hereby authorized to form for themselves a constitution and state government by the name of the state of Minnesota, and come into the union on an equal footing with the original states, according to the federal constitution". No territory defined by the Constitution of the state of Minnesota for the FOREIGN STATE. No authority delegated to the FOREIGN STATE by the Constitution of the state of Minnesota. The capacity in which the Plaintiff - styled as the FOREIGN STATE - has standing to prosecute a criminal complaint against any one of the People not alleged in the pleadings. ***Does the court have jurisdiction when the Plaintiff appearing as a constitutional misnomer as the FOREIGN STATE prima facie establishing that it is not the real party in interest as the de jure government and further having no defined geographical territory for the court to have personal jurisdiction over the crimes alleged?***

Statutory Test of Legal Sufficiency

14. The governor issued the declaration of a peacetime emergency in response to the COVID-19 pandemic on condition of "act of nature". Executive Order 20-01 declaring the peacetime emergency stated "The U.S. Department of Health and Human Services Secretary has declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. The World Health Organization has recently assessed that this outbreak can be characterized as a pandemic." The term "public health emergency" was removed as a condition upon which to declare a peacetime emergency in the 2005 legislative session. ***Does the court have subject matter jurisdiction to enforce any executive order whose authority is predicated upon a peacetime emergency declared by the governor to be "an act of nature" when in substance – and as acknowledged in the Governor's Declaration – the condition is a "public health emergency" expressly removed by the legislature as a condition upon which a peace time emergency may be declared?***

15. The governor's authority is limited to the direction of control of "emergency management" within the confines of Chapter 12 legally presumed as subject to the limitations of power set forth under the state and federal constitutions. ***Does the court have the authority to construe the limited emergency management power delegated to the governor by statute to extend to the general direction and control of the People and private sector businesses in this state by executive order without a declaration of martial law and without raising questions of constitutionality of the executive orders?***
16. The Minnesota Court of Appeals³ set forth the application of Minn. Stat. § 12.45 (1996) as "providing misdemeanor penalties for officials who violate duties imposed by emergency management laws". Absent authority established on the record to expand the application of §12.45 to the People and private sector businesses in purported violation of executive orders, ***does the court have statutory subject matter jurisdiction to enforce charges against me under Minn. Stat. § 12.45 on the facts alleged in the complaint in light of the controlling authority establishing the limited application of the penalty under § 12.45? Can the court permit a charge under § 12.45 to go to trial when it is constitutionally void for vagueness?***

³ *Manteuffel v. City of North St. Paul*, 570 NW 2d 807, 812 (Minn. App. 1997).

17. The predicate condition for application of a penalty under § 609.74(1) is a failure to perform a legal duty; the legal duty imposed by enacted state law or the common law has not been alleged and is otherwise unknown. The executive order is not enacted law and constitutionally may impose no general legal duty upon the People or private sector businesses. ***Does the court have statutory subject matter jurisdiction for enforcement of a penalty under § 609.74(1) on the facts alleged in the complaint (24-CR-21-188) where the legal duty is merely implied and purportedly imposed by executive order having no force and effect of enacted law? Can the court permit a charge under § 609.74(1) to go to trial when it is constitutionally void for vagueness?***

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18. The executive orders, *inter alia*, purported authority to direct the operation of bars and restaurants. Minn. Stat. 12.45 penalizes a "person" who willfully violates a rule or order having the force and effect of law issued under the authority of Chapter 12. "Person" as defined at 12.03, subd. 7a is limited to those whose rights and duties are derived from the legislature as creatures of the state. Assuming *arguendo* that declaration of the peacetime emergency was valid, the executive orders were constitutional and within the proper scope of the statutory delegation of authority, ***does the court have subject matter jurisdiction over Melissa Lynn Hanson as one who is not a creature or legal fiction of the state embraced as a "person" under § 12.45 and not within the object of the executive order as a bar and restaurant?***

***Legal Test for Competent Exercise of General Jurisdiction of the
Court***

19. There is no claim by any man or woman of a particularized injury suffered in fact and having proximate causation to the operation of my business without which there is no judicial cognizance of a case at law (civil or criminal) or a suit in equity. There is no allegation of fact to establish that I – as one of the People – have been made subject to the will of the legislature in these instant cases to establish statutory subject matter jurisdiction. ***Can the court competently exercise any power under its general jurisdiction absent a complaint that sufficiently alleges fact to establish subject matter jurisdiction either at law, in equity, or of statutory subject over which the court may exercise its general jurisdiction?***

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20. The Plaintiff appeared as the FOREIGN STATE. No allegation otherwise to establish the territorial jurisdiction and the capacity of the Plaintiff as the *de jure* government as set forth and established by the Constitution for the state of Minnesota. ***Does the court have jurisdiction over the cases commenced by a Plaintiff who has not prime facie established itself as the real party in interest as the de jure government? Does the court have personal jurisdiction of any crime occurring within an unknown territorial jurisdiction of the FOREIGN STATE?***

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21. A surprise arraignment hearing was held in case no. 24-CR-21-137 without prior issuance and service of a summons and complaint in accordance with rules of criminal procedure Rule 3. Judge Bueltel issued and maintained a warrant of arrest in both cases for failure to appear at a hearing on new charges relating to a purported breach of a void court order in absence of a summons and complaint issued and served in accordance with the rules of criminal procedure Rule 3 compelling me to attend the said hearing. The arrest warrant issued by Judge Bueltel without findings of fact to establish judicial cognizance of an action at law, suit in equity, or statutory subject matter jurisdiction established by findings of fact from the record against the written challenges made thereto. ***Did the court lose jurisdiction for acts on the record inconsistent with due process of law?***

Legal Test of Authority for Commencement of the Actions

22. Kelly Dawn Martinez has not executed an official oath of public office. Does an attorney who purports to exercise the power of an office of public trust in agency of the executive branch of the local and state government in the prosecution of one of the People engage in the unlawful practice of law if there is no record of her executed oath of public office in violation of the Constitution for the United States of America, Art. VI, Cl 3, Minn. Const., Art. V, sec. 6, and Minn. Stat. 558.03?
23. ***Does the court lose jurisdiction over any case commenced by an attorney exercising a sovereign function of the local and state government in the capacity of a public officer for whom there is no record of the executed of oath of office?***
24. A person in the office of city attorney is limited under Minn. Stat. § 484.87, Subd. 3 to prosecuting violations of enacted state law. The enforcement of the governor's executive orders is limited by Minn. Stat. 12.28 to officers in organizations established for emergency management under Chapter 12. The City of Albert Lea is not alleged to have been established for emergency management under Chapter 12. ***Does the court lose subject matter jurisdiction for the instant cases before it commenced by a city attorney prosecuting violations of executive orders without the express authority of law to do so?***

25. The Complainant, Carla Cincotta, in each of the cases before the court, is a peace officer employed by the Minnesota Department of Public Safety - Alcohol and Gambling Enforcement Division ("AGED"). AGED is not alleged as an organization established for emergency management under Chapter 12. There is no express authority for AGED to enforce any matter beyond enacted state law and the duly promulgated implementing regulations thereunder relating to Alcohol and Gambling. ***Does the court have subject matter jurisdiction over a complaint where the Complainant has no standing for want of authority upon which to enforce executive orders but purports to do so by her testimony made in a complaint?***

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Test of Authority to Exercise Judicial Functions

26. The People of the several States established and ordained the Constitution for the United States of America. Article VI, Clause 3 of the Constitution for the United States of America requires that the judicial officers of the several states be bound by oath to support "this Constitution". The People of Minnesota established the Constitution for the state of Minnesota. Article V, Section 6 of the Constitution for the state of Minnesota requires that each officer of the state be bound by oath to support the constitution of the United States and of this state. Judge Buetel's executed oath of office binds his support to the "Constitution of the United States" and the "Constitution of the State of Minnesota" and further to discharge duties in the unknown territory of the State of Minnesota. ***Can an officer of this state duly exercise the powers delegated to the office when the executed oath of office binds the officer in support of constitutions not established and ordained by the People as named and to be exercised within territory unknown?***

Test Legal Sufficiency of Complaints as Instruments of Racketeering

27. A *prima facie* case established that the instant cases before the court have been “monetized” as a bond or security and traded in the financial markets without disclosure. The bonds or securities presumptively create past, present, and/or future gain to undisclosed persons. There is no affidavit on record rebutting the factual information relating to the financial instruments created from these instant cases. ***Can the court proceed without either disclosing the financial transactions associated with these cases or without an affidavit rebutting the prima facie evidence establishing a scheme in the nature of racketeering without implicating fundamental violations of due process in the fair and impartial administration of justice?***

IV. Notice of requirement for sufficient time to mount a defense in the interest of justice.

From the inception of these cases, the court has had on record documents in the nature of a demurrer to the Complaints and to the competent exercise of the court’s general jurisdiction, the culmination of which heard at pretrial on November 24, 2021 without any judicial determination – over 9 months since commencement of these cases. I could not voluntarily knowingly, and intelligently enter a plea or demurrer or mount a meaningful and substantive defense to the charges without answers to my Demand for a Bill of Particulars in respect of the nature and cause of the accusations. Further, without the court establishing findings of fact from the

record to conclude that the court may competently exercise its general jurisdiction, there was no cause to mount a defense to the charges. If the court in some way finds that the complaints are legally sufficient as a matter of legal reasoning and controlling authority to the posited questions of law and that the court finds facts to conclude the competent exercise of its general jurisdiction, it is not in the interest of justice and is a denial of due process to deny to me sufficient time from the final judicial determination to a scheduled trial date in which I may mount a substantive and meaningful defense that may include discovery, depositions, etc. If the court does not dismiss the cases before it, I request a continuance of the trial to be at least 60 days from the point in time when the judicial determination is final.

V. Notice of Potential Witnesses

Absent dismissal of these cases and subject to change upon how the questions of law are judicially determined, I may require the following people to provide testimony under oath: Tim Walz, Jan Malcom, Carla Cincotta, and Kelly Dawn Martinez.

VI. Notice of Evidence

I intend to use as evidence in my defense and the court shall take judicial notice of: the federal constitution as adopted in 1791, 4 U.S.C. § 101 and § 110(d), the Constitution for the state of Minnesota, laws of Minnesota relevant to these cases as enacted and subsequently codified, the Executive Order 20-01 declaring a peacetime emergency, Executive Orders relevant to these cases, and the controlling authority of *Manteuffel v. City of North St. Paul*,

570 NW 2d 807, 812 (Minn. App. 1997) defining the application of Minn. Stat § 12.45.

WHEREFORE: Upon the facts of the record and conclusions of constitutional and statutory law establishing

1. that the Plaintiff's appearance as the FOREIGN STATE is a misnomer wholly without authority delegated by the Constitution for the state of Minnesota,
2. that the governor's authority may not unilaterally and generally direct and control the People or private businesses in this state unless authorized by the state to perform emergency functions in the nature of service,
3. that the governor had no authority to declare a peacetime emergency upon the condition of a "public health emergency" under guise of "act of nature",
4. that the enabling clauses of the enacted law underlying Minn. Stat., Chapter 12 and § 609.74(1) did not conform to the requirements of the Minnesota Constitution,
5. that Minn. Stat. § 12.45 is applicable only to officials who violated duties imposed by emergency management laws,
6. that the Minn. Stat. § 12.45 and § 609.74(1) are constitutionally void for vagueness,
7. that the judicial and statutory power of the court is inchoate,
8. that the criminal rules of procedure are only defined for district courts in the unknown territory of the the FOREIGN STATE,
9. that the city attorney is limited to the prosecution for violation of enacted state law and not violation of executive

orders,

10. that the city attorney is not an officer under § 12.28 who may enforce executive orders,
11. that the authority of Kelly Dawn Martinez as the city prosecutor exercising the power of public office is inchoate without an executed oath of office on file,
12. that *prima facie* evidence is established for undisclosed financial gain accruing to undisclosed persons and related to prosecution of these cases in a court associated with a commercial service enterprise implicating a scheme of racketeering involving public officials under Minn. Stat. § 609.903,

these proceedings were commenced upon fraud and have denied me due process of law in the proper and unbiased administration of justice since their commencement and any further acts to continue the prosecution of these cases against me would rise to the level of treason to the Constitution for the state of Minnesota and to the Constitution for the United States of America [1791]; it is the **duty** of the court to dismiss these cases with prejudice.

If the court makes a judicial determination that it is competent to exercise its general jurisdiction on findings of fact and that the complaints are legally sufficient for a trial by jury, **I request a period of at least 60 days from the date of the final judicial determination to the scheduled date of the trial in the interest of justice and due process.**

Dated on this 1st day of December, 2021:



Melissa Lynn Hanson

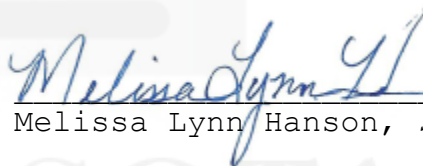
Melissa Lynn Hanson

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VERIFICATION

I declare under penalty of perjury under the laws of Minnesota that I have read the foregoing document and to the best of my knowledge and belief the factual statements and declarations made therein are true and correct and made in good faith and will testify to the same in open court upon any dispute of fact established by sworn testimony of any person having personal knowledge of the facts if called to do so; excepting as to those matters therein stated upon information and belief and as to those matters, I verily believe the same to be true.

Executed on this 1st day of December, 2021:

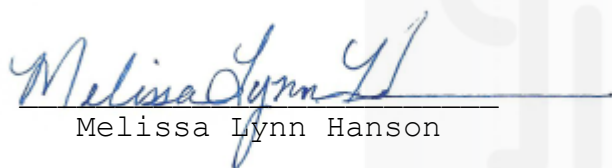


Melissa Lynn Hanson, *sui juris*

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CERTIFICATE OF SERVICE BY ELECTRONIC FILING SYSTEM

I, Melissa Lynn Hanson, certify that on this 1st day of December, 2021 I concurrently served a true and complete copy of the foregoing document by the electronic filing system of the court and upon reasonable belief, the Plaintiff has been served by the same as a registered user and as a party to the case.


Melissa Lynn Hanson

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