

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

Court File Numbers.:

62-CR-08-10515; 62-CR-08-10338;
62-CR-08-10335; 62-CR-08-10342;
62-CR-08-10345; 62-CR-08-10365;
62-CR-08-10336; 62-CR-08-10370

State of Minnesota,

Plaintiff,

vs.

**DEFENDANTS MOTION TO COMPEL
DISCLOSURE OF CONTENTS
OF SEIZED COMPUTERS**

Monica Bicking, Robert Czernik, Garrett Fitzgerald,
Luce Guillen-Givens, Erik Oseland, Nathanael Secor,
Max Spektor, and Eryn Trimmer.
Defendants.

TO: THE COURT AND JUDGE TERESA R. WARNER; AND THE STATE OF MINNESOTA, PLAINTIFF ABOVE NAMED; AND ITS ATTORNEY HEIDI WESTBY, ASSISTANT RAMSEY COUNTY ATTORNEY, 50 WEST KELLOGG BLVD., SUITE 315, ST. PAUL, MN 55102

PLEASE TAKE NOTICE that on August 19, 2009 at 9:00 a.m., or as soon thereafter as counsel may be heard, before Judge Teresa R. Warner of the above-named Court, the above-named Defendants, Luce Guillen-Givins, Max Jacob Spektor, Monica Rachel Bicking, Erik Charles Oseland, Robert Joseph Czernik, Garrett Scott Fitzgerald, Nathanael David Secor, and Eryn Trimmer, through undersigned counsel, will move the Court as follows: Defendants move the Court for an order requiring the state to produce complete copies of the full contents of computers that the state seized and continues to hold in connection with the instant case based on its assertions that this property that the state has taken from Defendants and others constitutes evidence and/or contraband. Defendants further request that the Court specifically order the state to produce the computer evidence in a form that can be viewed by use of common software, or provide the software necessary for Defendants to review the evidence. The grounds for this

Motion are that the state, although claiming that it has produced image copies of the computers seized on a hard drive provided by Defendants, has produced the contents of the computers in some sort of format that Defendants and their counsel are unable to open or review on their computers. The state has indicated some sort of specialized software is necessary to review the image copies of computers that it has made. Defendants do not have the software and are not familiar with it. It is unreasonable for the state to refuse to produce this critical evidence in a manner that is readily accessible to persons with common knowledge of how to use computers. The unreasonableness of the State's conduct is greatly compounded in light of the facts that it has retained a computer forensics firm to handle the evidence, the Defendants incurred the expense of purchasing a hard drive containing the 1.5 terabytes needed to store the evidence, it has now been more than four months since the Court's deadline for disclosure, the state has claimed that it continues to hold private property on the grounds that the computers contain incriminating evidence that is necessary for the state's cases, and that Defendants can assure the Court that the computers contain exculpatory evidence which they need to present.

This motion is made pursuant to Rule 9.01, subd. 1(3, 6 and 8) and subd. 2, and Rule 9.03, subd 3 of the Minnesota Rules of Criminal Procedure, Defendants' Rights to Due Process under the U.S. and Minnesota Constitutions, and is based on all files, records, proceedings, and arguments of counsel.

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