

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: _____

Plaintiffs,

vs.

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

**NOTICE OF MOTION AND
EXPEDITED MOTION TO SUSPEND
THE DESTRUCTION OF ELECTION
MATERIALS**

Defendant.

TO: All Parties and the District Court Administrator

PLEASE TAKE NOTICE, that the Plaintiffs, through the undersigned, moves the Court as follows:

1. For an Order requiring Defendant to Suspend the Destruction of Election Materials under Minn. Stat. 204B.40 until further agreement of the parties, or as ordered by the Court.
2. For an Order requiring Defendant to Reimburse Plaintiff for any costs, disbursements and attorney fees as allowed by Minn. Stat. 13.08, Subd. 4.

IN SUPPORT OF SAID MOTION, Plaintiff further asserts:

WHEREAS, In the interests of justice and to preserve evidence and materials that are subject to this matter which are scheduled to be destroyed on or after September 3, 2022, Plaintiff seeks relief on an expedited basis in accordance with Minn. Gen. R. Prac. 115.07.

ALTERNATIVELY, under Rule 115.04 (d), Plaintiff requests that the Court exercise its discretion in scheduling a telephone conference with the parties to discuss resolution of this matter, with or without a hearing.

ADDITIONALLY, Plaintiff seeks the requested relief under Minn. Stat. 13.08, Subd. 2, which provides, "The court may make any order or judgment as may be necessary to prevent the use or employment by any person of any practice which violates this chapter."

This Motion is necessary to preserve documents, data, and other materials until the

parties have an opportunity fully brief and argue the merits of their claims and/or defenses.

Plaintiffs have been pursuing data requests since as early as October 23, 2021 for Plaintiff Hagen. Complaint at Paragraph 17, and April 18, 2022 for Plaintiff Benda For Common-sense. Complaint at Paragraph 7 and have continued to be in communication with Defendant requesting responses to these data requests.

Finally, the Minnesota Supreme Court has stated its opposition to the affirmative destruction of evidence in a pending matter. Patton v. Newmar Corp., 538 N.W.2d 116 (Minn. 1995); Federated Mutual Ins. Co. v. Litchfield Precision Components, Inc., 456 N.W.2d 434, 437 (Minn.1990).

PETERSON, KOLKER, HAEDT & BENDA, LTD.

Dated: August 25, 2022

By: /s/ Matthew L. Benda
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ACKNOWLEDGMENT OF MINNESOTA STATUTES § 549.211

The Plaintiff's counsel hereby acknowledges that sanctions may be imposed pursuant to Minn. Stat. § 549.211.

Dated: August 25, 2022

/s/ Matthew L. Benda
Matthew L. Benda