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No. A24-1082

STATE OF MINNESOTA
IN SUPREME COURT

Arianna Anderson et al.,
Plaintiffs-Appellants,

v.

City of Minneapolis,
Defendant-Respondent.

BRIEF OF AMICI CURIAE AMERICAN CIVIL LIBERTIES UNION AND AMERICAN CIVIL LIBERTIES UNION OF MINNESOTA

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INTEREST OF AMICI CURIAE[1]

The American Civil Liberties Union ("ACLU") is a nationwide, nonprofit, nonpartisan organization dedicated to the principles of liberty and equality embodied in federal and state Constitutions and in civil rights laws. The ACLU of Minnesota ("ACLU-MN") is the state-wide Minnesota affiliate of the ACLU. ACLU-MN is a private, nonprofit, nonpartisan organization supported by approximately 39,000 individuals in the State of Minnesota. Its purpose is to protect the rights and liberties guaranteed to all Minnesotans by the United States and Minnesota Constitutions and laws. The ACLU and ACLU-MN have a longstanding interest in preserving and extending strong statutory and constitutional protections for all Minnesotans and holding government actors accountable when those rights are violated. The ACLU and the ACLU-MN have extensive experience litigating a variety of statutory and court-created immunities that have curtailed the availability of relief for people whose rights have been violated by government actors. The interest of the ACLU and the ACLU-MN in this case is therefore public.

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[1] Under Minnesota Rule of Civil Appellate Procedure 129.03, amici state that no counsel for a party authored the brief in whole or in part and no other person or entity, other than the amici curiae, their members, or their counsel, made a monetary contribution to the preparation or submission of the brief.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

Prospective relief is critical to the enforcement of civil rights laws. Absent judicial enforcement, rights that exist in theory would have little effect in reality. The ACLU and the ACLU of Minnesota regularly represent individuals seeking injunctive and declaratory relief to stop governmental misconduct that might otherwise continue in perpetuity.[2] If that relief were unavailable against most government officials who violate the law—on the theory that they are immune from equitable relief—our legal landscape would look very different than it does today. So would our world.

Appellants are tenants who allege that the City of Minneapolis is discriminating based on race in allocating housing inspectors, in violation of the public-services provision of the Minnesota Human Rights Act ("MHRA"). They seek declaratory and prospective injunctive relief to stop this allegedly ongoing discrimination.

But the Court of Appeals held that Appellants cannot get declaratory or prospective injunctive relief, even if their allegations are true. The court

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[2] *See, e.g.*, *Esparza v. Nobles Cnty.*, No. A18-2011, 2019 WL 4594512 (Minn. Ct. App. 2019) (upheld temporary restraining order and prospective injunction; trial court subsequently issued permanent injunction); *N.H. v. Anoka-Hennepin Sch. Dist. No. 11*, 950 N.W.2d 553, 557–58 (Minn. Ct. App. 2020) (resulted in a settlement agreement akin to prospective injunctive relief); Compl. & Demand for Jury Trial at 30–31, *R.D. & E.D. et al. v. St. Francis Area Schs., ISD No. 15*, No. 02-CV-25-2100 (Minn. Dist. Ct. Mar. 24, 2025) (same).

reasoned that "official immunity can bar a claim seeking equitable relief," including Appellants' MHRA claims. AA.8–9.[3] If upheld, the Court of Appeals' view would make it all but impossible, absent willful or malicious wrongdoing, for individuals to secure injunctions requiring local governments to follow the law, even when public officials are blatantly violating it.

The Court of Appeals' rule is mistaken. As Appellants have shown, the decision below is inconsistent with Minnesota law, including this Court's cases. Moreover, adopting the Court of Appeals' rule not only would transform the legal landscape in Minnesota by eliminating the relief that has long been available to individuals unlawfully harmed by government actors—it would also make Minnesota a national outlier.

Across jurisdictions, courts justify official immunity for reasons that apply only to claims for damages. They posit that, in performing their duties, officials should not have to worry that a mistake will expose them to financial ruin. Otherwise, the thinking goes, officials might impair the functioning of

[3] Citations to AA.__ are to Appellants' Addendum. The Court of Appeals simultaneously affirmed the district court's dismissal of Appellants' request for declaratory relief, seemingly also based on its understanding of official immunity. AA.3, 8–9. But if official immunity does not encompass equitable relief, as amici argue, then it cannot encompass declaratory relief. In addition, the Court of Appeals affirmed the district court's dismissal of Appellants' constitutional claims on other grounds. AA.10–13.

government by taking actions to mitigate their personal risk, and not because those actions are best for the public.

This rationale, however, cannot justify immunizing officials against equitable relief that simply orders them to stop violating the law. Indeed, if official immunity exists to promote good government, it should not *both* shield government officials from personal liability for violating the law *and* leave them free to continue violating it, in perpetuity, even if their actions are unlawful. That would promote bad government.

Given this rationale, it is not surprising that no other jurisdiction in the country has adopted a rule as sweeping as the one announced by the Court of Appeals. At the state level, many high courts have expressly exempted various forms of equitable relief for constitutional or statutory violations from state-law immunity doctrines. No state supreme court has blessed an immunity doctrine that strips state courts of their power to stop public officials and local governments from violating state law. Similarly, federal qualified immunity and sovereign immunity do not bar claims for injunctive relief against public officials.

In addition to providing this national context, amici offer an argument in the alternative about the MHRA specifically. If this Court becomes the first state supreme court to hold that official immunity can bar prospective injunctive and declaratory relief, official immunity still would not bar

Appellants' claims because, in that scenario, it would be appropriate to interpret the MHRA as abrogating this expansive version of official immunity with respect to the relief that Appellants seek.

The Legislature can abrogate official immunity by necessary implication. Here, if it were actually true that official immunity in Minnesota is so broad that it can apply to equitable claims, that would be all the more reason to hold that the Legislature necessarily waived official immunity, at least with respect to injunctive and declaratory relief, when it enacted the MHRA. Surely, in enacting broad protections to secure freedom from discrimination for the people of Minnesota, the Legislature did not intend to leave government officials free to engage in any illegal discrimination that falls short of willful or malicious wrongdoing.

But the Court should not have to reach that MHRA-specific question of statutory interpretation. Instead, it should hold that official immunity simply does not bar claims for equitable relief. By doing so, this Court would ensure that individuals can continue to vindicate their rights in court and that Minnesota laws regulating governmental conduct, including the MHRA, do not lose their meaning.

ARGUMENT

I. Official immunity can protect officials from damages claims, but it does not leave them free to violate the law in perpetuity.

This Court has repeatedly said that official immunity, when applicable, bars liability "for damages." *Elwood v. Rice Cnty.*, 423 N.W.2d 671, 677 (Minn. 1988).[4] Official immunity generally bars damages claims against public officials and their government employers unless the Legislature has abrogated it, the alleged violation occurred during the performance of a non-discretionary ministerial duty, or the alleged violation was willful or malicious. *See State by Beaulieu v. City of Mounds View*, 518 N.W.2d 567, 569–71 (Minn. 1994).

As Appellants' brief demonstrates, this Court has never suggested that official immunity bars injunctive or declaratory relief. *See* Pls.-Appellants' Opening Br. 23–24. And for good reason. Official immunity stems from a theory that "the fear of personal liability" might "deter individual public employees from effectively performing duties or engaging in independent action." *Doe 601 by and through Doe 601 v. Best Academy*, 17 N.W.3d 464, 476 n.12 (Minn.

[4] *See also Kariniemi v. City of Rockford*, 882 N.W.2d 593, 600 (Minn. 2016) (specifying that official immunity applies to claims "for damages"); *Thied v. Town of Scandia Valley*, 14 N.W.2d 400, 408 (Minn. 1944) (describing immunity as barring liability "for damages"); *Roerig v. Houghton*, 175 N.W. 542, 543-44 (Minn. 1919) (same).

2025).[5] As explained below, state supreme courts and federal courts trace their official immunity doctrines to this same rationale. And this rationale—which serves as the foundation of official immunity doctrines across the country—cannot justify shielding officials from equitable relief that prevents them from violating the law without exposing them to any personal liability whatsoever.

A. Official immunity bars only damages claims because it is designed to insulate government decision-making from fears of personal financial loss.

Official immunity doctrines are limited to damages claims because they are designed to allow government officials to make decisions free from fears of "personal financial ruin"—not to allow those officials to violate state laws on an ongoing basis. *Lathrop v. Deal*, 801 S.E.2d 867, 886–87 (Ga. 2017).

State courts nationwide describe official immunity as applying specifically to damages claims.[6] This limitation makes sense in light of the

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[5] Even when only a city is sued, this rationale for official immunity necessarily informs the scope of the city's immunity, since in Minnesota a government entity's "vicarious official immunity" is "based on the official immunity of its employee." *Wiederholt v. City of Minneapolis*, 581 N.W.2d 312, 315–16 (Minn. 1998) (defining official immunity as applying to suits "for damages").

[6] *See, e.g.*, *Lister v. Bd. of Regents of Univ. Wis. Sys.*, 240 N.W.2d 610, 621 (Wis. 1976) (describing official immunity as "a substantive limitation on [officials'] personal liability for damages"); *Yanero v. Davis*, 65 S.W.3d 510, 522 (Ky. 2001) (stating that official immunity "affords protection from damages liability for good faith judgment calls made in a legally uncertain environment"); *Suttles v. Roy*, 75 So. 3d 90, 93 (Ala. 2010) (providing that state and stage-agent immunities protect officials "from suits seeking damages"); *Maston v. Wagner*, 781 S.E.2d 936, 947–48 (W. Va. 2015) (noting that state-law qualified immunity shields officials from "liability for civil damages") (citation omitted).

doctrine's stated function: official immunity exists "because, '[i]f an officer is to be put in fear of financial loss at every exercise of his official functions, . . . the interest of the public will inevitably suffer.'" *State ex rel. Alsup v. Kanatzar*, 588 S.W.3d 187, 190–91 (Mo. 2019) (en banc) (alteration in original) (citation omitted). Indeed, "courts have recognized that the threat of personal liability may make public officials unduly fearful in exercising their authority and thus discourage them from taking the prompt, decisive action required for the public good." *Aspen Exploration Corp. v. Sheffield*, 739 P.2d 150, 159 (Alaska 1987).[7] Whether or not these accounts reflect real-world incentives,[8] they show that

[7] *See also Telthorster v. Tennell*, 92 S.W.3d 457, 460–61 (Tex. 2002) (explaining that official immunity "shields governmental employees from personal liability so that they are encouraged to vigorously perform their official duties"); *Savage v. State*, 899 P.2d 1270, 1274 (Wash. 1995) (en banc) (stating that "personal qualified immunity . . . is intended to protect the individual from the unduly inhibiting effect the fear of personal liability would have on the performance of his or her professional obligations"); *Morillo v. Torres*, 117 A.3d 1206, 1208 (N.J. 2015) (stating that qualified immunity allows officials to "perform their duties without being encumbered by the specter of being sued personally for damages"); *Libercent v. Aldrich*, 539 A.2d 981, 984 (Vt. 1987) (reasoning that "qualified official immunity," by shielding public officials from "tort liability" in certain circumstances, "allows the state officer or employee sufficient freedom to determine the best method of carrying out his or her duties, while ensuring that those duties are fulfilled in a conscientious manner"); *Everitt v. Gen. Elec. Co.*, 932 A.2d 831, 847 (N.H. 2007) (justifying vicarious official immunity by suggesting that an official might fear "retribution" if their employer must "pay the judgment").

[8] In practice, many officials are indemnified. *See* Joanna C. Schwartz, *Police Indemnification*, 89 N.Y.U. L. Rev. 885, 890 (2014); Minn. Stat. § 466.07, subd. 1 (requiring indemnification of city officials).

the dominant rationale for official immunity relates to damages liability, not equitable relief.

B. Federal qualified immunity is similarly designed to reduce fears of personal financial loss and therefore does not bar injunctive or declaratory relief.

Federal qualified immunity, though of course not identical to Minnesota's official immunity, "further[s] the same purpose" and reaffirms that official immunity makes sense only for claims seeking monetary damages. *Rico v. State*, 472 N.W.2d 100, 108 (Minn. 1991).

Under federal law, neither sovereign immunity nor qualified immunity bars prospective injunctive relief against public officials. In *Ex parte Young*, the U.S. Supreme Court recognized that an injunction to prevent a state officer "from doing that which he has no legal right to do" under federal law "is not an interference with the discretion of an officer" and is not barred by Eleventh Amendment sovereign immunity. 209 U.S. 123, 155–56, 159 (1908). And in *Harlow v. Fitzgerald*, which established the modern standard for qualified immunity, the Court emphasized that "our decision applies only to suits for civil *damages*." 457 U.S. 800, 819 n.34 (1982) (emphasis in original). The Court has also drawn on "common-law tradition" to hold that "[l]iability for damages . . . would unfairly impose" a burden on public officials, while noting that "immunity from damages does not ordinarily bar equitable relief as well." *Wood v. Strickland*, 420 U.S. 308, 318–19, 314 n.6 (1975), *abrogated on other*

grounds by, *Harlow*, 457 U.S. 800; *see also Barr v. Matteo*, 360 U.S. 564, 571 (1959) (stating that officials "should be free to exercise their duties unembarrassed by the fear of damage suits").

In the decades since *Harlow*, federal and state courts have repeatedly confirmed that qualified immunity "is an affirmative defense to damage liability" that "does not bar actions for declaratory or injunctive relief." *The Presbyterian Church (U.S.A.) v. United States*, 870 F.2d 518, 527 (9th Cir. 1989).[9] And rightly so: the logic of qualified immunity, and official immunities in general, simply does not apply to injunctive or declaratory relief. Neither form of relief threatens public officials' personal finances. Rather, these forms of relief clarify the law and ensure that government actors follow it in the future. That is why, "[w]hen a civil-rights plaintiff asks for an *injunction* . . . , the defendants cannot assert this 'qualified immunity' defense—that they reasonably did not know their conduct was unlawful." *Newman v. Burgin*, 930

[9] *See also Hamner v. Burls*, 937 F.3d 1171, 1175 (8th Cir. 2019), *as amended* (Nov. 26, 2019) ("Qualified immunity does not apply to a claim for injunctive relief . . . ."); *Hill v. Borough of Kutztown*, 455 F.3d 225, 244 (3d Cir. 2006) ("[T]he defense of qualified immunity is available only for damages claims—not for claims requesting prospective injunctive relief."); *L.K. v. Gregg*, 425 N.W.2d 813, 820 (Minn. 1988) ("As already noted, the underlying action is exclusively for injunctive and declaratory relief rather than for damages. Therefore, defenses such as discretionary or qualified immunity are unavailable either in the original action or in an action for attorney fees."); *Gormley v. Wood-El*, 93 A.3d 344, 369 (N.J. 2014) ("[Q]ualified immunity does not bar actions for injunctive relief.").

F.2d 955, 957 (1st Cir. 1991) (Breyer, C.J.). If defendants *could* assert such a defense, courts would be unable to correct officials' mistakes and enforce the law as it "*really* (and currently) *is*." *Id.* They would be powerless to "end an ongoing or future violation of law" in all but the few cases where the government's conduct is deemed unreasonable, willful, malicious, or violative of a ministerial duty (depending on the doctrine). *Giaquinto v. Comm'r of N.Y. State Dep't of Health*, 897 N.E.2d 116, 121 (N.Y. 2008). And public officials who have violated the law could continue to do so in perpetuity.

II. No other state has extended official or governmental immunity to all claims for equitable relief.

By amici's accounting, no state high court has held that a doctrine like Minnesota's official immunity can bar all equitable relief, and state courts routinely enjoin violations of law by public officials and their government employers. In making this assessment, amici surveyed not only official immunity doctrines but also other governmental and sovereign immunity doctrines that are akin to Minnesota's official immunity doctrine. Yet amici could not find a single state—not one—where a supreme court has held that officials are immune from prospective injunctive or declaratory relief when they are violating a valid law.

Several state supreme courts have explicitly held that their states' official or governmental immunity doctrines exclude injunctive and

declaratory relief. The Georgia Supreme Court has held that official immunity "does not limit the availability of prospective relief," consistent with "the understanding in American law generally that the personal immunities of public officers typically do not extend to prospective relief." *Lathrop*, 801 S.E.2d at 887, 891. The Utah Supreme Court "long has recognized a common law exception to governmental immunity for equitable claims." *Am. Tierra Corp. v. City of W. Jordan*, 840 P.2d 757, 759 (Utah 1992). The Wyoming Supreme Court has made clear that governmental immunity from damages claims does not deprive plaintiffs of "access to the courts to pursue their claim[s] for injunctive relief." *Sinclair v. City of Gillette*, 270 P.3d 644, 648 (Wyo. 2012). And the Michigan Supreme Court has emphasized the availability of injunctive and declaratory relief even when governmental immunity bars damages claims. *Lash v. City of Traverse City*, 735 N.W.2d 628, 638–39 (Mich. 2007), *abrogated on other grounds by*, *Stegall v. Resource Tech. Corp.*, 22 N.W.3d 410, 418–20 (Mich. 2024).

Even in states where the supreme court has not expressly exempted equitable relief from the scope of official or governmental immunity, lower courts routinely order such relief against cities and city employees who are immune from damages claims—with no apparent concern from the state

supreme court.[10] Additionally, high courts from Hawai‘i to Alabama to Massachusetts have expressly exempted injunctive relief, declaratory relief, or both from their states' sovereign immunity doctrines, many of which extend to local governments.[11] Other high courts have exempted constitutional claims

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[10] *See, e.g.*, *Ramos v. Flowers*, 56 A.3d 869, 874–75, 882 (N.J. Super. Ct. App. Div. 2012) (holding that "the defense of qualified immunity applies only to claims for money damages and not to claims for injunctive relief" under the New Jersey Civil Rights Act); *Cincinnati v. Harrison*, No. C-130195, 2014 WL 2957946, at *1 (Ohio Ct. App. 2014) (stating that "sovereign immunity . . . is not a defense to claims seeking injunctive relief" but that it does bar claims for "money damages"); *Fettkether v. City of Readlyn*, 595 N.W.2d 807, 812, 814–15 (Iowa Ct. App. 1999) (affirming the trial court's grant of a permanent injunction against the city while also granting the city's motion for summary judgment on damages due to governmental immunity).

[11] *See Pele Defense Fund v. Paty*, 837 P.2d 1247, 1266 (Haw. 1991) ("If the relief sought against a state official is prospective in nature, then the relief may be allowed regardless of the state's sovereign immunity."); *Ala. State Univ. v. Danley*, 212 So. 3d 112, 124 (Ala. 2016) (stating that the Alabama Constitution "provides absolute [sovereign] immunity from suit—and thus liability—for monetary damages based on state-law claims" against state officials, but it "does not bar . . . state-law claims for *injunctive* relief" against state officials "named in their official capacities"); *City of El Paso v. Heinrich*, 284 S.W.3d 366, 369–70 (Tex. 2009) (recognizing that "while governmental immunity"—which is a form of sovereign immunity in Texas—"generally bars suits for retrospective monetary relief, it does not preclude prospective injunctive remedies" where a government actor has violated a statutory or constitutional provision); *Lane v. Com.*, 517 N.E.2d 1281, 1283 (Mass. 1988) ("We can think of no basis for recognizing some form of governmental immunity that would prevent issuance of an injunction against an ongoing wrong committed systematically and intentionally by a governmental agency for the continuing benefit of the Commonwealth."); *Harris v. Hutchinson*, 591 S.W.3d 778, 781 (Ark. 2020) ("[T]he defense of sovereign immunity is inapplicable in a lawsuit seeking only declaratory or injunctive relief and alleging an illegal, unconstitutional, or ultra vires act."); *Dakota Sys., Inc. v. Viken*, 694 N.W.2d 23, 28 (S.D. 2005) (recognizing an exception to sovereign immunity for

for injunctive or declaratory relief from sovereign immunity, often for a reason that applies just as well to statutory claims—that the state acted in excess of its lawful authority.[12] A handful of high courts have held that sovereign immunity can apply to highly specific forms of equitable relief,[13] but even those doctrines would not bar a suit to stop a city from engaging in illegal discrimination.

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declaratory judgments when a plaintiff alleges ultra vires action); *Northwall v. Dep't of Revenue*, 637 N.W.2d 890, 896 (Neb. 2002) (same); *Ritter v. State*, 520 P.3d 370, 372 n.1 (Okla. 2022) (ruling that the State was not entitled to immunity because, in general, "a declaratory judgment may be sought to determine the validity of any statute").

[12] *See Sikora v. State*, 23 N.W.3d 300, 306–07 (Iowa 2025) ("[C]onstitutional claims for *equitable relief* can be brought against the state *and its employees*. But this does not mean that *money damages* claims are allowed against state officials." (citations omitted)); *Tucker v. State*, 394 P.3d 54, 61 (Idaho 2017) ("[A]ligning with our sister jurisdictions, . . . we hold that sovereign immunity is inapplicable when constitutional violations are alleged."); *Colonial Pipeline Co. v. Morgan*, 263 S.W.3d 827, 854 (Tenn. 2008) (stating that "sovereign immunity does not bar a declaratory judgment or injunctive relief against state officers to prevent the enforcement of an unconstitutional statute, so long as the plaintiff does not seek monetary damages"); *Forward Mont. v. State by and through Gianforte*, 546 P.3d 778, 785 (Mont. 2024) (noting that although governmental immunity "provides immunity to the State for damages arising in tort . . . , it does not provide immunity against a declaratory judgment action that a law is unconstitutional—or from an equitable grant of attorney fees").

[13] *See Gold v. Rowland*, 994 A.2d 106, 125, 127–28 (Conn. 2010) (en banc) (on constructive trusts, resulting trusts, and injunctions where the state has not acted "in excess of its statutory authority or pursuant to an unconstitutional statute"); *Beshear v. Haydon Bridge Co., Inc.*, 416 S.W.3d 280, 292 (Ky. 2013) (on "retroactive" or "reparative" injunctions); *Legal Capital, LLC. v. Med. Prof. Liability Catastrophe Loss Fund*, 750 A.2d 299, 302–03 (Pa. 2000) (on injunctions compelling affirmative state action); *Ramirez v. Mo. Prosecuting Att'ys'*, 694 S.W.3d 432, 436–38 (Mo. 2024) (en banc) (on unjust-enrichment claims).

Amici urge this Court to join the vast majority of its peers in allowing equitable relief when a government actor violates a valid statute. In light of the widely recognized rationale for official immunity—namely, that it prevents the fear of personal financial loss from distorting the functioning of government—this Court should expressly exempt equitable claims to ensure that Minnesota courts have the tools they need to protect the public when officials violate state law.

III. In the alternative, if this Court becomes the first high court to hold that official immunity can bar equitable claims, the MHRA should be construed to have waived that immunity for at least injunctive and declaratory relief.

It is well established that, in enacting a statute, the Legislature can abrogate a common-law immunity "by express wording or necessary implication." *Wirig v. Kinney Shoe Corp.*, 461 N.W.2d 374, 377–78 (Minn. 1990). Here, if this Court holds that official immunity can apply to claims for equitable and declaratory relief, it should also hold that the MHRA necessarily implies a waiver of immunity for at least those forms of relief. The MHRA's public-services provision was enacted to ensure that government entities do not engage in invidious discrimination, including disparate-impact discrimination—not to sit on the books as a dead letter except in cases where an official discriminates willfully or maliciously. The Legislature necessarily intended for the public-services provision and the MHRA as a whole to be

enforceable, via injunctions and declarations, against public officials and their government employers. A contrary holding would undermine the Legislature's intent and render the MHRA potentially infirm under the Minnesota Constitution.

This Court has had no prior occasion to decide whether the MHRA waives official immunity for injunctive or declaratory relief because it has never previously suggested that official immunity encompasses such relief in the first place. In *State by Beaulieu v. City of Mounds View*, the Court held that the MHRA does not waive official immunity for certain disparate-treatment claims under the statute's public-services provision. *See* 518 N.W.2d at 569–71. But the Court emphasized that official immunity applies to claims "involving personal liability 'for damages.'" *Id.* at 570. Thus, nothing in *Beaulieu* reaches a conclusion about whether the MHRA waives official immunity (if it exists) for equitable relief.

To the contrary, the reasoning of *Beaulieu*, as well as fundamental principles of statutory construction, compels the conclusion that, if official immunity can bar claims for equitable relief, the MHRA necessarily implies that it waives immunity for those claims. This is so for several reasons.

First, applying official immunity to MHRA claims for equitable relief would undermine the MHRA's broad remedial purpose. In Minnesota, "[t]he object of all interpretation and construction of laws is to ascertain and

effectuate the intention of the legislature." Minn. Stat. § 645.16; *see State v. Engle*, 743 N.W.2d 592, 593 (Minn. 2008). The purpose of the MHRA, by its own terms, is "to secure for persons in this state, freedom from discrimination" because "[s]uch discrimination threatens the rights and privileges of the inhabitants of this state and menaces the institutions and foundations of democracy." Minn. Stat. § 363A.02, subd. 1(a)-(b). In enacting the MHRA, the Legislature declared that "[t]he opportunity to obtain . . . housing" and the "full and equal utilization of . . . public services" is "a civil right," Minn. Stat. § 363A.02, subd. 2, and that the MHRA "shall be construed liberally for the accomplishment of the purposes thereof," Minn. Stat. § 363A.04. And the Legislature made clear that, in addition to the public-services provision, the provisions prohibiting discrimination in employment, education, and public accommodations apply to state and local governments.[14]

In *Beaulieu*, this Court stated that its ruling would not "undermine the remedial purpose of" the MHRA because damages would still be available in

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[14] *See* Minn. Stat. § 363A.12 (regulating "public services"); § 363A.08, subd. 2 (regulating "employers"); § 363A.03, subds. 30, 16–17 (defining "person" as including "the state and its departments, agencies, and political subdivisions," and defining "employer" and an "employment agency" as "a person"); Minn. Stat. § 363A.13 (regulating "educational institution[s]"); Minn. Stat. § 363A.03, subd. 14 (defining "educational institution" as "a public or private institution"); § 363A.11 (regulating "public accommodations"); § 363A.03, subd. 34 (defining a "place of public accommodation" as "a business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind").

the case of willful or malicious violations. *Beaulieu*, 518 N.W.2d at 570. But the MHRA does not contemplate "an imaginary world where discrimination does not exist unless it is intended." *Id.* at 575 (Wahl, J., concurring in part, dissenting in part). Minnesota courts have acknowledged as much in holding that the public-services provision prohibits disparate-impact discrimination. *See* Pls.-Appellants' Opening Br. 6 n.2; *see also Khalifa v. State*, 397 N.W.2d 383, 387–88 (Minn. Ct. App. 1986). Yet despite the MHRA's broad remedial goal—namely, eradicating discrimination in all its forms—the Court of Appeals held that official immunity could apply to any MHRA claim, for any kind of equitable or declaratory relief.[15] Construing official immunity to bar equitable MHRA claims would eliminate any possibility of a court ordering public officials or local governments to halt illegal discrimination in the absence of willful or malicious wrongdoing. Such discrimination would be illegal only in name; in practice, it would be permitted because no court would have the power to stop it. Surely the Legislature did not intend that perverse result.

[15] For cases brought against government actors under other MHRA provisions, see, for example, *Henry v. Indep. Sch. Dist. #625*, 988 N.W.2d 868, 875 (Minn. 2023) (involving Minn. Stat. § 363A.08, on employment); *Anoka-Hennepin Sch. Dist. No. 11*, 950 N.W.2d at 562, 566 (involving Minn. Stat. § 363A.13, on education).

Second, that result would not only be perverse—it would be absurd. In attempting to effectuate legislative intent, Minnesota courts "should construe a statute to avoid absurd results and unjust consequences." *Am. Fam. Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 278 (Minn. 2000). Under the Court of Appeals' rule, courts could enjoin willful or malicious discrimination since official immunity does not protect willful or malicious misconduct, but they would be forced to ignore all other violations. *See Beaulieu*, 518 N.W.2d at 569. Thus, if a victim of discrimination were to sue multiple government officials for MHRA violations, and a court were to find willful or malicious MHRA violations by only some of those officials, the Court of Appeals' approach would constrain a court to enjoin only those officials (and not the other defendants) from continuing to violate the law going forward. That would be both absurd and unjust. And in cases where a plaintiff does not allege willful or malicious MHRA violations, courts would be entirely prevented from "say[ing] what the law is." *Marbury v. Madison*, 5 U.S. 137, 177 (1803). The Legislature should not be deemed to have intended such an outlandish result when it enacted the MHRA.

Third, holding that the MHRA does *not* abrogate official immunity with respect to equitable claims would raise serious concerns under the Remedies Clause of the Minnesota Constitution. This Court should construe the statute as waiving official immunity for those claims "to avoid a constitutional

confrontation." *In re Civ. Commitment of Giem*, 742 N.W.2d 422, 429 (Minn. 2007) (stating that "statutes are presumed constitutional" and "we are required to place a construction on the statute that will find it so if at all possible") (quoting *Kline v. Berg Drywall, Inc.*, 685 N.W.2d 12, 23 (Minn. 2004)).

The Remedies Clause provides that "[e]very person is entitled to a certain remedy in the laws for all injuries or wrongs." Minn. Const. art. I, § 8. Not long after the Clause was adopted, this Court wrote that the Minnesota Constitution does not contemplate "that there can be a total failure of justice in any case," and therefore the Court "could not adopt such a construction or interpretation of that instrument, as would admit the possibility of there being a legal right that could not be judicially enforced." *Agin v. Heyward*, 6 Minn. 110, 115 (1861). More recently, this Court recognized that the right to a remedy is a "fundamental concept of our legal system" that "relates primarily to the assertion of affirmative rights." *State v. Lindquist*, 869 N.W.2d 863, 873 (Minn. 2015). While the Remedies Clause "does not guarantee redress for every wrong," it "enjoins the [government] from eliminating those remedies that have *vested at common law*." *Id.* (emphasis in original).

As Appellants explain, Minnesota's official immunity doctrine is rooted in common-law sovereign immunity, which existed to protect the state and its officials from damages suits. *See* Pls.-Appellants' Opening Br. 9–11. Today,

state-law immunity doctrines across the country—many of which have roots in common-law sovereign immunity—generally do not bar injunctive or declaratory relief. If this Court interpreted the MHRA as *not* waiving official immunity with respect to equitable claims, it would transform a valid statute into one that potentially offends the Minnesota Constitution by eliminating all equitable relief for certain rights, contrary to common-law tradition. To avoid raising that constitutional question, this Court should hold that the MHRA waives official immunity with respect to equitable claims.

True, this Court has not previously decided whether a statute can waive official immunity only for equitable relief, while leaving official immunity in place for certain damages claims. But that is because this Court has never suggested that official immunity can apply to relief other than damages. If this Court takes the drastic step of applying official immunity to claims for equitable relief, it should update its waiver jurisprudence to ensure that its holding does not eviscerate the Legislature's attempts, in the MHRA and beyond, to regulate governmental conduct.

CONCLUSION

For the foregoing reasons, this Court should reverse the Court of Appeals' decision and hold that official immunity does not bar claims for equitable relief.

Dated: September 18, 2025

Respectfully submitted,

/s/ Teresa Nelson

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Dated: September 18, 2025

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