

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF LYON

FIFTH JUDICIAL DISTRICT
Case Type: Other Civil

Energy Policy Advocates,

Plaintiff,

v.

COMPLAINT

Keith Ellison, in his official capacity
as Attorney General of Minnesota, and

The Office of the Attorney General, and

The State of Minnesota,

Defendants.

Plaintiff Energy Policy Advocates (hereinafter “Plaintiff” or “EPA”), by and through undersigned counsel, files this Complaint against Defendant, Attorney General Keith Ellison, in his official capacity, and the Minnesota Office of the Attorney General (hereinafter “OAG”), and the State of Minnesota, pursuant to Minn. Stat. § 13.08. EPA is seeking the release of improperly withheld government data under the Minnesota Government Data Practices Act (“MGDPA”), Minn. Stat. § 13. Plaintiff states and alleges as follows:

THE PARTIES

1. Plaintiff Energy Policy Advocates (“EPA”) is incorporated in the State of Washington as a nonprofit organization. Its mission is to promote governmental transparency. EPA uses state and federal open records laws to shed light on — and

thereby educate the public on — private influences on government policymaking and the use of public office. A substantial part of EPA’s effort has been the records request at issue in this matter and similar and related requests sent to various municipalities and state attorneys general (AG) offices nationwide.

2. Defendant Keith Ellison is the Attorney General of the State of Minnesota and is sued in his official capacity as such. He, his office (“AGO”), and/or employees who report to him are in possession of the records that are at issue in this case.
3. Defendant Office of the Attorney General (AGO) is the Attorney General’s Office for the State of Minnesota. It is the recipient of the MGDPA request at issue, is the authority responsible for the data sought, and was responsible for improperly withholding public data. Its address is 445 Minnesota Street, Saint Paul, Minnesota 55101.
4. The State of Minnesota is a proper defendant in this matter because it employs Defendant Ellison, because the Office of the Attorney General is a constituent part of the State Government, and because Minn. Stat. § 13.08, Subd. 3 contemplates that actions of this nature may be brought against the State.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to Minn. Stat. § 13.08, Subd. 3, and Minn. Stat. § 484.01.
6. Venue is proper in this Court pursuant to Minn. Stat. § 13.08, Subd. 3, authorizing an action against the state under Chapter 13 to be brought in any county.

RELEVANT BACKGROUND

7. The records at issue in this case relate to a documented *modus operandi* of outside, private parties engineering, lobbying for, and privately financing a nationwide campaign of governmental lawsuits in pursuit of a political agenda. Such actions are targeted against other private entities which these policy- and litigation-lobbyists and their and silent partners in the collaborative effort have long targeted for investigation and/or prosecution on the basis of allegedly causing, worsening and/or speaking about climate change.
8. This veritable tsunami of state-court lawsuits began as “climate nuisance” actions but, after setbacks in federal court, these suits have been retooled to claim their basis is actually rooted in state consumer protection law(s). The effort to recast climate litigation as consumer protection litigation has been undertaken to shield such lawsuits from federal jurisdiction and prevent such suits from being removed to federal court.
9. Minnesota’s Attorney General’s Office filed one such lawsuit, in June 2020 (Ramsey County District Court, Second Judicial District of Minnesota, as Civil Action No. 62-CV-3837). That suit was later removed to the U.S. District Court for the District of Minnesota (Case No. 20-CV-1636) and is currently under appeal before the United States Court of Appeal for the Eighth Circuit, captioned *State of Minnesota v. American Petroleum Institute., et al.*, Case Number: 1:21-cv-01752 (8th Cir.).
10. Previous MGDPA requests Plaintiff submitted to shed light on this litigation campaign revealed some specifics of the guiding role in the AGO’s lawsuit played by

a privately financed-and-directed group called the Center for Climate Integrity (“CCI”). On information and belief, substantial funding for that group is provided by the Rockefeller Family Fund.

11. The series of lawsuits of which the aforementioned suit is a part began in July 2017 all alleging various offenses grounded in claims of man-made climate change, from public nuisance to consumer fraud and failure to warn.
12. Plaintiff has previously documented in detail that the Minnesota AGO’s suit was lobbied for and planned in a memorandum “ghost”-co-authored by lobbyists behind a nationwide campaign of such litigation.¹
13. Particularly relevant to the instant matter, public records suggest that despite a “contingency fee” contract promising the AGO’s outside law firm Sher Edling, LLP, a substantial percentage of alleged damages ostensibly suffered by the State’s taxpayers in return for that firm’s representation in that lawsuit, that firm is already being paid by private interests to the tune of millions of dollars run through at least

¹ See generally Government Accountability & Oversight, P.C., “Private Funders, Public Institutions: ‘Climate’ Litigation and a Crisis of Integrity” (May 18, 2021), available at: <https://climatelitigationwatch.org/wp-content/uploads/2021/05/GAO-EPA-CCI-RFF-Climate-Paper.pdf>.

It had previously been established by public record productions and in judicial proceedings in the states of Texas and New York that private parties were underwriting and engaging in such a lobbying campaign through intermediary “green groups” to lobby these lawsuits into existence, including providing the local intermediaries with sample pleadings to present to public institutions to facilitate filings in their own jurisdictions. See *Exxon Mobil Corporation v. Schneiderman*, 17-cv-02301, and *Exxon Mobil Corp. v. City of San Francisco, et al.*, Tx. Sup. Ct. 20-0558, and in amicus briefs filed in the past two years by Plaintiff Energy Policy Advocates in the United States Courts of Appeal for the 1st, 2nd, 4th, 8th, and District of Columbia Circuits, the United States Supreme Court in *BP P.L.C v. Mayor and City Council of Baltimore*, 141 S. Ct. 1532, heard in January and decided in May of 2021, and the U.S. District Court for the Southern District of New York.

one charitable foundation. Such funds are being used to file the aforementioned suits on behalf of the State of Minnesota, even as Minnesota's taxpayers are also "on the hook" for contingency payments to be deducted from any eventual recovery.

14. Recent revelations from public record productions and other research affirms at least two private foundations are financing the aforementioned class of governmental litigation with charitable contributions.²
15. Public records show one of these groups, Resources Legacy Fund ("RLF"), reporting to the Internal Revenue Service these "charitable grants" and other payments to AGO's law firm of millions of dollars as being for reasons with evolving descriptions, although other records released in public records litigation confirm clearly that the contributions finance the litigation.
16. For example, in its Internal Revenue Service (IRS) Form 990 for the year 2017, which non-profit organizations must file providing certain details of their spending, RLF listed a charitable grant to the law firm Sher Edling, LLP in the amount of \$432,129

² The other known such Collective Action Fund or "Collaborative Action Fund" is "A fiscally sponsored project of New Venture Fund, the Collective Action Fund for Accountability, Resilience, and Adaptation [which] makes charitable grants that enable cities, counties, and states hard hit by climate change to file high-impact climate damage and deception lawsuits represented by expert counsel." <https://hewlett.org/grants/new-venture-fund-for-the-collective-action-fund-for-accountability-resilience-and-adaptation/>. See also <https://www.macfound.org/grantee/new-venture-fund-43535/>, "This award supports NVF's Collaborative Action Fund for Accountability, Resilience, and Adaptation (CAF), which supports precedent-setting lawsuits to hold major corporations accountable for costs associated with the effects on climate of their pollutants. The award renews support for legal processes associated with a variety of lawsuits filed in support of states, counties and cities affected by climate change."

for “Land or Marine Conservation”. https://resourceslegacyfund.org/wp-content/uploads/2018/11/RLF_990_2017.pdf, Schedule I, Part II.³

17. RLF is a non-profit dedicated to achieving policy outcomes. “We are a 501(c)(3) nonprofit organization that partners with leaders in philanthropy, communities, government, science, and business to promote smart policies and secure equitable public funding for the environment, climate change resilience, and healthy communities.” <https://resourceslegacyfund.org/our-cause-values/>

18. AGO’s law firm, Sher Edling, LLP, is the law firm that has filed the overwhelming majority of these “climate” lawsuits against the same and similarly situated defendants since 2017, including the AGO’s June 24, 2020, lawsuit.⁴

³ The numerous millions of dollars paid by this funder to OAG’s law firm counsel to bring “climate” lawsuits are in addition to robust contingency fee agreements with each governmental plaintiff promising, e.g., 16.67% of the first \$150 million in settlement or verdict and 7.5% of all sums above \$150 million (Minnesota, available at <https://govoversight.org/wp-content/uploads/2021/01/AGO-LAC.pdf>), a percentage of “damages” awarded not to exceed \$25,000,000 (District of Columbia available at <https://climatelitigationwatch.org/something-wicked-this-way-comes/>), or \$25 million of the first \$100 million, 15% of the next \$50 million, “plus seven and one-half percent (7.5%) of the amount of the Net Monetary Recovery greater than one hundred fifty million dollars (\$150,000,000) (San Francisco City and County, available at <https://climatelitigationwatch.org/wp-content/uploads/2018/12/SF-CC-2018-11-20-Legal-Services-Agreement-SF-SE-AB-FINAL-EXECUTED.pdf>).

⁴ AGO’s counsel Victor Sher and Matthew Edling both were admitted to the United States District Court for the District of Minnesota *Pro Hac Vice* on separate December 18, 2020, Motions of Leigh Currie. ECF Nos. 49 and 52, respectively. Because Ms. Currie is no longer counsel of record on this case as of February 25, 2022, ECF No. 117, or working in the Office of the Attorney General, they will have to be admitted before this Court (or the Minnesota state courts) if the AGO’s case is remanded back by the U.S. Court of Appeals for the Eighth Circuit (despite this, both Messrs. Sher and Edling remain listed as counsel of record and Mr. Sher argued this matter before the Eighth Circuit on March 15, 2022). In all of these jurisdictions the Minnesota Rules of General Practice apply. Plaintiff notes **Rule 5.04 Motion to Court**, which states in pertinent part, “(a) **Requirements.** An active member in good standing of the bar of this state who is attorney of record for the client(s) whom the applicant proposes to represent, must move the applicant's admission in the action....”

19. RLF's 2018 990 reports a \$1,319,625 charitable grant to Sher Edling, LLP, this time claiming a different purpose, of "Advancing Healthy Communities".

<https://resourceslegacyfund.org/wp-content/uploads/2020/03/RLF-IRS-Final-990-12.31.18-Public-Copy-4829-6612-8044.pdf>

20. RLF's 2019 990 reports a \$1,110,000 in a charitable grant to Sher Edling, LLP, this time for another stated environmental purpose, "Land or Marine Conservation Promotion of Education and/or Healthy Communities".

<https://resourceslegacyfund.org/wp-content/uploads/2021/02/RLF-Public-Copy-IRS-Form-990-12.31.19-4824-7483-1056.pdf>

21. RLF's 2020 990, released earlier this year, reported a \$2,394,000 charitable grant to Sher Edling, LLP, this time for a same stated environmental purpose as a previous year, "Land or Marine Conservation Promotion of Education and/or Healthy

Communities". <https://resourceslegacyfund.org/wp-content/uploads/2022/03/RLF-2020-IRS-Form-990-Public-Copy-Amended.pdf>

22. This history of grants reflects increasing amounts provided to the law firm by the Resources Legacy Fund as a number of lawsuits were filed by Sher Edling, LLP.

23. In late April of this year, the public interest group Government Accountability & Oversight obtained records in California Public Records Act litigation against the

(b) Withdrawal of Local Counsel. If the moving attorney is suspended, disbarred, or ceases to be an attorney of record for such client(s) after admission *pro hac vice* has been granted, another Minnesota lawyer must be promptly substituted and file a notice of appearance in the action. ...

(e) Revocation. Admission to appear as counsel *pro hac vice* in a suit may be revoked for conduct violating any applicable rules, or conduct justifying sanctions under the court's inherent power."

Regents of the University of California, which revealed correspondence from Sher Edling, LLP, to a prospective donor asking if he could support its nuisance litigation cases and affirming that the firm was being privately underwritten through something the firm's representative called the "Collective Action Fund."⁵

24. Specifically, Sher Edling's Chuck Savitt wrote, in pertinent part:

"Dear Dan, Wanted to let you know that we filed the first three law suits supported by the Collective Action Fund on Monday. These precedent setting cases call on 37 of the world's leading fossil fuel companies to take responsibility for the devastating damage sea level rise - caused by their greenhouse gas emissions - is having on coastal communities. The suits were filed in California Superior Court on behalf of the City of Imperial Beach and the Counties of Marin and San Mateo.... We will keep you up to date as the cases move forward and as we file additional cases. Dam [sic], can we find a time to continue our conversation about your possible support for the project? And it would be great to have you meet Vic Sher."

25. The soon-to-be donor, Dan Emmett, forwarded this email to parties he funds at the University of California at Los Angeles (UCLA) School of Law to, *inter alia*, support climate litigation — one of whom, Prof. Ann Carlson, was according to her outside-activity filings with the School on the Sher Edling, LLP, team advising on climate litigation. <https://climatelitigationwatch.org/wp-content/uploads/2021/03/Carlson-reporting-forms-Responsive-Documents-20-8525.pdf>

26. Mr. Emmett wrote, *inter alia*, "Chuck Savitt who is heading this new organization behind the lawsuits has been seeking our support. Terry Tamminen in his new role with the DiCaprio Foundation has been a key supporter." *Id.*

⁵ The correspondence cited in ¶¶ 24-27 are available at <https://climatelitigationwatch.org/wp-content/uploads/2022/04/Nuisance-suits.pdf>.

27. In February 2018, Emmett wrote again to Carlson in the context of recruiting another activist donor “in helping to finance the nuisance litigation,” and specifically AGO’s lawyers “Vic Sher and team,” stating in pertinent part “You can tell [the prospective donor] Terry's organization and I are both serious supporters”. *Id.*
28. The Leonardo DiCaprio Foundation (LDF) merged in July 2019 with two other organizations (<https://philanthropynewsdigest.org/news/dicaprio-foundation-merges-with-new-environmental-organization>). While LDF’s website remained active until recently and with no mention of support for such lawsuits, a search of the Wayback Machine (Archive.org) reveals a September 2017 post LDF stating, in pertinent part (emphasis in original), “Climate Program – \$3,573,562 ... Highlighted grantees include:... **The Collective Action Fund** (Resources Legacy Fund): to support precedent-setting legal actions to hold major corporations in the fossil fuel industry liable for the effects of climate change pollution”. “Leonardo DiCaprio Foundation awards \$20 million in environmental grants,” September 17, 2017, available at <https://web.archive.org/web/20171002192851/https://www.leonardodicaprio.org/leonardo-dicaprio-foundation-awards-20-million-in-environmental-grants/>.
29. Also, “Terry Tamminen, CEO of LDF commented, ‘This round of grants comes at a critical time. With a lack of political leadership, and continued evidence that climate change is growing worse with record-breaking heatwaves and storms, we believe we need to do as much as we can now, before it is too late.’” *Id.*
30. The reference to using this financing to fill a perceived “lack of political leadership,” i.e., changes to law and policy, also is instructive and the record is now clear that

AGO's counsel Sher Edling, LLP, is in fact filing these numerous "climate" lawsuits in state courts, including the AGO's, all now styled as consumer protection or failure to warn "climate" lawsuits if still paid for by a third party dedicated to achieving policy outcomes.

31. Nowhere in the charity's attested filings before the IRS does the charity mention consumer protection, failure to warn or other such purposes, as they would given that the IRS even provides additional space in Form I (Part IV, Supplemental Information) for additional explanation. In that Sec. IV, RLF regularly reports that other information is available, e.g., (CAPS in original) "RLF GRANTS INCLUDE REQUIREMENTS FOR PERIODIC REPORTS RECONCILING GRANT ACTIVITIES, PROGRESS, AND OUTCOMES WITH GRANT OBJECTIVES, AS WELL AS A RECONCILIATION OF GRANT EXPENDITURES WITH THE PROPOSAL BUDGET. IN ADDITION, STAFF MAINTAINS CONTACT WITH GRANTEES AND PERIODICALLY CONDUCTS FIELD VISITS FOR SIGNIFICANT PROJECTS."

32. Instead, and regardless of whether this reflects any intention to obscure the group's financing of these suits out of concern over particular rules of professional conduct such as Minnesota Rule of Professional Conduct 1.8(f) (see, *infra*) or other reasons, public records now confirm that these monies paid by RLF of between \$5.25 million and \$7.65 million to AGO's counsel over the first four years of filing these suits, from the year litigation first commenced through 2020 (the most recent year for which RLF's Forms 990 are available), are to bring this and those other lawsuits

33. Prior to these recent revelations, in the face of information which merely suggested that this might be occurring, at least one law professor published commentary raising serious tax and public policy consequences in the event this was in fact transpiring. Prof. Michael I. Krauss “Using Charitable Funds to Subsidize “Legislation Through Litigation,” Forbes, July 28, 2022, <https://www.forbes.com/sites/michaelkrauss/2020/07/28/using-charitable-funds-to-subsidize-legislation-through-litigation/?sh=1f7098ff3342>.
34. Subsequently, RLF’s 2020 990, added an entry for the first time listing Sher Edling, LLP as an independent contractor, its “highest compensated independent contractor,” which it also paid an amount identical to the “charitable grant for Land or Marine Conservation Promotion of Education and/or Healthy Communities,” \$2,394,000, but for “Consulting,” for a total of \$4,788,000 sent to the law firm for that year AGO’s suit was filed.
35. Plaintiff EPA previously sought and obtained the documents submitted to the Minnesota Legislative Advisory Commission seeking approval of the contract by which the State engaged Sher Edling, LLP, available at <https://govoversight.org/wp-content/uploads/2021/01/AGO-LAC.pdf>. These records contain no disclosure that the firm is being compensated for the litigation by a party other than the client, who has promised the firm “16.67% of the first \$150 million recovered, and 7.5% for any portion greater than \$150 million.” *Id.* The records indicate that this contingency fee to be paid out of alleged taxpayer damages is *the* compensation for the representation.

36. As such, the public record reveals no reason to believe the AGO informed the Legislative Advisory Commission that it had any knowledge prior to signing that agreement that the law firm was already being paid substantial sums by a private foundation to file these lawsuits.
37. This is of further public interest because these facts raise doubt that AGO's counsel can permissibly represent the State in this matter. See FN 3, 4, *supra* and FN 7, *infra*.
38. Processing Plaintiff's request would force AGO to take a position on, i.e., address, the inescapable question of what it knew and when it knew it, about this private financing that AGO either was not informed of by its law firm or did not disclose to the Legislative Advisory Commission.
39. Public records including productions by municipal "climate" plaintiffs and state attorneys general document, in the participants' own words, that the multi-front campaign of which the AGO's lawsuit is a part seeks to coerce defendants "to the table" on policy issues and involves prospecting for "new streams of revenue" or "sustainable revenue streams"⁶ (a term apparently used not in the environmentalist sense but in the sense that the parties expect the money will keep flowing).

⁶ See, e.g., Brief of Amicus Curiae Energy Policy Advocates in Support of Petitioners, *BP P.L.C v. Mayor and City Council of Baltimore*, 141 S. Ct. 1532, available at <https://climatelitigationwatch.org/wp-content/uploads/2020/04/EPA-Amicus-BP-et-al-v-Baltimore-39742-pdf-Hardin.pdf>, and Brief of Amicus Curiae Energy Policy Advocates in Support of Defendants and in Opposition to Remand, *City of New York, et al., v. Exxon Mobil, et al.*, S.D.N.Y., 1:21-cv-4807-VEC, available at <https://climatelitigationwatch.org/wp-content/uploads/2021/10/EPA-Amicus-NYC-v-Exxon-Mobil-et-al-Doc-48-1.pdf>.

40. These admissions make clear that individuals and entities who Plaintiff previously revealed lobbied the AGO to engage in litigation are also using the prospect of litigation as a way to obtain political outcomes preferred by the lobbyists. The sworn RLF Forms 990 and other emails cited, *supra*, affirm this which is both an issue of great expenditure of public funds to argue against, and of great public interest.
41. Through these records the public has come to partially understand the true nature of these lawsuits and the role of private parties to recruit and, now, to finance lawsuits.
42. Plaintiff then learned the above facts about private financing of these lawsuits, and sought further information held in public records including those sought in the instant matter.
43. The request at issue here seeks to further inform the public, press, judiciary and lawmakers about this wave of litigation and most particularly the AGO's advance knowledge of private funding of the lawsuit. Similarly, this raises the question of the reasonableness of the AGO's conduct in promising scores of millions of dollars from purported taxpayer damages to a law firm already being paid millions of dollars run through a charitable foundation to file these lawsuits.

THE GOVERNMENT DATA PRACTICES ACT REQUEST

The May 17, 2022 Request

44. On May 17, 2022, EPA sent a Public Information Act request for certain described email correspondence and other public records reflecting the AGO's 2020 arrangements with Sher Edling, LLP and all disclosures made to the AGO by Sher Edling, and correspondence using the term Resources Legacy Fund. Plaintiff sent this

request by letter emailed to datapracitices@ag.mn.state.us, which is an address that the defendant OAG has established for the specific purpose of receiving MGDPA requests.

45. Specifically, Plaintiff requested:

- I. all disclosures made to your Office in 2020 by the law firm Sher Edling, LLP, other than those contained in your “Special Attorney Appointment” agreement approved by the Legislative Advisory Commission in September 2020 or the Consulting Agreement Regarding Climate Change Litigation with Sher Edling, LLP dated June 23, 2020; and
- II. all electronic or hard copy correspondence sent to or from or copying John Keller, Donna Cassutt, Keith Ellison, Peter Surdo and/or Leigh Currie at any time in 2020 that uses the term “Resources Legacy Fund.”

46. The AGO has never acknowledged or otherwise responded to the aforementioned request.

47. The Office of the Attorney General’s failure to acknowledge or provide a timeline for response for responding to the request at issue demonstrates a failure to adhere to the statutory requirement that policies and procedures be in place ensuring “requests for government data are received and complied with in an appropriate and prompt manner.” Minn. Stat. §13.03 Subd. 2(a).

48. On information and belief, EPA asserts that one of two positions, both of which are of great public interest, must be true: either AGO was not informed of these third-party payments to Sher Edling, LLP, to file these lawsuits, precipitating violation of Minnesota Code of Professional Responsibility Rule 1.8(f), or AGO *was* informed and failed to notify the Legislative Advisory Commission on this fact when seeking approval for its contract with Sher Edling, LLP.

49. Records responsive to this request should establish which of these two points is true, and inform the public, legislature, and Legislative Advisory Commission whether AGO had the knowledge that the firm was in fact already being paid to file the State's lawsuit, prior to the State promising the firm a contingency fee agreement under which the law firm would receive scores of millions of dollars out of alleged taxpayer damages, despite already being paid by a third party to pursue the litigation.⁷
50. Such an arrangement has potential implications for AGO's litigation to which it has dedicated great public (and many private) resources, and is inarguably of great public interest.
51. This information is not available to the public from any other source.

STATEMENT OF CLAIMS

Count I

(Action to Compel Disclosure Pursuant to Minn. Stat. § 13.08)

52. Plaintiff realleges and incorporates by reference the allegations above.
53. The MGDPA "establishes a presumption that all government data are public and are accessible by the public for both inspection and copying unless there is federal law, a

⁷ Minnesota Rule of Professional Conduct 1.8f states: "(f) A lawyer shall not accept compensation for representing a client from one other than the client unless: (1) the client gives informed consent or the acceptance of compensation from another is impliedly authorized by the nature of the representation."

"Before applying, the out-of-state lawyer should carefully review Rule 5 of the Rules of General Practice." <https://www.ble.mn.gov/pro-hac-vice/> **Rule 5.05 Subject to Minnesota Rules and Jurisdiction** The out-of-state lawyer is subject to all rules that apply to lawyers admitted in Minnesota... Any lawyer appearing pursuant to this rule is subject to the disciplinary rules and regulations governing Minnesota lawyers, including the Minnesota Rules of Professional Conduct and the Rules on Lawyers Professional Responsibility, and by applying to appear or appearing in any action is subject to the jurisdiction of the Minnesota courts." Minnesota General Rules of Practice.

state statute, or a temporary classification of data that provides that certain data are not public.” Minn. Stat. § 13.01, Subd. 3.

54. OAG has ignored and failed to process the request in violation of MGDPA.
55. State contracts and the records otherwise sought by Plaintiff in its request are presumptively public records barring some showing to the contrary.
56. Plaintiff is entitled to disclosure of the requested data pursuant to Minn. Stat. §§ 13.03, Subd. 1, and 13.08, Subd. 4.
57. Defendants have constructively denied Plaintiff access to requested records in violation of the MGDPA.
58. Defendants’ denial of access, including but not limited to declining to even acknowledge the request and thereby formally initiate processing, was willful.
59. Plaintiff was harmed as a result of Defendants’ willful violation of the MGDPA.
60. For these reasons, Plaintiff has standing to challenge Defendants’ response.
61. Defendants’ willful, constructive violation of the MGDPA entitles Plaintiff to its costs and disbursements, including reasonable attorneys’ fees. Minn. Stat. § 13.08, Subd. 4.
62. Defendants’ willful, constructive denial of Plaintiff’s request justifies assessment of a civil penalty under Minn. Stat. § 13.08, Subd. 4.
63. Plaintiff is entitled to an immediate injunction preventing continuation of Defendants’ willful and continued violation of the MGDPA. Minn. Stat. § 13.08, Subd. 2

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully prays, through counsel, that this Court,

- A. Issue a declaratory judgment that the information requested is public information

within the meaning of the Minnesota Government Data Practices Act, and that the AGO has improperly failed to produce such information;

- B. Enter a permanent injunction directing Defendants to comply fully with the MGDPA, and without further delay, to furnish Plaintiff the government data at issue in this matter, in the native format requested, subject only to legally permissible withholdings justified by sufficient identification of the reasons for withholding;
- C. Assess a civil penalty as authorized in Minn. Stat. § 13.08, Subd. 4;
- D. Alternately, perform an *in camera* review of the information sought to be redacted by AGO and compel AGO to release all information for which the AGO is unable to carry its burden to prove each withholding is privileged or otherwise not subject to disclosure;
- E. Award Plaintiff fees, costs, and disbursements, including reasonable attorneys' fees, as authorized in Minn. Stat. § 13.08, Subd. 4; and
- F. Order such additional relief as the Court may deem just and proper.

Respectfully submitted this 27th day of June 2022,

ENERGY POLICY ADVOCATES
By Counsel

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