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December 12, 2024

VIA E-FILING
Hon. Tracy Perzel
First Judicial District Judge
Dakota County Courthouse

Re: *Aaron Paul v. Brad Tabke*,
          Court File No. 70-CV-24-17210

Dear Judge Perzel,

As counsel for the parties have noted, Scott County has concerns related to the presentation of evidence for specific documents in this case. This is a unique situation where there are 20 missing ballots from one voting precinct in Scott County. The County believes it has identified the voters connected to those ballots, although that is not a 100% certainty. As it relates to the issues before you, the County is specifically requesting protection of voter identities related to absentee ballot applications, name lists, and returned signature envelopes. The County also seeks a finding and order that absentee ballot applications and absentee ballot signature envelopes are releasable to the parties.

While voter names and ballot voting histories are public, data classifications and access to particular documents in which the information can be found is less clear. Statutes and caselaw make it clear that Public Information Lists (lists of public data items created by elections officials using other documents) are public, but the classification and accessibility of sources of some of that information, including ballot return envelopes and absentee ballot application documents themselves, are not explicitly clear under statute, caselaw and Office of Administration advisory opinions. (*See* for example, *Cilek v. Office of Minnesota Secretary of State*, 941 N.W.2d 411 (2020); Advisory Opinions 13-014, 09-004, and 01-053).

The County does recognize the need for the parties in this case to have underlying documents to fully evaluate and process the situation. Further, while the names on those documents are helpful for the parties to navigate what occurred in this case and prepare for court, the County does not believe the names are relevant and necessary for proper administration of hearings, particularly for individuals who choose not to participate in the court proceedings.

The County is concerned that given the small pool of names it has identified, making those names publicly available would infringe on the voters' rights to anonymity in their voting (if for instance vote totals change based on court decisions) and that they could be subjected to unwanted attention, contact or even harassment. This is particularly troubling when the County is not absolutely certain these are the individuals connected to the ballots in question (while the County believes its working theory of what happened, there is no definitive proof it is what happened).

The County believes balancing the interests of the voters against the interests and needs of the parties in this case, warrants protection of individual identities. The County requests issuance of a protective order or hearing procedures that will limit publication of the identities of the individuals in this case, prior and subject to, any decision of those individuals to participate in the court proceedings.

The County further requests that the Court find and order pursuant to Minn. Stat. §13.03 subd. 6, that to the extent specific documents can be considered private data despite containing public data, the benefit to the parties in this case outweighs the harm to the County or the individuals, and that those documents can be released to the parties for purposes of this matter without further notice to the individuals.

RON HOCEVAR
SCOTT COUNTY ATTORNEY

/s/ Jeanne Andersen
Jeanne Andersen
Assistant Scott County Attorney

cc. Counsel of Record via eService