

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.

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

**AFFIDAVIT OF EVAN PETERSON IN
SUPPORT OF MOTION TO
PROHIBIT USE OF UNCERTIFIED
ELECTRONIC VOTING SYSTEMS**

Defendant.

Evan Peterson, being first duly sworn upon oath, states as follows:

1. I am an individual residing in Lincoln County, Minnesota.

2. I have conducted a series of inquiries and data requests relating to the use of Electronic Voting Systems in Minnesota.

3. In late 2021, I submitted an election complaint in Lincoln County, Minnesota relating to the potential use of modems in election voting systems manufactured by Election Systems & Software (“ES&S”). A true and correct copy of my complaint is attached hereto as **Exhibit Peterson 1** and incorporated herein by reference.

4. On January 28, 2022, the Lincoln County Attorney sent a detailed summary of my complaint and a request for further action addressed to the Minnesota Secretary of State’s Office. A true and correct copy of the letter to the Minnesota Secretary of State is attached hereto as **Exhibit Peterson 2** and incorporated herein by reference.

5. On July 2, 2022, after learning that Rice County, Minnesota was utilizing Election Voting Systems (“EVS”) that included modems, I submitted an inquiry to them regarding the

lack of security and proper certification of their Electronic Voting Systems (“EVS”). A true and correct copy of this inquiry is attached hereto as **Exhibit Peterson 3** and incorporate herein by reference.

6. The EVS used by Rice County includes multiple DS200 election precinct scanner and tabulators that have a modem built inside of the machine. (“**DS200s with Modems**”). The **DS200s with Modems** are manufactured by ES&S.

7. On September 1, 2022, Rice County responded to my letter confirming that Rice County utilizes **DS200s with Modems** and providing further response to my inquiry. A true and correct copy of this response is attached hereto as **Exhibit Peterson 4** and incorporated herein by reference.

8. Attached to the September 1, 2022 response from Rice County is a fact sheet prepared by ES&S that states, among other things the following:

- “Six of the 78 Minnesota counties using ES&S equipment use cellular modems to transmit unofficial election results...”
- “Modem components are not resident on the DS200 by default, but rather a separate board that is only installed in DS200s which choose this technology...”

9. As detailed in a fact sheet from the ES&S website, the **DS200s with Modems** may be connected to the internet though a wireless network. A true and correct copy of the ES&S fact sheet is attached hereto as **Exhibit Peterson 5** and incorporated herein by reference.

10. In contradiction to the ES&S fact sheet, the September 1, 2022 response from Rice County states, “... Rice County election equipment uses a secure private network specifically configured by ES&S such that all transmissions are completely segregated from the public internet.”

11. I further inquired regarding the testing and certification of the DS200s with Modems, the September 1, 2022 response from Rice County states, "... please be advised that Rice County lacks authority to direct or control the actions of the Minnesota Secretary of State. You may wish to share your concerns directly with the Minnesota Secretary of State:" [add citation].

12. From information available from the Secretary of State website, the certification relied upon by Rice County for the **DS200s with Modems** in the 2020 election is the Certification Report and Recommendation ES&S EVS 5.3.4.1 Voting System dated April 21, 2020 ("Certification Report EVS 5.3.4.1"). A true and correct copy of the **Certification Report EVS 5.3.4.1** is attached to **Peterson Exhibit 1**, set forth above.

13. As clearly stated in the **Certification Report EVS 5.3.4.1**, "3.5 Modem Function not included in this Certification."

14. I have also attended public demonstration of Electronic Voting Systems in other counties in Minnesota. One such demonstration occurred in Wright County, Minnesota. I reported to Wright County that they incorrectly had a logo sticker on their Electronic Voting Systems that they were EAC certified. Wright County confirmed with the manufacturer who confirmed, "The certified logo was mistakenly applied, and they will be removing the label from all affected units in the county." A true and correct copy of my exchange with Wright County is attached hereto as **Exhibit Peterson 7** and incorporated herein by reference.

15. Other jurisdictions, such as Wisconsin, have been asked to certify **DS200s with Modems**, as part of a "Regional Result program" that is described as follows: "The Regional Results application allows election media containing results from different polling places to be read and then securely transferred to a server at a central location office location such as the

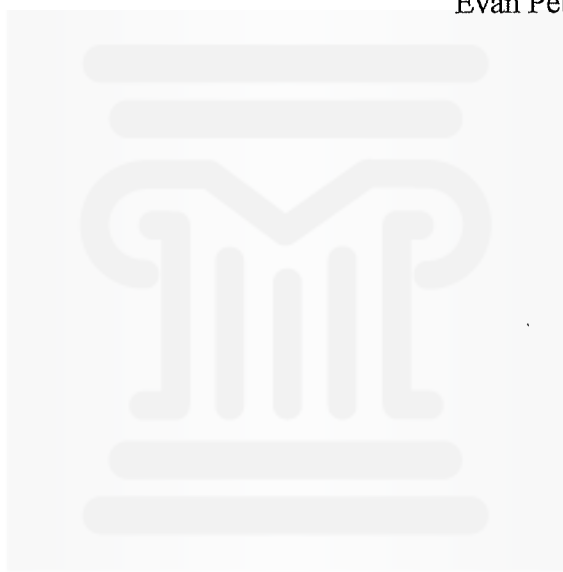
county clerk's office." A true and correct copy of the State of Wisconsin/Government Accountability Board report is attached hereto as **Exhibit Peterson 8** and incorporated herein by reference.

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



Evan Peterson



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