

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Other Civil

Judge: \_\_\_\_\_

Court File No. \_\_\_\_\_

Minnesota Department of Education,

Plaintiff,

vs.

**ANSWER TO COMPLAINT**

Aimee Bock and Feeding Our Future,

Defendants.

**To: Plaintiff Minnesota Department of Education by and through their attorney Christopher Stafford, Minnesota Attorney General's Office, 445 Main Street, Suite 1400, Saint Paul, MN 55101**

Feeding Our Future ("FOF") brought its Complaint in Case No. 62-CV-20-5492 to compel the Minnesota Department of Education ("MDE") to comply with federal law related to the United States Department of Agriculture's food service programs – the Child and Adult Care Food Program ("CACFP") and the Summer Food Service Program ("SFSP"). In sum, MDE is the state agency in charge of administering the CACFP and SFSP federal food programs, and FOF sued MDE due to its failure to follow federal mandates with regard to those food programs. It's as simple as that.<sup>1</sup>

What's more, FOF's lawsuit had merit. Pursuant to a public statement issued by the Minnesota Judicial Branch on September 23, 2022<sup>2</sup>:

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<sup>1</sup> In fact, other organizations other than FOF have sued MDE for the same conduct. See *Youth Leadership Academy v. Minn. Dept. of Ed.* (Minn. Ct. App. A22-0378, argued Dec. 1, 2022, decision pending); *Partners in Nutrition v. Minnesota Department of Education*, (In re Minnesota Department of Education's 10/14/2022 Appeal Panel Order), (Minn. Ct. App. A22-1913, in briefing, undecided).

<sup>2</sup> <https://www.mncourts.gov/About-The-Courts/NewsAndAnnouncements/ItemDetail.aspx?id=2153>

The original lawsuit [Case No. 62-CV-20-5492] was based solely on claims that the Department of Education violated federal regulations and laws prohibiting race discrimination, by failing to act on FOF's applications for new food-distribution sites as part of its administration of the federal Child and Adult Care Food Program. Judge Guthmann was initially assigned to the case. The lawsuit included a motion by FOF for an order to require the Department of Education to act on pending site applications. Before the court could rule, the parties reached an agreement in which the Department of Education agreed to handle these federally regulated site applications "reasonably promptly." A consent order approving the settlement was issued on December 22, 2020.

MDE was obligated to comply with the December 22, 2020 Consent Order and the applicable federal regulation at each stage of its administration of the application process. MDE failed to do so. In an Order dated June 24, 2021, Judge Guthmann found MDE in contempt. As a result, the Court imposed statutory and common law contempt penalties and sanctions on MDE. MDE was required to pay the amount of \$35,750 plus \$11,750 in attorneys' fees to FOF for its failure to follow the law.

MDE cannot seek to hold FOF accountable for its own misconduct and mismanagement of the federally funded CACFP and SFSP food programs. In an attempt to shift blame and deflect from its own misconduct, MDE is now seeking an award of attorneys' fees and costs from FOF – even though MDE is fully aware that FOF does not have any funds with which to pay its demand. The basis of MDE's demand is that it believes, without any factual evidence or causal connection (either direct, or indirect), that FOF's suit against MDE was frivolous and meant to somehow stymie the State from investigating FOF. Collateral criminal investigations and indictments do not change the nature of FOF's litigation against MDE as a righteous act to enforce federal food program laws upon the State of Minnesota. Furthermore, MDE chose not to appeal any of the Court's Orders in Case No. 62-CV-20-5492 and is thereby precluded from filing a new case about the same subject matter.

Defendant FOF, for its Answer to Plaintiff MDE's Complaint ("Complaint"), denies each and every thing, matter, and allegation against it except as otherwise specifically stated, qualified, alleged or admitted herein. This Answer is only entered on behalf of FOF and does not purport to answer on behalf of Aimee Bock.

### **ANSWERS TO SPECIFIC ALLEGATIONS:**

#### **Introduction**

1. Paragraph 1 of the Complaint is an argumentative narrative rather than a statement of factual allegations. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

2. FOF partially admits the allegations in Paragraph 2 of the Complaint. FOF is aware that Aimee Bock has been indicted for criminal conduct. FOF is without sufficient information to admit or deny the remaining allegations in Paragraph 2 and therefore denies same.

3. FOF denies the allegations in Paragraph 3 of the Complaint. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

4. FOF denies that allegations in Paragraph 4 of the Complaint. FOF has not been

indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. FOF asserts that there were sites that were delivering food to children.

5. FOF admits that MDE is the Minnesota state agency in charge of administering the CACFP and SFSP federal food programs. FOF does not have sufficient information to either admit or deny the remaining allegations in Paragraph 5 of the Complaint and therefore denies same.

6. FOF is without sufficient information to admit or deny the allegations in Paragraph 6 of the Complaint and therefore denies same.

7. FOF denies the allegations in Paragraph 7 of the Complaint.

8. FOF denies the allegations in Paragraph 8 of the Complaint.

9. FOF partially admits the allegations in Paragraph 9 of the Complaint. FOF admits that federal investigators executed search warrants at multiple meal sites associated with FOF on January 20, 2022. The remaining allegations in Paragraph 9 are denied. The lawsuit in Case No. 62-CV-20-5492 was dismissed without prejudice by stipulation of the parties.

10. FOF denies Paragraph 10 of the Complaint.

11. FOF is without sufficient information to admit or deny the allegations in Paragraph 11 of the Complaint and therefore denies same.

12. FOF denies Paragraph 12 of the Complaint.

#### **Parties**

13. FOF admits Paragraph 13 of the Complaint.

14. FOF partially admits Paragraph 14 of the Complaint. FOF admits that it is a Minnesota nonprofit organization that was established to distribute meals to needy children under the Federal Child Nutrition Program. FOF also admits that it is presently undergoing court-supervised dissolution proceedings. The remainder of the allegations in Paragraph 14 are denied. FOF disputes the characterization that it “perpetrated a massive fraud,” as it has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

15. FOF partially admits the allegations in Paragraph 15 of the Complaint. FOF admits that Aimee Bock was a co-founder and former executive director of FOF. FOF admits that Aimee Bock is presently under federal indictment. FOF’s board of directors terminated Aimee Bock’s employment with FOF, and Aimee Bock is no longer affiliated in any way with FOF. FOF is without sufficient information to admit or deny the remaining allegations in Paragraph 15 of the Complaint and therefore denies same. FOF disputes the characterization that its lawsuit against MDE was “retaliatory” or “frivolous”. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

### **Factual Background**<sup>3</sup>

16. Paragraph 16 of the Complaint contains no factual allegations to admit or deny.

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<sup>3</sup> MDE uses headings and subheadings in its Complaint. The headings and subheadings are inappropriate, inflammatory, and argumentative. FOF denies the allegations contained these headings and subheadings.

17. FOF admits the allegations in Paragraph 17 of the Complaint.

18. FOF admits the allegations in Paragraph 18 of the Complaint.

19. FOF admits the allegations in Paragraph 19 of the Complaint.

20. FOF admits the allegations in Paragraph 20 of the Complaint.

21. FOF admits the allegations in Paragraph 21 of the Complaint.

22. FOF admits the allegations in Paragraph 22 of the Complaint.

23. FOF partially admits the allegations in Paragraph 23 of the Complaint. FOF admits that qualifications for participation in the federal food program include program accountability and fiscal integrity. The remainder of Paragraph 23 is a statement of law and contains no factual allegations to admit or deny.

24. FOF partially admits the allegations in Paragraph 24 of the Complaint. FOF admits that the USDA “took steps to expand access to the Federal Child Nutrition Program” and “allowed participation by for-profit restaurants and off-site food distribution to children outside of educational programs.” FOF is without sufficient information to admit or deny the remaining allegations in Paragraph 24 and therefore denies same.

25. FOF partially admits the allegations in Paragraph 25 of the Complaint. FOF admits that Aimee Bock is a co-founder of Feeding Our Future. FOF disputes the argumentative characterizations of FOF’s history and of Aimee Bock’s intent. FOF is without sufficient information to admit or deny the remaining allegations in Paragraph 25 of the Complaint and therefore denies same.

26. FOF partially admits the allegations in Paragraph 26 of the Complaint. FOF admits that “the USDA began to loosen restrictions on participation in the Federal Child Nutrition Program.” FOF denies the remainder of the allegations in Paragraph 26. FOF has not

been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. FOF also denies the allegations contained in footnote 1, which is appended to Paragraph 26, because neither Section II.B.2 nor Section II.B.3 exist in Plaintiff's Complaint.

27. FOF's records were seized by the federal government and thus FOF is without sufficient information to admit or deny the allegations in Paragraph 27 of the Complaint and therefore denies same. FOF disputes the argumentative characterization that its employees "systematically recruited individuals and entities" to open food sites.

28. FOF is without sufficient information to admit or deny the allegations in Paragraph 28 and therefore denies same. While the numbers contained in the chart generally match FOF's income growth, FOF's records were seized by the federal government and FOF is unable to confirm with any specificity the amounts.

29. The allegations contained in Paragraph 29 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 29 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

30. The allegations contained in Paragraph 30 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 30

of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

31. FOF denies the allegations in Paragraph 31 of the Complaint. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

32. The allegations contained in Paragraph 32 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 32 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

33. The allegations contained in Paragraph 33 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 33 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely

allegations, not facts.

34. FOF denies the allegations in Paragraph 34 of the Complaint.

35. FOF's records were seized by the federal government and thus FOF is without sufficient information to admit or deny the allegations in Paragraph 35 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

36. FOF partially admits the allegations in Paragraph 36 of the Complaint. FOF opened and operated food sites in Minneapolis and Burnsville. FOF's records were seized by the federal government and thus FOF is without sufficient information to admit or deny the remaining allegations in Paragraph 36 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

37. FOF is without sufficient information to admit or deny the allegations in Paragraph 37 of the Complaint and therefore denies same.

38. FOF partially admits the allegations in Paragraph 38 of the Complaint. FOF did monitor sites it sponsored. FOF is without sufficient information to admit or deny the remaining allegations in Paragraph 38 and therefore denies same.

39. FOF is without sufficient information to admit or deny the allegations in Paragraph 39 of the Complaint and therefore denies same.

40. FOF denies the allegations in Paragraph 40 of the Complaint.

41. FOF denies the allegations in Paragraph 41 of the Complaint.

42. FOF partially admits the allegations in Paragraph 42 of the Complaint. FOF admits that Federal investigators executed search warrants on January 20, 2022, and that three affidavits in support of the search warrants were unsealed. FOF admits that the Federal search warrants speak for themselves. FOF denies the remaining allegations in Paragraph 42, including the argumentative characterization that it “was exposed in dramatic fashion.” FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

43. FOF admits that the Federal search warrants speak for themselves. FOF denies any remaining allegations in Paragraph 43. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. FOF is without sufficient information as to the foundation and accuracy of the contents of Exhibit 1, which purports to be a copy of one or more Federal search warrants.

44. FOF admits that the Federal search warrants speak for themselves. The allegations contained in Paragraph 44 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 44 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who

have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibits 2 and 3 are not appended to the Complaint; therefore, their contents are therefore specifically denied.

45. FOF admits that the Federal arrest warrants speak for themselves. The allegations contained in Paragraph 45 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 45 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibits 4 and 5 are not appended to the Complaint; therefore, their contents are therefore specifically denied.

46. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 46 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 46 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

47. FOF admits that the Federal arrest warrants speak for themselves. The allegations contained in Paragraph 47 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 47 of the Complaint and

therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 6 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

48. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 48 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 48 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

49. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 49 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 49 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 7 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

50. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 50 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 50 of the Complaint and

therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 8 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

51. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 51 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 51 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 9 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

52. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 52 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 52 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 10 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

53. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 53 do not relate to the conduct of FOF. As such, FOF is without

sufficient information to admit or deny the allegations in Paragraph 53 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 11 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

54. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 54 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 54 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 12 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

55. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 55 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 55 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 13 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

56. FOF admits that the Federal indictments speak for themselves. The allegations

contained in Paragraph 56 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 56 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 14 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

57. FOF admits that the Federal indictments speak for themselves. The allegations contained in Paragraph 57 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 57 of the Complaint and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts. Exhibit 15 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

58. FOF denies that it perpetrated a fraudulent scheme. The remaining allegations contained in Paragraph 58 do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 58 of the Complaint and therefore denies same.

59. The allegations in Paragraph 59 of the Complaint do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 59 and therefore denies same. Exhibit 16 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

60. The allegations in Paragraph 60 of the Complaint do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 60 and therefore denies same. Exhibit 17 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

61. The allegations in Paragraph 61 of the Complaint do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 61 and therefore denies same. Exhibit 18 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

62. The allegations in Paragraph 62 of the Complaint do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 62 and therefore denies same. Exhibit 19 is not appended to the Complaint; therefore, its contents are therefore specifically denied.

63. FOF is without sufficient information to admit or deny the allegations in Paragraph 63 of the Complaint and therefore denies same.

64. FOF's records were seized by the federal government and thus FOF is without sufficient information to admit or deny the allegations in Paragraph 64 of the Complaint and therefore denies same.

65. FOF partially admits the allegations in Paragraph 65 of the Complaint. FOF admits that the IRS revoked FOF's 501(c)(3) tax-exempt status for failure to file its annual series 990 tax returns for three consecutive years. FOF admits that the IRS reinstated FOF's 501(c)(3) tax-exempt status on December 1, 2020; however, the IRS's reinstatement was effective as of February 15, 2020, the date of automatic revocation. As such, FOF's 501(c)(3) tax-exempt status effectively never lapsed. FOF's records were seized by the federal government and thus

FOF is without sufficient information to admit or deny the remaining allegations in Paragraph 65 of the Complaint and therefore denies same.

66. FOF denies the allegations in Paragraph 66 of the Complaint.

67. FOF's records were seized by the federal government and thus FOF is without sufficient information to admit or deny the allegations in Paragraph 67 of the Complaint and therefore denies same.

68. FOF partially admits the allegations in Paragraph 68 of the Complaint. FOF admits that it initiated a lawsuit filed in Ramsey County District Court on November 20, 2020 (Court File No. 62-CV-20-5492). FOF denies the remaining allegations in Paragraph 68, specifically MDE's argumentative characterization that FOF's lawsuit was retaliatory or "a brazen attempt to force MDE to cease its regulatory oversight."

69. FOF admits that Index 1 to Court File No. 62-CV-20-5492 speaks for itself. FOF partially admits the allegations in Paragraph 69 of the Complaint. FOF admits it sought damages against MDE for MDE's illegal and/or improper regulatory actions. The remaining allegations in Paragraph 69 of the Complaint do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 69 and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

70. FOF admits that Index 1 to Court File No. 62-CV-20-5492 speaks for itself. FOF partially admits the allegations in Paragraph 70 of the Complaint. FOF admits it sought damages against MDE for MDE's illegal and/or improper regulatory actions. The remaining allegations

in Paragraph 70 of the Complaint do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 70 and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

71. FOF admits that Index 5 to Court File No. 62-CV-20-5492 speaks for itself. FOF partially admits the allegations in Paragraph 71 of the Complaint. FOF admits it brought a Motion for Temporary Restraining Order on or around November 23, 2020, requesting relief against MDE. The remaining allegations in Paragraph 71 of the Complaint do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 71 and therefore denies same. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

72. FOF admits that Index 11 and 12 to Court File No. 62-CV-20-5492 speak for themselves. FOF denies the allegations in Paragraph 72, specifically MDE's argumentative characterization that FOF presented "false evidence" and made "misrepresentations to the court." Furthermore, any litigation decisions made by MDE in Court File No. 62-CV-20-5492 were based on MDE's sole discretion and control.

73. FOF's records were seized by the federal government and thus FOF is without sufficient information to admit or deny the allegations in Paragraph 73 of the Complaint and

therefore denies same.

74. FOF's records were seized by the federal government and thus FOF is without sufficient information to admit or deny the allegations in Paragraph 74 of the Complaint and therefore denies same.

75. FOF admits that Index 19 to Court File No. 62-CV-20-5492 speaks for itself.

76. FOF admits that the April 21, 2021 hearing transcript speaks for itself.

77. FOF admits that the April 21, 2021 hearing transcript speaks for itself. FOF partially admits the allegations in Paragraph 77 of the Complaint. FOF admits it brought a Complaint in Case No. 62-CV-20-5492 to compel MDE to comply with federal law related to the CACFP and SFSP federal food programs. FOF admits it argued that MDE engaged in a pattern of discrimination. FOF denies the remaining allegations in Paragraph 77, specifically MDE's argumentative characterization that FOF made "misrepresentations" to the court.

78. FOF denies the allegations in Paragraph 78 of the Complaint. FOF has not been indicted for or otherwise charged with violating any laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

79. FOF admits that Index 32 and 95 to Court File No. 62-CV-20-5492 speak for themselves. FOF admits the allegations in Paragraph 79 of the Complaint.

80. FOF admits that Index 95 to Court File No. 62-CV-20-5492 speaks for itself. The allegations in Paragraph 80 of the Complaint do not relate to the conduct of FOF. As such, FOF is without sufficient information to admit or deny the allegations in Paragraph 80 and therefore denies same. FOF has not been indicted for or otherwise charged with violating any

laws. Furthermore, with the exception of those few who have pleaded, the individuals who have been charged with crimes have not been convicted. As such, the allegations contained in federal search warrants and federal criminal indictments are largely allegations, not facts.

81. FOF is without sufficient information to admit or deny the allegations in Paragraph 81 of the Complaint and therefore denies same.

82. FOF admits that Index 98 to Court File No. 62-CV-20-5492 speaks for itself.

83. FOF admits that Index 99 to Court File No. 62-CV-20-5492 speaks for itself. FOF partially admits the allegations in Paragraph 83 of the Complaint. FOF admits a sworn declaration of Aimee Bock was filed in support of FOF's motion. FOF denies the remaining allegations in Paragraph 83, specifically MDE's argumentative characterization that false representations were made to the court.

84. FOF admits that Index 29, 37, 80, 96, 136, and 157 to Court File No. 62-CV-20-5492 speak for themselves. FOF partially admits the allegations in Paragraph 84 of the Complaint. FOF admits it filed several motions to compel MDE to comply with federal law related to the CACFP and SFSP federal food programs. FOF denies the remaining allegations in Paragraph 84, specifically MDE's argumentative characterizations that the "motions [were] designed to inhibit MDE's oversight" and "baseless legal attacks."

85. FOF admits that Court File No. 62-CV-20-5492 speaks for itself. FOF denies the allegations in Paragraph 85 of the Complaint.

86. FOF admits that Index 6 to Court File No. 62-CV-20-5492 and the April 21, 2021 hearing transcript speak for themselves. FOF partially admits to the allegations in Paragraph 86 of the Complaint. FOF admits that it accused MDE of racist discrimination. FOF admits that a community protest occurred outside MDE headquarters in or about June 2021. FOF denies the

remaining allegations in Paragraph 86, specifically MDE's argumentative characterizations that FOF lied.

87. FOF partially admits the allegations in Paragraph 87 of the Complaint. FOF admits that it organized community members to contact their elected officials. FOF denies the remaining allegations in Paragraph 87 of the Complaint.

88. FOF denies the allegations in Paragraph 88 of the Complaint.

89. FOF is without sufficient information to admit or deny the allegations in Paragraph 89 of the Complaint and therefore denies same.

90. FOF is without sufficient information to admit or deny the allegations in Paragraph 90 of the Complaint and therefore denies same. Furthermore, any litigation decisions made by MDE in Court File No. 62-CV-20-5492 were based on MDE's sole discretion and control.

91. FOF partially admits the allegations in Paragraph 91 of the Complaint. FOF admits that its counsel negotiated with MDE with respect to Court File No. 62-CV-20-5492. With that said, settlement discussions are not admissible pursuant to Rule 408 of the Minnesota Rules of Evidence for the purposes in which MDE attempts to use them in Paragraph 91 of its Complaint. FOF denies the remaining allegations in Paragraph 91 of the Complaint.

92. FOF is without sufficient information to admit or deny the allegations in Paragraph 92 of the Complaint and therefore denies same. FOF disputes MDE's argumentative characterization that FOF engaged in a "frivolous, abusive lawsuit."

93. FOF is without sufficient information to admit or deny the allegations in Paragraph 93 of the Complaint and therefore denies same.

94. FOF is without sufficient information to admit or deny the allegations in

Paragraph 94 of the Complaint and therefore denies same. FOF disputes MDE's argumentative characterization that FOF engaged in "frivolous litigation."

### **Jurisdiction**

95. FOF partially admits the allegations of Paragraph 95 of the Complaint. FOF admits that Abuse of Process and Malicious Prosecution are common law causes of action. FOF denies the remaining allegations in Paragraph 95 of the Complaint.

96. FOF admits the allegations in Paragraph 96 of the Complaint.

97. FOF admits the allegations in Paragraph 97 of the Complaint.

98. FOF admits the allegations in Paragraph 98 of the Complaint.

99. FOF partially admits the allegations in Paragraph 99 of the Complaint. FOF admits that MDE filed a document into Case File No. 19HA-CV-22-657 in Dakota County District Court for \$583,915.11 in purported costs and fees incurred by MDE. FOF denies the remainder of the allegations in Paragraph 99 of the Complaint. The Court in Case File No. 19HA-CV-22-657 issued an order on or about November 17, 2022 related to MDE's filing, stating in Paragraph 25 of the Findings of Fact, "At this point in time, the Court is not able to find that the MDE has followed the requirements of Minn. Stat. § 317A.727 for submitting a claim to Feeding Our Future." The Court then denied MDE's demand as improper, stating in its Conclusions of Law that "...there is no judgment or award of attorneys' fees in favor of the MDE against Feeding Our Future in the Ramsey County action and this Court finds that it is not appropriate for the Court in Dakota County to issue an award of attorneys' fees against a party as a result of its conduct in a Ramsey County action." FOF disputes MDE's argumentative characterization that FOF engaged in "baseless litigation."

100. FOF partially admits the allegations of Paragraph 100 of the Complaint. FOF

admits that it denied MDE's demand, which was filed in Case File No. 19HA-CV-22-657, on the basis that MDE used the wrong procedure to make its claim and that MDE had no legal entitlement to what it was requesting. See Exhibit A, which is a true and accurate copy of FOF's October 5, 2022 letter to MDE. FOF denies any remaining allegations in Paragraph 100 of the Complaint.

101. Paragraph 101 of the Complaint, along with footnote 3, is a statement of law and contains no factual allegations to admit or deny.

102. FOF denies the allegations of Paragraph 102 of the Complaint. With that said, Minn. Stat. § 317A.730, subd. 1 (2), states, "the claim of a creditor or claimant that is rejected by the corporation under section 317A.729 is subject to section 317A.781 [barred claims] if the creditor or claimant does not begin legal, administrative, or arbitration proceedings with respect to the claim during the period set forth in section 317A.729, clause (2)."

103. FOF partially admits the allegations of Paragraph 103 of the Complaint. FOF admits that the district court of Dakota County has not appointed a receiver. FOF denies that Minn. Stat. § 317A.729 provides the district court of Dakota County with authority to do so; rather, Minn. Stat. § 317A.753 allows a court to appoint a receiver. FOF denies any remaining allegations in Paragraph 103 of the Complaint.

104. FOF denies the allegations of Paragraph 104 of the Complaint. Minn. Stat. § 317A.723 applies to filing a notice of intent to dissolve with the Minnesota Secretary of State, not providing notice to creditors and claimants. Furthermore, Minn. Stat. § 317A.257 provides limited liability protection to volunteer directors, officers, trustees, members, and agents of a Minnesota nonprofit corporation that enjoys exemption from state income tax pursuant to Minn. Stat. § 290.05, subd. 2. Organizations determined to be tax exempt under 501(c)(3) of the

Federal Tax Code are automatically exempt from Minnesota state income tax. See Minn. Stat. § 290.05, subd. 2.

105. FOF denies the allegations of Paragraph 105 of the Complaint. FOF's supervised voluntary dissolution does not entitle MDE to judicial intervention related to its claim. Pursuant to Minn. Stat. § 317A.751, subd. 4, "A court may grant equitable relief in an action by a creditor when: (1) the claim of the creditor has been reduced to judgment and an execution on it has been returned unsatisfied; or (2) the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation cannot pay its debts in the ordinary course of its activities." Neither of the statutory conditions have been met.

**Venue**

106. FOF admits the allegations of Paragraph 106 of the Complaint.

**COUNT 1**  
**ABUSE OF PROCESS**

107. Paragraph 107 is a statement of law and contains no factual allegations to admit or deny.

108. FOF denies the allegations of Paragraph 108 of the Complaint.

109. FOF denies the allegations of Paragraph 109 of the Complaint.

**COUNT 2**  
**MALICIOUS PROSECUTION**

110. Paragraph 110 is a statement of law and contains no factual allegations to admit or deny.

111. FOF denies the allegations of Paragraph 111 of the Complaint.

112. FOF denies the allegations of Paragraph 112 of the Complaint.

113. FOF denies the allegations of Paragraph 113 of the Complaint. The lawsuit in

Case No. 62-CV-20-5492 was not dismissed in favor of either party; it was dismissed without prejudice by stipulation of the parties.

### **Affirmative Defenses**

1. Plaintiff's Complaint fails due to insufficient service of process.
2. The claims contained in Plaintiff's Complaint, in whole or in part, are barred by Plaintiff's failure to state a claim upon which relief may be granted.
3. The claims contained in Plaintiff's Complaint, in whole or in part, are barred by Plaintiff's failure to exhaust all administrative and legal remedies.
4. The claims contained in Plaintiff's Complaint, in whole or in part, are barred by the doctrines of claim preclusion, collateral estoppel, and/or res judicata.
5. The claims contained in Plaintiff's Complaint, in whole or in part, are barred by Plaintiff's failure to take reasonable steps to mitigate its alleged damages.
6. The claims contained in Plaintiff's Complaint, in whole or in part, are barred by the doctrine of laches and/or estoppel.
7. Plaintiff's injuries are the direct result of acts or omissions by third persons, not of Defendant FOF.
8. Plaintiff's damages, if any, were caused or contributed to by its own actions or inactions over which Defendant FOF had no control.
9. The claims contained in the Complaint are barred by any or all of the affirmative defenses contemplated by the Minnesota Rules of Civil Procedure. The extent to which Plaintiff's claims may be barred by one or more of said affirmative defenses, not specifically set forth above, cannot be determined until FOF has had an opportunity to complete discovery. As such, FOF reserves the right to incorporate any and all of said affirmative defenses as if fully

set forth herein.

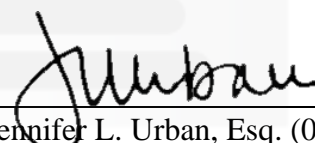
**Relief**

**WHEREFORE**, Defendant Feeding Our Future requests that the Court issue an order and judgment as follows:

1. Dismissing Plaintiff's Complaint in its entirety and with prejudice;
2. Denying any request by Plaintiff for attorneys' fees and costs;
3. Awarding Feeding our Future its attorneys' fees and costs to the extent permissible by law; and
4. Granting such further relief as the Court deems just and equitable.

Dated: December 19, 2022

Respectfully submitted,




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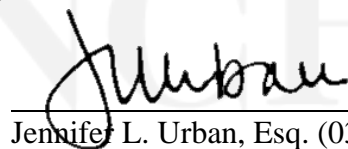
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ATTORNEY FOR FEEDING OUR FUTURE

**MINN. STAT. § 549.211 ACKNOWLEDGMENT**

The party or parties on whose behalf the attached document is served acknowledges through their undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be imposed pursuant to Minn. Stat. § 549.211.

By:




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Jennifer L. Urban, Esq. (0390708)