

**UNITED STATES DISTRICT COURT**

**DISTRICT OF MINNESOTA**

**Kellye Strickland,**

Plaintiff,

v. **Civil No. 25-cv-02056 (DWF/DJF)**

**Ramsey County, et al.,**

Defendants.

**PLAINTIFF’S MEMORANDUM IN OPPOSITION TO DEFENDANTS BARNA, GUZY & STEFFEN, LTD. AND KYLE MANDERFELD’S MOTIONS TO DISMISS**

**INTRODUCTION**

On September 3, 2025, Defendants Barna, Guzy & Steffen, Ltd. (“BGS”) and Kyle Manderfeld filed perfunctory Motions to Dismiss (ECF Nos. 34, 36), accompanied only by Notices of Hearing (ECF Nos. 35, 37). These motions contain no supporting memoranda of law, no factual development, and no meet-and-confer certification, in violation of Local Rule 7.1(c). They were filed only after Plaintiff had already moved for entry of default at 12:02 a.m. that same day.

Because the motions are procedurally deficient, untimely, and substantively meritless, they should be denied in their entirety.

**ARGUMENT**

**I. THE MOTIONS ARE PROCEDURALLY DEFICIENT**

Local Rule 7.1(c) requires that “[a] party filing a dispositive motion must file and serve a memorandum of law with the motion.” Defendants filed none. The motions merely cite Rules 12(b)(1), 12(b)(5), and

12(b)(6) and state they are “based upon all files, records and proceedings,” without offering a single argument.

Further, Defendants provided no certification that they conferred with Plaintiff as required by Local Rule 7.1(a). Their Notices of Hearing do not even list a date or time, depriving the Court and Plaintiff of notice.

Federal courts routinely deny such procedurally defective motions. Defendants’ failure to follow basic rules underscores that these filings were reactive placeholders, not serious legal submissions.

## **II. THE MOTIONS ARE UNTIMELY**

BGS was served on August 11, 2025 via certified mail, signature required. Plaintiff filed proof of service on August 19, 2025, and the docket automatically generated BGS’s response deadline of September 2, 2025. See Fed. R. Civ. P. 12(a)(1)(A)(i).

BGS and Manderfeld did not file their motions until September 3, 2025 — after Plaintiff had already filed her Request for Clerk’s Entry of Default at 12:02 a.m. (ECF No. 32). Under Rule 55(a), the Clerk “must” enter default when a defendant fails to plead or otherwise defend within the time required. The threshold for default had already been met before Defendants’ late filings.

Placeholder motions filed after default is triggered cannot retroactively excuse the failure to timely defend.

## **III. DEFENDANTS WAIVED SERVICE OBJECTIONS**

Defendants purport to move under Rule 12(b)(5) (insufficient service), but by filing substantive motions to dismiss they have waived this defense. See Fed. R. Civ. P. 12(h)(1). Courts consistently hold that filing a Rule 12(b)(6) motion or other merits-based response waives any objection to personal jurisdiction or service.

Here, Defendants' appearance through counsel and filing of dispositive motions is itself a waiver. They cannot simultaneously submit to this Court's jurisdiction and argue lack of service.

#### **IV. PLAINTIFF'S CLAIMS ARE PROPERLY PLED**

Even if the Court were to consider the merits (despite the procedural defects and untimeliness), Plaintiff's claims are adequately pled and supported by extensive evidence. Plaintiff incorporates by reference her Opposition to the Ramsey County Defendants' Motion to Dismiss (ECF No. \_\_), which sets forth in detail:

Timely and proper service. Magistrate Judge Foster extended Plaintiff's Rule 4(m) deadline to September 8, 2025. (ECF No. 8). Plaintiff served BGS on August 11 and cured any service defects for other defendants before the deadline.

Monell liability. The Amended Complaint alleges systemic misconduct by Ramsey County and its agents, including document tampering, ADA retaliation, and coordination with private counsel (BGS/Manderfeld) to launder falsified documents into the federal record. *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978).

Collateral estoppel does not apply. Judge Starr's August 19, 2025 order in a state HRO proceeding addressed only personal service, not the ADA, due process, or document tampering claims at issue here. A forum that explicitly refused to hear evidence cannot later be used to estop federal claims. See *Gibson v. Berryhill*, 411 U.S. 564, 577 (1973).

Plausibility. Plaintiff's 77-page Amended Complaint and more than 200 pages of exhibits easily surpass the pleading standard of *Twombly* and *Iqbal*. The Complaint alleges specific acts by named defendants, supported by transcripts, affidavits, and documentary evidence.

Defendants' conclusory motions do nothing to undermine these claims.

## **CONCLUSION**

Defendants Barna, Guzy & Steffen, Ltd. and Kyle Manderfeld filed procedurally defective, untimely, and meritless motions only after Plaintiff had already moved for default. They failed to comply with Local Rule 7.1, missed their deadlines, waived service objections, and presented no substantive arguments.

For these reasons, Plaintiff respectfully requests that the Court deny the motions in their entirety.

Dated: September 03, 2025

Respectfully submitted,

/s/ Kellye Strickland

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