

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF RICE

THIRD JUDICIAL DISTRICT

Case Type: Other Civil

Benda for Common-sense, a Minnesota
Non-Profit Corporation, and Kathleen
Hagen,

Court File No. 66-CV-22-2022
Assigned to: Judge Carol M. Hanks

Plaintiffs,

vs.

**AFFIDAVIT OF KATHLEEN HAGEN
IN SUPPORT OF MOTION TO
PROHIBIT USE OF UNCERTIFIED
ELECTRONIC VOTING SYSTEMS**

Denise Anderson, Director of Rice County
Property and Tax Elections,

Defendant.

Kathleen Hagen, being first duly sworn upon oath, states as follows:

1. I am an individual residing in Rice County, Minnesota and am one of the Plaintiffs in this matter.
2. I was a head election judge in Erin Township, Rice County for the 2020 Primary and General Elections.
3. For 39 years, I have been an Advanced Technology Research Scientist, a Director of Operations, a Senior Director of Engineering, and an Engineering Project Manager for teams implementing system security, process improvements, and risk management strategies. I am currently an Engineering Project Manager for Medtronic where I have teamed with multi-disciplinary work groups in developing and streamlining technology-based processes and systems for more than ten years.
4. I am a graduate of the University of Minnesota's Institute of Technology, with a bachelor's degree in Mechanical Engineering and of St. Thomas University, with a master's degree

in Manufacturing Systems Engineering. A true and correct copy of my curriculum vitae is attached hereto as **Exhibit Hagen 1** and incorporated herein by reference.

5. In my role as head election judge for the 2020 Primary and General Election, I observed various practices, processes, and technologies that in my professional experience were not sufficient to provide proper security to prevent internal and external intrusion and potential manipulation in the election process. For example, I observed that election judges only count the number of ballots in the precincts, and do not count the votes on the ballots. Only the voting machines are allowed to count votes on ballots in our elections. Further, the election process requires election judges to sign off on the DS200 tabulation machines' vote counts without performing any human verification of the accuracy of the machines' vote tallies or reports. I also observed and reported malfunctions in the KNOWiNK electronic poll books and ERIC database.

6. Through my experience as a head election judge, I also observed practices, procedures, systems, as well as personnel and their communications with the Commissioners and the public that prevented an atmosphere of transparency and openness that in my professional opinion would strengthen the integrity of the administration of elections in Rice County.

7. Following the 2020 election, I also participated along with other members of the public in the Post-Election Public Review where I observed additional significant issues with the election processes and systems. I continued to offer input and made requests for follow-up details to improve the election process and systems to Denise Anderson, Director of Rice County Property Tax and Elections.

8. Following providing my input and requests for follow-up to Denise Anderson, I was removed as Head Election Judge for Erin Township, Rice County. I was also not asked to be an election judge anywhere in Rice County.

9. Following my unsuccessful attempts to create an atmosphere of openness and strengthening the election process and systems in Rice County, I conveyed my concerns directly to the Rice County Commissioners in an attempt to expose these shortfalls through a reporting and whistle-blower process.

10. I have on multiple occasions reported my concerns to the Rice County Commissions. Most recently, I sent an August 3, 2022 email to the Rice County Commissioners expressing my concern that Denise Anderson was spreading false and disparaging information to the media and community. A copy of my email and a series of articles where Denise Anderson is quoted is attached hereto as **Hagen Exhibit 2** and incorporated herein by reference.

11. I have not received any response from Rice County relating to my complaints or concerns.

12. Further, on August 23rd, the same day that Denise Anderson was served with the complaint in this action, a Rice County property tax assessor came to my residence to initiate an update to our property tax assessment.

13. I also commenced a series of data requests, some of which are the subject of this litigation.

14. This Affidavit is made in support of the Motion to Prohibit the use of Uncertified Election Voting Systems in Rice County.

15. On June 28, 2022, Rice County Commissioners passed Resolution #22-046, a true and correct copy of this resolution, together with the Request for Board Action supporting this resolution is attached hereto as **Hagen Exhibit 3** and incorporated herein by reference.

16. As stated in Resolution #22-046, “all voting equipment must be tested and certified by test labs accredited by the U.S. Election Assistance Commission and undergo detailed additional testing by the Office of the Minnesota Secretary of State.”

17. Since at least October 23, 2021, I have been requesting Government Data regarding the, “selection, authorization, purchases and maintenance of . . . scanning and tabulation machines, modems, hotspots and routers...” used by Rice County. See *Complaint_0029*.

18. I received the following response to my request for Government Data, “DS200, DS450, Poll Pads, SVRS Application, ERS Application, AUMS, Verizon Mifi.” See *Complaint_0032*.

19. I am not aware of when Rice County acquired their DS200 EVS machines.

20. I am aware that the DS200 machines used in Erin Township have modems installed. As a Head Election Judge, I was provided instructions on when and how to activate these modems. A true and correct copy of the Rice County Head Election Judge Book and a checklist I received are attached hereto as **Exhibit Hagen 4** and incorporated herein by reference.

21. I also attended a July 29, 2022 public accuracy test of the EVS in Rice County. At that public meeting, Denise Anderson confirmed that the Rice County ES&S DS200s have modems installed in them.

22. Attached hereto as **Exhibit Hagen 5**, and incorporate herein by reference, is a true and correct copy of a April 20, 2022 article in the ---- which reports as follows: “The DS450 scanner and tabulator is nicknamed “Bertha” due to its size. “Bertha is a very good machine,” Anderson said, The machine counts the ballots and the votes on all the absentee ballots received in their office and was purchased last year with grant money.” The DS450 may also be used to recount the ballots and the votes on the ballots for all ballots cast in Rice County precincts.

23. Attached hereto as **Exhibit Hagen 6**, and incorporate herein by reference, is a true and correct copy of the 2020 State of the County Report presented by Denise Anderson. This report confirms that the ES&S DS450 EVS was acquired by Rice County in September 2020.

24. Rice County participates in the ES&S program reporting early, unofficial results. This program is described in an ES&S fact sheet attached hereto as **Exhibit Hagen 7**, and incorporate herein by reference. As described in this document the ES&S EVS, "...use cellular modems to transmit unofficial election results..."

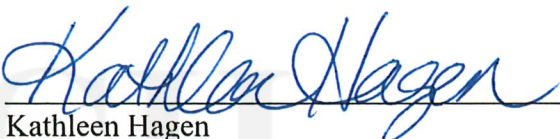
25. As early as October 2018, organizations such as the National Election Defense Coalition were calling on the US Election Assistance Commission (EAC) to ban internet connectivity in election machines. A true and correct copy of an October 2, 2018 letter to the Department of Homeland Security and the EAC is attached hereto as **Exhibit Hagen 8** and incorporated herein by reference. One of the signers of this letter is former Minnesota Secretary of State, Mark Richie.

26. On January 7, 2020, the National Election Defense Coalition submitted a "Request to investigate ES&S for misrepresentation regarding EAC certification of voting machines with modems." A true and correct copy of this complaint is attached hereto as **Exhibit Hagen 9** and incorporated herein by reference.

27. The exchange of information resulting from this EAC investigation is attached hereto as **Exhibit Hagen 10** and incorporated herein by reference.

I DECLARE UNDER PENALTY OF PERJURY THAT EVERYTHING I HAVE STATED IN THIS DOCUMENT IS TRUE AND CORRECT (MINN. STAT. § 358.116).

Dated: September 21, 2022


Kathleen Hagen