

Troy Schaffke
26359 Shady Trl
Merrifield, MN 56465

Retail



U.S. POSTAGE PAID
FCM LG ENV
MERRIFIELD, MN 56465
MAY 02, 2025



55102

\$2.31

S2324P505440-1

RDC 99

Ramsey County Attorney's Office
360 Wabasha St. N, Ste 100
St. Paul, MN 55102-1432

62-CV-25-6308

Filed in District Court
State of Minnesota
9/17/2025 1:44 PM

EXHIBIT

A

State of Minnesota

District Court

County of: <u>Ramsey</u>	Judicial District: <u>Second</u>
	Court File Number: _____
	Case Type: <u>P. I.</u>

Troy Kenneth Schellor
Plaintiff / Petitioner (first, middle, last)

Waiver of Service of Summons

Minn. R. Civ. P. 4.05

and

Ramsey County, et al
Defendant / Respondent (first, middle, last)

TO: Tim Goulden
(name of plaintiff/petitioner's attorney, or unrepresented plaintiff/petitioner)

I received your request that I waive service of a summons in the following lawsuit of

Troy Kenneth Schellor vs Ramsey County, et al., in the District Court for
(caption of lawsuit; usually ____ vs. ____)

2nd District of Minnesota, Ramsey County.
(list the District: 1st - 10th) (list the county)

I have also received a copy of the complaint or petition in the lawsuit, two copies of this document (CIV022B), and a means for returning the signed waiver to you without cost to me. I agree to save the cost of service of the summons and complaint/petition in this lawsuit.

I understand that I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons. I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after 05-02-2025 (date request was sent), or within 90 days after that date if the request was sent outside the United States.

Date

Signature

Printed / typed name

Note: Court Form CIV022B is substantially similar to Minn. R. Civ. P. Form 22B and meets the rule requirements.

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**State of Minnesota
County of Ramsey**

**District Court
Second Judicial District**

Troy Kenneth Scheffler,

Plaintiff,

Court File Number:

Case Type: Civil-Personal Injury

vs.

COMPLAINT

(Jury Trial Demanded)

Ramsey County, *a political subdivision
of the State of Minnesota,*

Bob B. Fletcher, *in his official capacity
as Ramsey County Sheriff and MGDPA
Responsible Authority,*

and

Tim Gulden, *in his official capacity as
Ramsey County Sheriff's Office MGDPA
Designee,*

Defendants.

COMES NOW THE PLAINTIFF AND STATES HIS CAUSE OF ACTION AS
FOLLOWS:

INTRODUCTION

Plaintiff Troy Scheffler sues Defendants for violation under the Minnesota Data
Practices Act.

SUBJECT MATTER JURISDICTION

1. This court has subject matter jurisdiction as a court of general jurisdiction in
accordance with Minn. Stat. § 484.01.

VENUE

2. Plaintiff lays venue in the district court, Second Judicial District, Ramsey County,
Minnesota, in accordance with Minn. Stat. § 542.09.

PARTIES

3. Plaintiff Troy Kenneth Scheffler is an adult man, born on 02/05/1976, domiciled at 26359 Shandy Trl, Merrifield, MN 56465.
4. Defendant Ramsey County is a political subdivision located Minnesota with Ramsey County Board administrative offices located at 15 W. Kellogg Blvd, Room 220, St. Paul, MN 55102.
5. Defendant Bob Fletcher (Fletcher) is an adult male employed by County of Ramsey as Sheriff and was acting in his official capacity with regard to claims contained and acting Responsible Official for Chapter 13 Minnesota Data Practices requests, whose office address is located at 425 Grove St., St. Paul, MN 55101.
6. Defendant Tim Gulden (Gulden) is an adult male and was employed by County of Ramsey as Sheriff's Office as Commander and was acting in his official capacity with regard to claims contained and acting Responsible Official Designee and Compliance Official for Chapter 13 Minnesota Data Practices requests, whose office address is located at 425 Grove St., St. Paul, MN 55101.

FACTS

7. That on 09/07/2021, Plaintiff did email a Minnesota Chapter 13 Data Request to Fletcher and Gulden at bob.fletcher@co.ramsey.mn.us and tim.gulden@co.ramsey.mn.us, respectively.
8. Said request asked for the following data: The number of acts of violence at the Minnesota State Fair for that current year, disclosure of the racial demographics of the suspects, disclosure of any and all reports and 911 calls concerning the mob attack at the Fair on 09/07/2021, disclosure of any policies and training with regard to black violence occurring in Ramsey County, the State Fair, and the State at large, and the existential threat

it poses against White people and any effort by the Sheriff to inform the public of the danger, disclosure of the unwritten and written policies of downgrading crime, “sandbagging” (i.e. carrying over homicide investigations to the next year and then reclassifying them as murder), and avoiding writing reports and arrests altogether to artificially lower black crime rates in Ramsey County.

9. That Plaintiff further noticed Defendants, “Oh and don't forget the "diversity" shootings and mob attacks on White people at the close of the last fair... Oh and then the BLM storming of the Fair the year before... Etc etc etc etc. 6% of the population and well over half the murder, the vast majority of robbery, home invasions, etc.”

10. That the requested data is Public Data with regard to the Minnesota Data Practices Act.

11. That later on 09/07/2021, Gulden responded to Plaintiff’s email at troyscheffler@gmail.com, stating, “I have forwarded your request to Commander Robbins who handles data practices.”

12. Gulden’s email was also cc’d to Commander Robbins at roy.robbins@co.ramsey.mn.us.

13. That on 09/07/2021, Defendants’ Data Practices Policy stated that Defendant Fletcher was the Data Practices Responsible Official and that Defendant Gulden was the Designee.

<https://www.ramseycounty.us/sites/default/files/Sheriff/Data%20Practices%20Policy-Data%20About%20You.pdf>

14. That Defendants’ current Data Practices Policy states that “Brooke Oachs” is the Designee for the Sheriff’s Office, but fails to disclose the Responsible Authority as required

under MN Stat. 13.025, subd. 2.

15. That Defendants' failed to make publicly available a policy concerning the rights of data subjects under MN Stat. 13.025, subd. 3.

16. That Defendants failed to disclose the data requested nor respond in a reasonable time or at all.

17. That Defendants' willfully violated Plaintiff's right to access the requested public data.

18. That under information and belief, Defendants' inaction was based on racial bias against Plaintiff and in general, White people.

19. That Defendants have traditionally and continue to exercise differential treatment against Whites and preferential treatment towards non-Whites at all levels including employment and services.

20. That the Defendants have and continued to exercise an intentional lack of transparency concerning demographics and crime based upon racial bias against Whites.

21. That this lack of transparency presents a major and dire public safety issue to Whites, including Plaintiff.

22. That Defendants' unlawful acts are particularly egregious considering that Plaintiff's data request asked about the Defendants' practices of hiding black crime data.

23. That the Defendants did cause Plaintiff significant and severe emotional distress from their actions.

24. That Defendants willfully are noncompliant with the Minnesota Data Practices Act by refusing to release the data requested by Plaintiff.

25. That Plaintiff suffered and seeks damages under MN Stat. 13.08.

CLAIM I**Minnesota Data Practices Act – MN Stat. 13.03**

26. Plaintiff reincorporates and realleges the aforementioned facts.
27. That on 09/07/2021, Plaintiff did request data from Defendants.
28. That the data requested is not protected or privileged data.
29. That the data was not timely disclosed and was in fact not disclosed at all to date without cause.
30. That Defendants' noncompliance was willful.
31. That the denial of data was based upon racial bias against Plaintiff.
32. That Plaintiff seeks damages from all Defendants under MN Stat. 13.08.
33. That Plaintiff suffered actual damages including emotional distress, anxiety, and insomnia.
34. That Plaintiff seeks exemplary damages in the amount of \$15,000.
35. That Plaintiff seeks damages in excess of \$50,000.
36. That Plaintiff seeks mandamus relief to compel compliance with Plaintiff's 09/07/2021 request for data.

CLAIM II**Minnesota Data Practices Act – MN Stat. 13.025**

37. Plaintiff reincorporates and realleges the aforementioned facts.
38. That Defendants' current Data Practices Policy states that "Brooke Oachs" is the Designee for the Sheriff's Office, but fails to disclose the Responsible Authority as required under MN Stat. 13.025, subd. 2.
39. That Plaintiff seeks damages from Defendants under MN Stat. 13.08.

40. That Plaintiff seeks exemplary damages in the amount of \$1000.

CLAIM III

Minnesota Data Practices Act – MN Stat. 13.025

41. Plaintiff reincorporates and realleges the aforementioned facts.

42. That Defendants failed to make publicly available, current to the signing of this Complaint, a policy concerning the rights of data subjects under MN Stat. 13.025, subd. 3.

43. That Plaintiff seeks exemplary damages in the amount of \$1000.

WHEREFORE, Plaintiff Troy Scheffler prays for the following relief against the Defendants:

A. Judgment in the favor of Plaintiff against Defendants jointly and severally;

B. Actual/Compensatory damages;

C. Exemplary damages;

D. [Placeholder for amendment]

E. Injunctive Relief;

F. Mandamus Relief;

G. Costs and disbursements in accordance with law;

H. Statutory and Prejudgment interest in accordance with law;

I. Reasonable Attorney Fees; and

J. Such other legal or equitable relief as this court is pleased to grant.

VERIFICATION

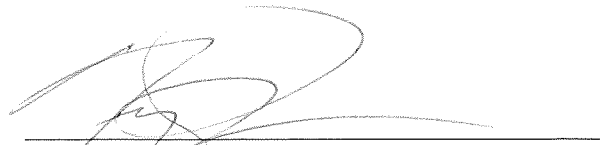
Having reviewed the above complaint, Plaintiff Troy Scheffler affirms under penalty of law that all statements above, excluding those made on information and belief, are true to the best of Plaintiff's present knowledge.

ACKNOWLEDGEMENT

Plaintiff Troy Scheffler hereby acknowledges that sanctions may be imposed under the

circumstances set forth in Minn. Stat. § 549.211.

Date: 05-02-2025



Troy Scheffler
Plaintiff
26359 Shandy Trl
Merrifield, MN 56465
763-225-7702



MINNESOTA
JUDICIAL
BRANCH

**State of Minnesota
County of Ramsey**

**District Court
Second Judicial District**

Troy Kenneth Scheffler,

Plaintiff,

Court File Number:

Case Type: Civil-Personal Injury

vs.

COMPLAINT

(Jury Trial Demanded)

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15. That Defendants' failed to make publicly available a policy concerning the rights of data subjects under MN Stat. 13.025, subd. 3.

16. That Defendants failed to disclose the data requested nor respond in a reasonable time or at all.

17. That Defendants' willfully violated Plaintiff's right to access the requested public data.

18. That under information and belief, Defendants' inaction was based on racial bias against Plaintiff and in general, White people.

19. That Defendants have traditionally and continue to exercise differential treatment against Whites and preferential treatment towards non-Whites at all levels including employment and services.

20. That the Defendants have and continued to exercise an intentional lack of transparency concerning demographics and crime based upon racial bias against Whites.

21. That this lack of transparency presents a major and dire public safety issue to Whites, including Plaintiff.

22. That Defendants' unlawful acts are particularly egregious considering that Plaintiff's data request asked about the Defendants' practices of hiding black crime data.

23. That the Defendants did cause Plaintiff significant and severe emotional distress from their actions.

24. That Defendants willfully are noncompliant with the Minnesota Data Practices Act by refusing to release the data requested by Plaintiff.

25. That Plaintiff suffered and seeks damages under MN Stat. 13.08.

CLAIM I**Minnesota Data Practices Act – MN Stat. 13.03**

26. Plaintiff reincorporates and realleges the aforementioned facts.
27. That on 09/07/2021, Plaintiff did request data from Defendants.
28. That the data requested is not protected or privileged data.
29. That the data was not timely disclosed and was in fact not disclosed at all to date without cause.
30. That Defendants' noncompliance was willful.
31. That the denial of data was based upon racial bias against Plaintiff.
32. That Plaintiff seeks damages from all Defendants under MN Stat. 13.08.
33. That Plaintiff suffered actual damages including emotional distress, anxiety, and insomnia.
34. That Plaintiff seeks exemplary damages in the amount of \$15,000.
35. That Plaintiff seeks damages in excess of \$50,000.
36. That Plaintiff seeks mandamus relief to compel compliance with Plaintiff's 09/07/2021 request for data.

CLAIM II**Minnesota Data Practices Act – MN Stat. 13.025**

37. Plaintiff reincorporates and realleges the aforementioned facts.
38. That Defendants' current Data Practices Policy states that "Brooke Oachs" is the Designee for the Sheriff's Office, but fails to disclose the Responsible Authority as required under MN Stat. 13.025, subd. 2.
39. That Plaintiff seeks damages from Defendants under MN Stat. 13.08.

40. That Plaintiff seeks exemplary damages in the amount of \$1000.

CLAIM III

Minnesota Data Practices Act – MN Stat. 13.025

41. Plaintiff reincorporates and realleges the aforementioned facts.

42. That Defendants failed to make publicly available, current to the signing of this Complaint, a policy concerning the rights of data subjects under MN Stat. 13.025, subd. 3.

43. That Plaintiff seeks exemplary damages in the amount of \$1000.

WHEREFORE, Plaintiff Troy Scheffler prays for the following relief against the Defendants:

A. Judgment in the favor of Plaintiff against Defendants jointly and severally;

B. Actual/Compensatory damages;

C. Exemplary damages;

D. [Placeholder for amendment]

E. Injunctive Relief;

F. Mandamus Relief;

G. Costs and disbursements in accordance with law;

H. Statutory and Prejudgment interest in accordance with law;

I. Reasonable Attorney Fees; and

J. Such other legal or equitable relief as this court is pleased to grant.

VERIFICATION

Having reviewed the above complaint, Plaintiff Troy Scheffler affirms under penalty of law that all statements above, excluding those made on information and belief, are true to the best of Plaintiff's present knowledge.

ACKNOWLEDGEMENT

Plaintiff Troy Scheffler hereby acknowledges that sanctions may be imposed under the

circumstances set forth in Minn. Stat. § 549.211.

Date: 05-02-2025



Troy Scheffler
Plaintiff
26359 Shandy Trl
Merrifield, MN 56465
763-225-7702



MINNESOTA
JUDICIAL
BRANCH

State of Minnesota
County of Ramsey

District Court
Second Judicial District

Troy Kenneth Scheffler,

Plaintiff,

Court File Number:

Case Type: Civil-Personal Injury

vs.

COMPLAINT

(Jury Trial Demanded)

Ramsey County, *a political subdivision
of the State of Minnesota,*

Bob B. Fletcher, *in his official capacity
as Ramsey County Sheriff and MGDPA
Responsible Authority,*

and

Tim Gulden, *in his official capacity as
Ramsey County Sheriff's Office MGDPA
Designee,*

Defendants.

COMES NOW THE PLAINTIFF AND STATES HIS CAUSE OF ACTION AS
FOLLOWS:

INTRODUCTION

Plaintiff Troy Scheffler sues Defendants for violation under the Minnesota Data
Practices Act.

SUBJECT MATTER JURISDICTION

1. This court has subject matter jurisdiction as a court of general jurisdiction in
accordance with Minn. Stat. § 484.01.

VENUE

2. Plaintiff lays venue in the district court, Second Judicial District, Ramsey County,
Minnesota, in accordance with Minn. Stat. § 542.09.

PARTIES

3. Plaintiff Troy Kenneth Scheffler is an adult man, born on 02/05/1976, domiciled at 26359 Shandy Trl, Merrifield, MN 56465.
4. Defendant Ramsey County is a political subdivision located Minnesota with Ramsey County Board administrative offices located at 15 W. Kellogg Blvd, Room 220, St. Paul, MN 55102.
5. Defendant Bob Fletcher (Fletcher) is an adult male employed by County of Ramsey as Sheriff and was acting in his official capacity with regard to claims contained and acting Responsible Official for Chapter 13 Minnesota Data Practices requests, whose office address is located at 425 Grove St., St. Paul, MN 55101.
6. Defendant Tim Gulden (Gulden) is an adult male and was employed by County of Ramsey as Sheriff's Office as Commander and was acting in his official capacity with regard to claims contained and acting Responsible Official Designee and Compliance Official for Chapter 13 Minnesota Data Practices requests, whose office address is located at 425 Grove St., St. Paul, MN 55101.

FACTS

7. That on 09/07/2021, Plaintiff did email a Minnesota Chapter 13 Data Request to Fletcher and Gulden at bob.fletcher@co.ramsey.mn.us and tim.gulden@co.ramsey.mn.us, respectively.
8. Said request asked for the following data: The number of acts of violence at the Minnesota State Fair for that current year, disclosure of the racial demographics of the suspects, disclosure of any and all reports and 911 calls concerning the mob attack at the Fair on 09/07/2021, disclosure of any policies and training with regard to black violence occurring in Ramsey County, the State Fair, and the State at large, and the existential threat

it poses against White people and any effort by the Sheriff to inform the public of the danger, disclosure of the unwritten and written policies of downgrading crime, “sandbagging” (i.e. carrying over homicide investigations to the next year and then reclassifying them as murder), and avoiding writing reports and arrests altogether to artificially lower black crime rates in Ramsey County.

9. That Plaintiff further noticed Defendants, “Oh and don't forget the "diversity" shootings and mob attacks on White people at the close of the last fair... Oh and then the BLM storming of the Fair the year before... Etc etc etc etc. 6% of the population and well over half the murder, the vast majority of robbery, home invasions, etc.”

10. That the requested data is Public Data with regard to the Minnesota Data Practices Act.

11. That later on 09/07/2021, Gulden responded to Plaintiff’s email at troyscheffler@gmail.com, stating, “I have forwarded your request to Commander Robbins who handles data practices.”

12. Gulden’s email was also cc’d to Commander Robbins at roy.robbins@co.ramsey.mn.us.

13. That on 09/07/2021, Defendants’ Data Practices Policy stated that Defendant Fletcher was the Data Practices Responsible Official and that Defendant Gulden was the Designee.

<https://www.ramseycounty.us/sites/default/files/Sheriff/Data%20Practices%20Policy-Data%20About%20You.pdf>

14. That Defendants’ current Data Practices Policy states that “Brooke Oachs” is the Designee for the Sheriff’s Office, but fails to disclose the Responsible Authority as required

under MN Stat. 13.025, subd. 2.

15. That Defendants' failed to make publicly available a policy concerning the rights of data subjects under MN Stat. 13.025, subd. 3.

16. That Defendants failed to disclose the data requested nor respond in a reasonable time or at all.

17. That Defendants' willfully violated Plaintiff's right to access the requested public data.

18. That under information and belief, Defendants' inaction was based on racial bias against Plaintiff and in general, White people.

19. That Defendants have traditionally and continue to exercise differential treatment against Whites and preferential treatment towards non-Whites at all levels including employment and services.

20. That the Defendants have and continued to exercise an intentional lack of transparency concerning demographics and crime based upon racial bias against Whites.

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29. That the data was not timely disclosed and was in fact not disclosed at all to date without cause.
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CLAIM III

Minnesota Data Practices Act – MN Stat. 13.025

41. Plaintiff reincorporates and realleges the aforementioned facts.

42. That Defendants failed to make publicly available, current to the signing of this Complaint, a policy concerning the rights of data subjects under MN Stat. 13.025, subd. 3.

43. That Plaintiff seeks exemplary damages in the amount of \$1000.

WHEREFORE, Plaintiff Troy Scheffler prays for the following relief against the Defendants:

A. Judgment in the favor of Plaintiff against Defendants jointly and severally;

B. Actual/Compensatory damages;

C. Exemplary damages;

D. [Placeholder for amendment]

E. Injunctive Relief;

F. Mandamus Relief;

G. Costs and disbursements in accordance with law;

H. Statutory and Prejudgment interest in accordance with law;

I. Reasonable Attorney Fees; and

J. Such other legal or equitable relief as this court is pleased to grant.

VERIFICATION

Having reviewed the above complaint, Plaintiff Troy Scheffler affirms under penalty of law that all statements above, excluding those made on information and belief, are true to the best of Plaintiff's present knowledge.

ACKNOWLEDGEMENT

Plaintiff Troy Scheffler hereby acknowledges that sanctions may be imposed under the

circumstances set forth in Minn. Stat. § 549.211.

Date: 05-02-2025



Troy Scheffler
Plaintiff
26359 Shandy Trl
Merrifield, MN 56465
763-225-7702



MINNESOTA
JUDICIAL
BRANCH

From: [Troy Scheffler](#)
To: [Bacon, Brett](#)
Subject: Scheffler v Ramsey
Date: Monday, September 8, 2025 8:29:25 PM
Attachments: [2025-0908 Proposed Order.pdf](#)
[2025-0908 Motion Sanctions.pdf](#)
[2025-0908 Memo Sanctions.pdf](#)
[2025-0908 Affidavit of Service.pdf](#)

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This message originated from outside the Ramsey County email system. Use caution when clicking hyperlinks, downloading pictures or opening attachments.

[Report Suspicious](#)

Please find the enclosed courtesy copies filed today.

-Troy

MINNESOTA
JUDICIAL
BRANCH



**STATE OF MINNESOTA
COUNTY OF RAMSEY****DISTRICT COURT
SECOND JUDICIAL DISTRICT**

Troy Kenneth Scheffler,
Plaintiff,

Court File Number: **62-CV-25-6308**
Case Type: Civil Other/Misc.
Judge: Laura Nelson

vs.

[Proposed] ORDER

Ramsey County,
Bob B. Fletcher, and
Tim Gulden,
Defendants.

This matter came before the Court on Plaintiff Troy Scheffler's Motion for Sanctions against Defendant Ramsey County. The Court having reviewed the motion, memorandum of law, and all supporting documents, and having found that Defendant Ramsey County violated Minnesota Rules of Civil Procedure 11 and Minnesota General Rules of Practice 115 through their pattern of procedural violations and bad faith litigation conduct,

IT IS HEREBY ORDERED:

Plaintiff's Motion for Sanctions against Defendant Ramsey County is GRANTED.

The Court finds that Defendant Ramsey County violated Minn. R. Civ. P. 11.02 and Minn. Stat. § 549.211 by:

- a. Serving a procedurally deficient motion without a memorandum of law, proposed order, or hearing date as required by Rule 115.03(a);
- b. Failing to meet and confer as required by Rule 115.10;
- c. Presenting documents for improper purposes of delay and harassment;
- d. Making legal contentions not warranted by existing law or reasonable inquiry.

As sanctions, Defendant Ramsey County and its counsel Brett Bacon shall:

- a. Pay Plaintiff's reasonable attorney fees and costs incurred in responding to the deficient motions and bringing this sanctions motion in the amount of \$_____;
- b. Pay an additional monetary sanction to the Court in the amount of \$_____ for abuse of the judicial process.

All payments shall be made within thirty (30) days of this Order.

Defendant is admonished that future violations of the Minnesota Rules of Civil Procedure and General Rules of Practice may result in more severe sanctions, including striking of pleadings.

IT IS SO ORDERED.

Dated: _____

Honorable Laura Nelson
Judge of District Court
Second Judicial District

MINNESOTA
JUDICIAL
BRANCH

**STATE OF MINNESOTA
COUNTY OF RAMSEY****DISTRICT COURT
SECOND JUDICIAL DISTRICT**

Troy Kenneth Scheffler,
Plaintiff,

Court File Number: **62-CV-25-6308**
Case Type: Civil Other/Misc.
Judge: Laura Nelson

vs.

**NOTICE AND MOTION FOR
SANCTIONS AGAINST
DEFENDANT RAMSEY COUNTY**

Ramsey County,
Bob B. Fletcher, and
Tim Gulden,
Defendants.

TO: Brett Bacon, Assistant Ramsey County Attorney, 360 Wabasha St. N., Suite 100, Saint Paul, MN 55102

PLEASE TAKE NOTICE that Plaintiff Troy Scheffler will bring the following motion for hearing before Judge Laura Nelson at the Ramsey County Courthouse on 10/01/2025, via Zoom .

MOTION

Plaintiff moves the Court for an Order imposing sanctions against Defendant Ramsey County and its counsel pursuant to Minnesota Rule of Civil Procedure 11 for violations of their duty of reasonable inquiry and for presenting documents to the Court for improper purposes in violation of their certifications under Rule 11.02.

This motion is based upon Rules 11 and 115 of the Minnesota Rules of Civil Procedure, the pleadings and documents on file, the affidavit of Plaintiff, supporting memorandum of law, and arguments of counsel. Minnesota Statutes § 549.211 provides parallel and substantially identical standards to Rule 11, as noted by the Minnesota Advisory Committee, and supports the relief requested herein.

NOTICE: Pursuant to Rule 11.03(a)(1) of the Minnesota Rules of Civil Procedure, this motion shall not be filed with or presented to the Court unless, within 21 days after service of this motion, Defendant Ramsey County withdraws or appropriately corrects the sanctionable conduct described herein.

ACKNOWLEDGMENT

Plaintiff Troy Scheffler hereby acknowledges that sanctions may be imposed under the circumstances set forth in Minn. R. Civ. P. 11.

Respectfully submitted,

/s/ Troy Scheffler

Date: 09/08/2025

Troy Scheffler
Plaintiff Pro Se
26359 Shandy Trail
Merrifield, MN 56465
(763) 225-7702



MINNESOTA
JUDICIAL
BRANCH

**STATE OF MINNESOTA
COUNTY OF RAMSEY****DISTRICT COURT
SECOND JUDICIAL DISTRICT**

Troy Kenneth Scheffler,
Plaintiff,

Court File Number: **62-CV-25-6308**
Case Type: Civil Other/Misc.
Judge: Laura Nelson

vs.

**MEMO IN SUPPORT FOR MOTION
FOR SANCTIONS AGAINST
DEFENDANT RAMSEY COUNTY**

Ramsey County,
Bob B. Fletcher, and
Tim Gulden,
Defendants.

INTRODUCTION

Defendant Ramsey County has engaged in a calculated pattern of bad faith litigation conduct that warrants the imposition of sanctions under Minnesota Rule of Civil Procedure 11. After ignoring Plaintiff's waiver of service and failing to timely respond to the Summons and Complaint, Ramsey County orchestrated a two-stage delay scheme: first serving a procedurally impossible "motion to dismiss" in July 2025, then filing the same deficient motion with the court in August 2025—proving they knew proper procedure all along but chose delay tactics. This sanctionable conduct requires meaningful deterrence.

STATEMENT OF FACTS

A. Background Litigation and Service

1. On May 2, 2025, Plaintiff served Defendant Ramsey County with a waiver of summons under Minn. R. Civ. P. 4.05, which Defendant ignored.
2. On July 2, 2025, Defendant Ramsey County was personally served with the Summons and Complaint via process server at Plaintiff's cost of \$50.

3. Under Minn. R. Civ. P. 12.01, Defendant was required to serve a responsive pleading within 21 days, making any response due by July 23, 2025.

4. This case began as a "pocket filed" action—served on defendants before being filed with the court, as permitted under Minnesota law.

B. The July 2025 Procedurally Impossible "Motion"

5. On July 14, 2025—only nine days after their response deadline expired—Ramsey County served but deliberately did not file a document titled "Notice of Motion and Motion to Dismiss Plaintiff's Complaint."

6. This "motion" was legally impossible under Minnesota pocket filing procedure because you cannot bring motions in unfiled cases. The standard and universally accepted procedure when defendants wish to file motions in pocket filed cases is to file the case with the court first, then file the motion.

7. This July "motion" violated every procedural requirement for dispositive motions under Minnesota Rule of General Practice 115, as detailed below.

8. Despite promising that the motion "will be supported by a memorandum of law and affidavits will be filed and served in accordance with the deadline contained in the Minnesota Rules," Ramsey County never filed this motion with any court.

C. The August 2025 Proof of Bad Faith

9. On August 11, 2025, Ramsey County finally filed the identical motion with the court under case number 62-CV-25-6308, proving they knew the proper procedure all along.

10. This August filing demonstrates that their July conduct was pure delay tactics—they were fully capable of following proper procedure but chose not to for nearly a month.

11. Even when properly filed in August, the motion continued to violate Rule 115 requirements (no memorandum of law, no meet and confer, no compliance with timing requirements).

D. Pattern of Systematic Non-Compliance

12. Defendant Ramsey County has willfully ignored every opportunity to comply with court rules: (a) ignoring the waiver of service; (b) failing to timely respond to the Summons and Complaint; (c) serving a legally impossible "motion" in July; and (d) filing a procedurally deficient motion in August.

ARGUMENT

I. DEFENDANT RAMSEY COUNTY'S CONDUCT VIOLATES RULE 11

Minnesota Rule of Civil Procedure 11.02 requires that by presenting any document to the court, an attorney certifies that:

(a) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(b) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law...

Minnesota Statutes § 549.211, subdivision 2, establishes substantially identical standards, as recognized by the Minnesota Advisory Committee. Ramsey County's conduct violates both the Rule 11.02 certifications and the parallel statutory standards through their orchestrated delay scheme.

A. Improper Purpose: Calculated Delay and Harassment

Ramsey County's conduct demonstrates a clear pattern of delay and harassment:

1. Strategic Timeline of Obstruction

- May 2025: Ignored waiver of service
- July 23, 2025: Response deadline expired without filing
- July 14, 2025: Served legally impossible "motion"
- August 11, 2025: Filed proper motion only after facing default

2. Proof of Bad Faith Intent

The August filing proves Ramsey County knew proper procedure all along. They were fully capable of filing the case and bringing a compliant motion in July but chose delay tactics instead. This demonstrates the July "motion" was presented solely for the improper purpose of delay.

3. Legal Impossibility as Harassment

Serving a "motion" that cannot legally be brought in an unfiled case constitutes harassment by creating procedural confusion and forcing Plaintiff to respond to a legally meaningless document.

B. No Legal Warrant: Multiple Violations of Established Law

Ramsey County's conduct lacks warrant in existing law on multiple levels:

1. Violation of Pocket Filing Procedure

Under Minnesota law, when a case is pocket filed, defendants cannot bring motions until the case is filed with the court. Ramsey County's July "motion" was legally impossible and demonstrated complete ignorance of basic Minnesota civil procedure.

2. Complete Violation of Rule 115 Requirements

Both the July and August motions violated every requirement of Minnesota Rule of General Practice 115 for dispositive motions:

- Rule 115.02 - Hearing Date Required: Both motions state they will be heard "on a date and time to be determined," proving defendants failed to obtain hearing dates as required.
- Rule 115.03(a) - Required Documents: Rule 115.03(a) requires four documents at least 28 days before hearing: (1) Notice of motion; (2) Proposed order; (3) Affidavits and exhibits; and (4) Memorandum of law. Ramsey County provided only bare notices with no memoranda, no proposed orders, and no supporting affidavits.
- Rule 115.10 - Meet and Confer: Rule 115.10 mandatorily requires parties to "make appropriate efforts to resolve motion disputes before hearing with the court." Ramsey County made no attempt to meet and confer with Plaintiff before serving their motion.
- Filing Requirement: Rule 115.03(a) requires filing documents with the court administrator. Ramsey County only served their July motion on Plaintiff but never filed it with the Court, demonstrating they never intended to pursue it in good faith.
- Required Disclaimers: Ramsey County failed to include the disclaimer required under Minn. Stat. § 549.211, subdivision 1.

3. Frivolous Substantive Claims

Any Rule 12.02(e) motion to dismiss would be completely frivolous. Plaintiff's MGDPA claims are straightforward statutory violations with clear elements: specific data requests, willful noncompliance for over four years, and clear violations of disclosure requirements. No competent attorney could reasonably believe these well-pleaded statutory claims would be subject to dismissal under Rule 12.02(e).

C. No Reasonable Inquiry

Rule 11.02 requires counsel to conduct "an inquiry reasonable under the circumstances." The complete failure to comply with basic motion practice rules demonstrates counsel made

no reasonable inquiry into the applicable procedural requirements. As stated in *Collins v. Waconia Dodge, Inc.*, 793 N.W.2d 142, 145 (Minn. App. 2011), Rule 11 prescribes "an affirmative duty" on counsel "to investigate the factual and legal underpinnings of a pleading."

II. RAMSEY COUNTY CANNOT INVOKE SAFE HARBOR PROTECTION

Under *Carlson v. Fiduciary Foundation*, No. A23-1371, 2024 WL 3259142 (Minn. Ct. App. July 1, 2024), withdrawal of sanctionable conduct must be "clear and unequivocal" to invoke safe harbor protection. The Minnesota Court of Appeals emphasized that "cagey" or equivocal responses do not satisfy the safe harbor requirements.

Here, Ramsey County has not withdrawn or corrected their sanctionable conduct. The deficient motion remains served, and Ramsey County has made no attempt to file a compliant motion or acknowledge their procedural violations.

III. SANCTIONS ARE WARRANTED AND NECESSARY FOR DETERRENCE

Rule 11.03(b) provides that sanctions "shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated."

A. Deterrence is Essential

As the Carlson court noted, "without proper deterrence," repeat offenders may continue to pursue frivolous conduct. Here, Ramsey County's pattern of ignoring court procedures—from waiver of service to response deadlines to motion practice rules—demonstrates that meaningful sanctions are necessary to deter future misconduct.

B. Nature of Appropriate Sanctions

Pursuant to Rule 11.03(b), appropriate sanctions include:

1. Attorney Fees and Costs: Ramsey County and the Ramsey County Attorney's Office should be required to pay Plaintiff's reasonable attorney fees and costs incurred as a direct result of their sanctionable conduct, including fees for responding to the deficient motion and bringing this sanctions motion.
2. Process Server Costs: The \$50 cost of personal service resulted directly from Ramsey County's refusal to accept the waiver of service.
3. Joint Responsibility: Under Rule 11.03(a)(1), "Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees." Here, both Brett Bacon individually and the Ramsey County Attorney's Office as his employing law firm should be held jointly responsible for these violations.
4. Other Appropriate Relief: The Court should order Ramsey County and its counsel to comply with all applicable court rules in future filings and provide any other relief the Court deems just.

IV. RAMSEY COUNTY LACKS ANY OBJECTIVELY REASONABLE BASIS

Under *Gibson v. Coldwell Banker Burnet*, 659 N.W.2d 782, 787 (Minn. App. 2003), sanctions should not be imposed when an attorney has "an objectively reasonable basis for pursuing a factual or legal claim." Here, Ramsey County cannot claim any objectively reasonable basis for:

1. Ignoring waiver of service procedures
2. Missing response deadlines
3. Filing a motion that violates every Rule 115 requirement
4. Failing to meet and confer
5. Never filing the motion with the Court

No competent attorney could reasonably believe that a "motion" lacking a memorandum of law, proposed order, hearing date, and meet-and-confer compliance would be acceptable under Minnesota court rules.

CONCLUSION

Ramsey County's conduct represents exactly the type of "substantial departure from acceptable litigation conduct" that warrants sanctions under Minnesota law. See *Uselman v. Uselman*, 464 N.W.2d 130 (Minn. 1990). Their pattern of ignoring court procedures, culminating in a procedurally deficient "motion" that violates every Rule 115 requirement, demonstrates bad faith litigation conduct that must be deterred.

For the reasons stated herein, Plaintiff respectfully requests that the Court impose appropriate sanctions against Defendant Ramsey County, including reasonable attorney fees, costs, and such other relief as the Court deems just.

ACKNOWLEDGMENT

Plaintiff Troy Scheffler hereby acknowledges that sanctions may be imposed under the circumstances set forth in Minn. R. Civ. P. 11.

Respectfully submitted,

/s/ Troy Scheffler

Date: 09/08/2025

Troy Scheffler
Plaintiff Pro Se
26359 Shandy Trail
Merrifield, MN 56465
(763) 225-7702

**State of Minnesota
County of Ramsey**

**District Court
Second Judicial District**

Troy Kenneth Scheffler,

Plaintiff,

Court File Number: **62-CV-25-6308**

Case Type: Civil Other/Misc.

Vs.

Judge: Laura Nelson

CERTIFICATE OF SERVICE

Ramsey County, et al.,

Defendants.

STATE OF MINNESOTA)
) SS
COUNTY OF CROW WING)

I, Troy Scheffler, state that I am at least 18 years of age, and that on 08/13/2025, I served the Notice and Motion for Sanctions Against Defendant Ramsey County (Safe Harbor), Memo in Support for Motion for Sanctions Against Defendant Ramsey County (Safe Harbor), by personally mailing via USPS and emailing a true and correct copy of the documents to and upon the following:

Attorney for Defendants Brett Bacon, 360 Wabasha St. N., Suite 100, St. Paul, MN 55102

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116

08/13/2025

/s/ Troy Scheffler

Troy Scheffler

26359 Shandy Trl

Merrifield, MN 56465

763-225-7702

troyscheffler@gmail.com

2012 WL 3892234

Only the Westlaw citation is currently available.

NOTICE: THIS OPINION IS DESIGNATED AS
UNPUBLISHED AND MAY NOT BE CITED EXCEPT
AS PROVIDED BY MINN. ST. SEC. 480A.08(3).

Court of Appeals of Minnesota.

Joeffre KOLOSKY, Appellant,

v.

Dr. Mark DAHL, Respondent,

Ian Johnson, Respondent.

No. A12-154.

|

Sept. 10, 2012.

Washington County District Court, File No. 82-CV-11-
3685.

Attorneys and Law Firms

Joeffre Kolosky, Minneapolis, MN, pro se appellant.

[Richard J. Thomas](#), [Bryon G. Ascherman](#), Burke & Thomas,
PLLP, St. Paul, MN, for respondent Dahl.

[Barbara A. Zurek](#), [Melissa Dosick Riethof](#), Meagher & Geer,
P.L.L.P., Minneapolis, MN, for respondent Johnson.

Considered and decided by [ROSS](#), Presiding Judge;
[HOOTEN](#), Judge; and [TOUSSAINT](#), Judge.*

UNPUBLISHED OPINION

[HOOTEN](#), Judge.

*1 Appellant challenges the dismissal of his medical malpractice action, arguing that the district court improperly applied res judicata principles and erred in holding that his expert identification affidavit did not meet the requirements of [Minn.Stat. § 145.682 \(2010\)](#). We affirm.

FACTS

Respondent Dr. Mark Dahl performed “joint replacement surgery” on appellant Joeffre Kolosky's knee on March

5, 2007, at Woodwinds Hospital in Woodbury, Minnesota. Appellant claims that, after the surgery on March 5 and again on March 6, 2007, respondent Ian Johnson performed [acupuncture](#) while appellant was recovering from the surgery and that he developed an infection in his knee as a result. Appellant alleges that respondents failed to advise him that [acupuncture](#) engenders a risk of infection, “bleeding and trauma” and that both respondents failed to properly diagnose and treat the infection in a timely manner.

This is the second medical malpractice action involving these same allegations which appellant has filed, pro se, against respondents. The first action was filed against respondents, as well as Woodwinds Hospital and Northwestern Health Sciences University, on August 21, 2008. That action was dismissed with prejudice by the district court as to respondent Johnson, Woodwinds Hospital and Northwestern Health Sciences University because appellant failed to comply with the expert affidavit requirements of [Minn.Stat. § 145.682](#). The district court also dismissed appellant's complaint against Dr. Dahl without prejudice because there was no evidence that appellant had effectively served Dr. Dahl with the summons and complaint. In an appeal of the dismissal of appellant's first malpractice action against respondents, this court declined to exercise its jurisdiction to review the decision to dismiss appellant's complaint against Dr. Dahl, but affirmed the district court's dismissal with prejudice of Johnson, Woodwinds Hospital, and Northwestern Health Sciences University. [Kolosky v. Woodwinds Hosp.](#), No. A09-667, 2009 WL 4251139 (Minn.App. Dec. 1, 2009), review denied (Minn. Feb. 16, 2010).

In June 2011, appellant filed a second complaint against respondents Dr. Dahl and Johnson. Johnson moved to dismiss the complaint under [Minn. R. Civ. P. 12.02\(e\)](#) for failure to state a claim because appellant's claim was barred by claim and issue preclusion. Johnson also moved for sanctions, asking for fees and a prohibition against future suits. In response, appellant filed a motion for summary judgment, arguing that default judgment should be awarded against Johnson because he had not answered his complaint. Appellant also argued that the prior dismissal with prejudice of Johnson was invalid and principles of res judicata could not apply because there was no evidence that Johnson was served relative to appellant's first medical malpractice complaint. A hearing was held on these motions.

After answering appellant's renewed complaint and engaging in discovery, Dr. Dahl moved to dismiss appellant's complaint

for failure to comply with the expert affidavit requirements in [Minn.Stat. § 145.682](#). A separate hearing was held on Dr. Dahl's motion.

***2** The district court denied appellant's summary judgment motion and dismissed appellant's action against respondents with prejudice. As to Johnson, the district court ruled that appellant's claim was barred by res judicata and that appellant was barred from bringing any further legal action against Johnson on the same facts. As to Dr. Dahl, the district court dismissed appellant's complaint on the basis that the affidavit of expert review submitted by appellant did not satisfy [Minn.Stat. § 145.682](#). This appeal follows.

DECISION

I. Dismissal of Appellant's Complaint against Respondent Johnson and Denial of Appellant's Summary Judgment Motion

Appellant argues that res judicata does not apply in this case because there was no evidence that Johnson was appropriately served in the previous action and that any prior dismissal of Johnson in the prior action is therefore invalid and non-binding on the parties in this action. Appellant also claims that he is entitled to summary judgment against Johnson because Johnson failed to provide a timely answer to his complaint in this second action.

There is no merit to either of appellant's claims. We have held that a party may waive insufficiency of service of process by invoking the jurisdiction of the court on the merits of a determinative claim. [Patterson v. Wu Family Corp.](#), 608 N.W.2d 863, 868 (Minn.2000); [Galbreath v. Coleman](#), 596 N.W.2d 689, 691 (Minn.App.1999). A party invokes the jurisdiction of the court by taking some affirmative step such as bringing a motion asking the court to rule on the merits of the action. [Patterson](#), 608 N.W.2d at 869. “[M]oving for a decision on the merits of part of a claim invites the court to exercise its authority on behalf of the moving party and implicitly acquiesces to the court's exercise of jurisdiction over that party.” *Id.* “[O]nce a defendant affirmatively invokes the court's power to determine the merits of all or part of a claim, the defendant cannot then deny the court's jurisdiction over him based on defective service.” *Id.*

In the previous action, Johnson brought a motion for dismissal based on appellant's failure to comply with the expert affidavit requirement for medical malpractice actions. By bringing the

motion to dismiss, Johnson invoked the jurisdiction of the court and waived any defense he may have had for a defective service of process. Thus, Johnson's invocation of the court's jurisdiction bound both Johnson and appellant to the decisions of the district and appellate courts in that action.

Under these circumstances, appellant's claims in this action are barred by principles of res judicata. It is well settled that “[r]es judicata applies as an absolute bar to a subsequent claim when: (1) the earlier claim involved the same set of factual circumstances; (2) the earlier claim involved the same parties or their privies; (3) there was a final judgment on the merits; and (4) the estopped party had a full and fair opportunity to litigate the matter.” [Rucker v. Schmidt](#), 794 N.W.2d 114, 117 (Minn.2011) (footnote omitted). “All four prongs must be met for res judicata to apply.” *Id.* (quotation omitted). This court reviews the application of res judicata de novo. *Id.*

***3** The first element is satisfied, in that the current action is based on the exact same set of circumstances. Appellant filed the same complaint and supporting documentation in both actions. In doing so, appellant does not argue that facts have changed or that new evidence has arisen since the dismissal of his prior action. The second element is similarly satisfied because, as set forth above, both appellant and Johnson were parties in the prior action and are therefore bound by rulings of the district court and appellate courts.

The third element of res judicata is whether there was a final judgment on the merits in the previous action. “Unless the court specifies otherwise in its order, [an involuntary] dismissal [with prejudice] ... operates as an adjudication upon the merits.” [Minn. R. Civ. P. 41.02\(c\)](#). Appellant's first action against Johnson resulted in a dismissal with prejudice because appellant failed to comply with the affidavit requirements for medical malpractice actions. Judgment was entered on that dismissal, and appellant was unsuccessful in his appeal of that judgment. “[F]or res judicata purposes, a judgment becomes final when it is entered in the district court and it remains final, despite a pending appeal, until it is reversed, vacated or otherwise modified.” [Brown-Wilbert, Inc. v. Copeland Buhl & Co., P.L.L.P.](#), 732 N.W.2d 209, 221 (Minn.2007). Thus, this third element was satisfied.

Finally, with regard to the fourth element, there are no concerns about procedural irregularities or an absence of a full and fair opportunity to litigate.

The question of whether a party had a full and fair opportunity to litigate a matter generally focuses on whether there were significant procedural limitations in the prior proceeding, whether the party had the incentive to litigate fully the issue, or whether effective litigation was limited by the nature or relationship of the parties.

State v. Joseph, 636 N.W.2d 322, 328 (Minn.2001) (quotation omitted). “Moreover, a litigant's disagreement with a legal ruling does not necessarily mean that the court denied the litigant a full and fair opportunity to litigate a matter.” *Id.* at 329. Appellant was presented with the same full and fair opportunity to litigate his claims as any other litigant.

Because the four elements of res judicata are satisfied, we conclude that the district court did not err in dismissing appellant's complaint against Johnson. Moreover, because appellant does not address the district court's prohibition against bringing future lawsuits on these facts, he has waived any challenge to that portion of the district court's order. *See Melina v. Chaplin*, 327 N.W.2d 19, 20 (Minn.1982).

There is also no merit to appellant's claim that the district court erred in denying his summary judgment motion. Appellant claims that he was entitled to summary judgment because Johnson failed to serve and file a timely answer to his complaint and that he is entitled to judgment as a matter of law. However, the service of a motion to dismiss tolls the time for a defendant to provide an answer to the complaint. *Minn. R. Civ. P. 12.01*. “If the court denies the motion or postpones its disposition until the trial on the merits,” the defendant has “10 days after service of notice of the court's action” in which to file an answer. *Id.* Therefore, Johnson's service of his motion to dismiss on June 30, 2011, tolled the requirement that he provide an answer to appellant's complaint until ten days after he had received notice from the court that his motion for dismissal had been denied. Because his motion to dismiss appellant's complaint was granted, Johnson was not required to answer appellant's complaint.

II. Dismissal of Appellant's Complaint against Respondent Dr. Dahl

*4 Appellant challenges the district court's dismissal of his medical malpractice claim against Dr. Dahl for failure to comply with the expert affidavit requirement in *Minn.Stat. § 145.682*. Appellant's expert affidavit contains assertions that: (1) Dr. Dahl's pre-operative statements set forth the appropriate standard of care for an orthopedic surgeon; (2) the opinions of appellant's father, Dr. Robert Kolosky, a dentist, set forth the appropriate standard of care for an orthopedic surgeon; and (3) the opinions of appellant, based upon what he learned from his pre-operative information sessions with Dr. Dahl and others, describe the standard of care. Dr. Kolosky's affidavit indicates that appellant “explained a situation to [him] concerning dental care for people who have had joint replacement surgery” and describes what he would do as a dentist in that situation.

The district court correctly ruled that appellant's expert affidavit is insufficient. When filing a medical malpractice action for “which expert testimony is necessary to establish a prima facie case,” the plaintiff must serve an affidavit stating that

the facts of the case have been reviewed by the [pro se plaintiff] with an expert whose qualifications provide a reasonable expectation that the expert's opinions could be admissible at trial and that, in the opinion of this expert, one or more defendants deviated from the applicable standard of care and by that action caused injury to the plaintiff.

Minn.Stat. § 145.682, subs. 2, 3(a). The affidavit must be signed by the plaintiff, if pro se. *Id.*, subd. 5. Failure to provide this affidavit “within 60 days after demand for the affidavit results, upon motion, in mandatory dismissal with prejudice.” *Id.*, subd. 6(a).

“The Minnesota legislature enacted *Minn.Stat. § 145.682* for the purpose of eliminating nuisance medical malpractice lawsuits by requiring plaintiffs to file [expert] affidavits verifying that their allegations of malpractice are well-founded.” *Stroud v. Hennepin Cnty. Med. Ctr.*, 556 N.W.2d

552, 555 (Minn.1996). “So as not to undermine the legislative aim of expert review and disclosure, we have stressed that plaintiffs must adhere to strict compliance with the requirements of Minn.Stat. § 145.682.” *Broehm v. Mayo Clinic of Rochester*, 690 N.W.2d 721, 726 (Minn.2005). This court reviews a dismissal for violations of Minn.Stat. § 145.682 for an abuse of discretion. *Sorenson v. St. Paul Ramsey Med. Ctr.*, 457 N.W.2d 188, 190 (Minn.1990).

Appellant's expert affidavit is insufficient in many respects under Minn.Stat. § 145.682, subd. 3(a). First, Dr. Dahl's pre-operative conversations with appellant, as well as the standard pre-op written materials supplied by Woodwinds Hospital medical staff, while potentially admissible, do not constitute a review of the facts regarding a malpractice claim with appellant. Second, Dr. Kolosky, who is a dentist, is not an expert on the standard of care that would have applied to Dr. Dahl, an orthopedic surgeon. Therefore, his opinions would be inadmissible since he is not an expert in the practice of orthopedic surgery. Moreover, his testimony as to what he would do if he were providing dental care to appellant, or someone in appellant's circumstances, is speculative. Third,

appellant's testimony regarding the applicable standard of care for an orthopedic surgeon is inadmissible at trial since he is not an expert in any medical field. In sum, appellant's expert affidavit does not indicate that the facts of the case were reviewed by an expert, that any opinions have been offered by an expert whose opinion might be admissible at trial, or that any expert opined that Dr. Dahl “deviated from the applicable standard of care and by that action caused injury to the plaintiff.” Minn.Stat. § 145.682, subd. 3(a).

*5 Because appellant's affidavit of expert review failed to fulfill the statutory requirements and because the statute mandates dismissal with prejudice for that failure, the district court did not abuse its discretion by dismissing his complaint against Dr. Dahl with prejudice.

Affirmed.

All Citations

Not Reported in N.W.2d, 2012 WL 3892234

Footnotes

- * Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.