Dear Mr. Knutson:

Thank you for your response. Contrary to your unfounded allegations, I sent you a copy in advance precisely to give you the opportunity to respond and to challenge any information you believe to be inaccurate. I appreciate your references to the original arbitration decision. I have never seen the document, so I'm actually not aware of those findings. I did request a copy from the school district, but was only provided with the district court decision. If you have a copy of the arbitration decision and could forward same, I would appreciate it.

On the matter of the campaign finance case, since I am quite familiar with it, I did want to challenge a couple of your assertions.
You stated: "Contrary to your claim, the Court of Appeals did not make a finding of fact that the School District expended funds to promote the ballot question. The Court of Appeals only found that the complainants' allegation that the School District expended public funds to promote the ballot question was sufficient "to state a prima facie violation of chapter 211A's reporting requirements."

That is incorrect. Here is the relevant passage from the Court of Appeals.

"We conclude that the school board lacked express legislative authority for the expenditures at issue and that the caselaw in other jurisdictions is persuasive. We therefore hold that, although a school district may expend a reasonable amount of funds for the purpose of educating the public about school-district needs and disseminating facts and data, a school district may not expend funds to promote the passage of a ballot question by presenting one-sided information on a voter issue. In this case, the school board's expenditures—public funds used to promote the passage of the ballot question by presenting one-sided information on a voter issue—were not authorized by law. We therefore conclude that the expenditures by the school district are election-related expenditures not required or authorized by law and not exempt from the definition of —disbursement under chapter 211A."

I think that speaks for itself, although I know an attorney can twist even straightforward English into a pretzel.

As for the OAH, your twisting of that decision is particularly troublesome, given your involvement with the MSBA, which will be providing interpretation of the decision to school districts across the state.

You are well aware that the OAH never stated, and never would state, that school districts can promote passage of referenda. There is abundant case law in this area, including the Court of Appeals decision in this case, and there are attorney general's opinions on this subject as well, and you are fully aware of

them and their admonition against promotion of a ballot measure. What the OAH stated was that, of course, school districts that put ballot measures before the voters support passage. And who would challenge the school board's right to an opinion? We certainly did not, and would not.

But wanting a measure to pass, and spending taxpayer dollars on promotional materials to advocate for passage, are two very different things, and you have left our school board completely confused about them through your improper spinning of this decision. The OAH never needed to address the question of whether promotion was permissible, since the Court of Appeals had already addressed the question, and said it was not. The only issue was whether the materials were, in fact, promotional, which they clearly were. Every single judge that ever looked at them said they looked promotional on their face. The average sixth grader could have figured that out. A decent attorney would have told his clients the hard truth.. that they never had a prayer on the question of promotion.

The trouble is, you spoon feed our school district nonsense, (promoting is just fine!) because that's what they want to hear and that's enough to keep them happy, despite the massive legal bills.

Sincerely,

Marshall Helmberger