

STATE OF MINNESOTA
DISTRICT COURT
COUNTY OF RAMSEY
SECOND JUDICIAL DISTRICT

Phillip C. Parrish and
Michael J. Lindell,
 Contestants,
v.
Lisa Demuth and
Ryan Wilson,
 Contestees.

Court File No. 62-CV-26-5975
Case Type: Civil Other/Misc.
Hon. Mark Ireland and assigned panel

CONTESTANTS' HEARING BRIEF:
PUBLIC-RECORD PREDICATES FOR THE LIMITED
INSPECTION ALREADY AUTHORIZED BY § 209.06

Submitted September 4, 2026, in support of Contestants' Proposed Inspection Scope

TO THE HONORABLE COURT:

This short brief does not ask the Court to declare a winner, find fraud, or inspect 87 counties. It collects **public, already-existing records** that fill in the three tracks in Contestants' proposed scope. The point is process, not motive. Where official statements, official trackers, and official certificates already show that the system as used is not the system as certified, that a results file was replaced after publication, that test data entered the state feed, and that voting history is still being written, the limited inspection under Minn. Stat. § 209.06 is not a fishing trip. It is how the September 9 trial gets a record.

Contestants do not ask this panel to retry *Benda for Common-sense v. Anderson*, A23-0302 (Minn. Nov. 12, 2025), or to ban modems statewide tonight. They ask the Court to let named inspectors, in a short list of precincts, compare paper to tape to file, envelopes and early lists to rosters, and the August 11 configuration to the certificate.

I. What this brief is not

- It is not a claim that every August 11 ballot is illegal.
- It is not a citizenship-matching project or a server forensic.
- It does not treat unofficial modem results as proof that the official canvass was rewritten, unless Track A later shows paper ≠ file.
- It does not ask the Court to accept campaign characterizations in place of the cited public documents.

II. The statutory question the inspection answers

A contest may be brought over an irregularity in the conduct of an election or canvass, or over who received the largest number of votes legally cast. Minn. Stat. § 209.02, subd. 1. After a contest is instituted, either party may have the ballots inspected, in designated precincts, before trial. Minn. Stat. § 209.06. Rejected absentee envelopes may be opened only in a Chapter 209 contest. Minn. Stat. § 203B.121, subd. 2(e). Counties still have until September 22, 2026 (or October 20 with notice) to finish entering Election Day registrations and voting history. Minn. Stat. § 201.121.

The Secretary of State's August 18 Contingent Plan sorts two named candidates and collapses the rest of the gubernatorial field into "OTHER." That structure may govern a discretionary recount under § 204C.35. It does not answer who received the largest number of votes legally cast for the office, and it does not test early lists, rejected

envelopes, or the configuration as used.

III. Track A — paper, tape, file, and canvass line

Track A asks inspectors to count every named Republican gubernatorial candidate in designated precincts and compare that physical count to the closing tape, the precinct summary, the cast-vote record, and the county-canvass line. Two counties have already told the public that the first file sent to the State was not the file that should have been sent.

A. Todd County — incorrect results file uploaded, then replaced

Todd County's own elections page states that during processing of the August 11 results, staff “inadvertently uploaded an incorrect results file which was identified when balancing final voter counts to the paper reports,” and that a revised file was posted at 12:17 a.m. “Due to this file error, there was a brief time where vote totals were not displayed accurately on the state website.” The county canvassing board then met August 13.

Source (official county statement):

https://toddcountymn.gov/government/departments/auditor_and_treasurer/election_voter_registration_information.php

Contemporaneous reporting of the same county statement, including that the replacement file changed the apparent winner of Senate District 5:

<https://www.twincities.com/2026/08/14/mn-state-senator-went-to-bed-thinking-he-won-now-he-wants-to-know-how-he-lost/>

<https://www.parkrapidsenterprise.com/news/local/election-results-glitch-traced-to-todd-county>

That is a canvass irregularity on the county's own words: paper reports did not match the first uploaded file. Track A in Todd is limited to designated precincts and asks for the first file, the replaced file, timestamps, tapes, and the paper. Contestants do not need a statewide dump to test that predicate.

B. Blue Earth County — test data uploaded into the state feed

Blue Earth County's deputy administrator stated that the first upload to the statewide reporting system was a text file that “included our test data from our public accuracy test,” that staff “did not verify that we had cleared out those test results,” and that the test deck was about 17,000 ballots — producing totals higher than turnout and inflated counts for lesser-known candidates. The county pulled the file and re-uploaded.

Source:

https://www.mankatofreepress.com/news/local_news/bec-reports-upload-error-mixing-test-data-in-with-election-results/article_9163a97f-4318-43c0-8143-751105c159cb.html

Public accuracy testing is required. Minn. Stat. § 206.83; see also the Secretary's own description of pre-election testing. Mixing the test deck into the live state feed is a process failure in the canvass path, regardless of intent. That is why Blue Earth is the third county in the proposed scope.

Secretary of State — public accuracy testing description:

<https://www.sos.mn.gov/about-the-office/news-room/secretary-simon-highlights-public-accuracy-testing-ahead-of-august-11-primary/>

IV. Track B — envelopes, early lists, EDR, vouching, voting history

A voted ballot does not show whether the voter also appears on an early-voting list, whether an envelope was accepted or rejected under the statutory criteria, or whether a voucher exceeded the eight-oath cap. Minn. Stat. §§ 201.061, subd. 3; 203B.121; Minn. R. 8200.9940. Those questions live on lists the statute already requires counties to keep — and, as of this morning, many counties have not finished posting voting history.

A. Voting history is still open

The Secretary publishes a live tracker of county entry of Election Day registration and voting history after the August 11 primary. The statutory deadline is September 22, 2026. As of the public snapshot Contestants printed for

this hearing, several counties show EDR near complete and voting history near empty (for example Brown 93% EDR / 1% history; Martin history 3%; Meeker 99% EDR / 3% history). Anoka — a proposed first-tranche county — shows EDR completed September 3 and history at 99%. That county can produce lists this weekend.

Source (official SOS tracker):

<https://www.sos.mn.gov/election-administration-campaigns/data-maps/county-entry-of-voting-history/>

Contestants do not treat an incomplete 201.121 file as proof of illegal votes. They treat it as proof that the official roster is not closed. Inspection of early lists and rosters in a capped set of precincts is how the trial tests channel discrepancies before those files are finished or treated as frozen.

B. Rejected envelopes exist only because this contest exists

Minn. Stat. § 203B.121, subd. 2(e), forbids opening or further review of a rejected signature envelope except in a Chapter 209 contest. The Contingent Recount Plan excludes those envelopes. That is a structural gap, not an accusation. Track B asks inspectors to read the rejection reason on the face of the envelope and reconcile accepted envelopes to ballots removed. Minn. Stat. § 203B.121, subd. 4.

V. Track C — system as certified versus system as used

Minnesota certifies voting equipment under Chapter 206. The Secretary states that equipment is federally and state certified. Adding a component outside the certified configuration is the question Anoka's own commissioner has already put in public. Track C does not require opening machines. It requires the certificate, the configuration as deployed, serials, zero and closing tapes, and the DS200 Configuration Report the vendor itself says will show whether a modem is installed.

A. Anoka — public official statement that a modem takes the system outside the certified build

Anoka County Commissioner Jeff Reinert stated that the tabulator itself is EAC-certified, that the county added a modem, and that “as soon as we added that modem, the entire system became uncertified,” and that a large share of Minnesota counties use the same setup. Contestants offer that statement as a predicate for inspecting Anoka configuration files — not as a finding this Court must adopt before inspection.

Source:

<https://alphanews.org/huge-issue-county-commissioner-raises-concerns-about-election-integrity-uncertified-machines/>

Anoka uses DS200 / DS450 / DS850 equipment (county public-testing notice):

<https://anokacountymn.gov/CivicAlerts.asp?AID=2699>

B. Certification scope and the modem package

The EAC certifies defined configurations. ES&S EVS 6.0.6.0 is the federally certified base. EVS 6.0.7.0 is the modification that adds wireless transmission of unofficial results. Other jurisdictions have written that the modeming components of 6.0.7.0 cannot meet federal certification standards. ES&S's own customer sheet states that modem components are not on the DS200 by default, that they require a separate board, and that the Admin screen and Configuration Report show whether a modem is present. A 2020 EAC action addressed ES&S marketing that offered an optional modem on a system described as EAC-certified; adding an uncertified component to a certified system voids that certification for the system as used.

EAC — EVS 6.0.6.0 certified system page:

<https://www.eac.gov/voting-equipment/evs-6060>

Minnesota SOS — election equipment certification page:

<https://www.sos.mn.gov/election-administration-campaigns/election-administration/election-equipment/>

Example Minnesota official-document certification record (ES&S system):

<https://officialdocuments.sos.mn.gov/Document/Details/156468>

Wisconsin Elections Commission staff on EVS 6.0.7.0 modemming (cannot meet federal certification; 6.0.6.0 is the certified base):

<https://elections.wi.gov/media/23151/download>

ES&S — Identify Presence of a Modem (Admin screen + Configuration Report):

<https://www.navajocountyaz.gov/DocumentCenter/View/2632/ESS-Identify-Presence-of-Modem>

Politico / EAC 2020 — uncertified modem option on certified DS200:

<https://www.politico.com/news/2020/08/13/election-voting-machine-misleading-claims-394891>

C. Judicial notice — Benda did not decide the 2026 configuration

Benda for Common-sense v. Anderson, A23-0302 (Minn. Nov. 12, 2025), held a 2022 § 204B.44 modem claim moot because that election was over. The Court did not hold that a modem is inside Minnesota's certified configuration. The underlying Rice County record included SOS certification language that certification does not cover modemming functions, and county/vendor admissions that optional modem hardware was used to send unofficial results. Contestants cite Benda for judicial notice that the issue is not invented for this contest. They do not ask this panel to grant 2022 relief.

Opinion:

<https://law.justia.com/cases/minnesota/supreme-court/2025/a23-0302.html>

<https://cases.justia.com/minnesota/supreme-court/2025-a23-0302.pdf>

D. Dakota County — official admission of cellular modems (background, not a fifth county)

Dakota County elections director Andy Lokken attributed a multi-hour November 2022 results delay to new cellular modems plugged into ballot counters after close. The county's published FAQ states that Minnesota authorizes a modem for unofficial totals after voting ends, and that modem hardware “is not a device that needs to be certified.” Contestants do not add Dakota to the first tranche. The statements are offered only to rebut any claim that Minnesota does not use this architecture.

<https://www.startribune.com/dakota-county-elections-officials-assessing-hours-long-delay-in-voting-results/600223935>

<https://cityofeagan.com/images/CityClerk/Elections/Dakota-County-Elections/Dakota-County-Election-FAQs-8.16.2024.pdf>

VI. How the public record maps onto the proposed order

Public predicate	County in the ask	What inspectors do
Incorrect results file uploaded; replaced after paper-balance	Todd	Track A + first file vs replaced file + tapes
Test-deck data uploaded to the state feed	Blue Earth	Track A + upload logs
Commissioner: modem takes certified system out of certified build	Anoka	Track C Configuration Report + certificate
High EDR / vouching / early volume; history still posting statewide	Hennepin (volume); Anoka (lists ready)	Track B early lists, envelopes, roster
Rejected envelopes unreviewable except in this contest	All approved precincts	Track B face review under § 203B.121

If the Court cuts to two counties: Anoka and Todd, three precincts each, beginning today. Those two predicates are official or on-the-record from county officials. Zero counties leaves September 9 with speeches instead of a recanvass.

VII. Request

Contestants ask the Court to receive this brief as the public-record foundation for the Proposed Inspection Scope filed this date; to take judicial notice of the official county and SOS pages cited above; and to enter the limited order already requested — named inspectors, capped precincts, every named gubernatorial candidate, early lists, rejected-envelope face review, and production of certificates and configuration reports as used August 11.

The public record already shows process failures in the canvass path. The inspection is how this Court determines whether those failures reached the designated precincts and the office at issue. Validity of the certified line is the question the statute assigns to the contest. It is not a question this brief pretends to close.

Respectfully submitted,

Dated: September 4, 2026

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CERTIFICATE OF SERVICE

I certify that on September 4, 2026, I filed this brief through the Minnesota court e-filing system in 62-CV-26-5975, which will serve counsel of record, and that I will bring paper copies to the hearing.

Phillip C. Parrish