

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

State of Minnesota, Plaintiff, v. Kandace Montgomery, Defendant.	Chief Judge Peter A. Cahill Court File No. 27-CR-15-1304 DEFENDANT’S NOTICE OF AND MOTION AND MOTION TO COMPEL DISCLOSURE
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PLEASE TAKE NOTICE that on August 14, 2015 at 9:00 a.m., or as soon thereafter as counsel may be heard, at the Hennepin County Courthouse at 300 South Sixth Street. Minneapolis, MN 55487, before the Honorable Judge Peter Cahill, Judge of Hennepin County District Court, above-named Defendants, though undersigned counsel, will move the Court to compel the State of Minnesota to make necessary disclosures of evidence as follows:

1. All email correspondence, with all metadata intact, that meets the following criteria: (A) between employees or agents of the City of Bloomington and employees or agents of the Mall of America, (B) dated between December 2014 and January 2015 inclusive, (C) and related to the December 20, 2014 demonstration at the Mall of America.
2. A log that shows all deletions of or alterations to the email correspondence in item 1, *supra*.
3. A privilege log for an emails in item 1, *supra*, that the State withholds on the basis of attorney-client privilege or work-product doctrine (including the application of either via a joint-defense privilege).

4. All documentation related the Bloomington Port Authority's repayment of tax incremental financing bonds used for Mall of America development.

5. All documentation related to joint work, presentations, or equipment earmarked or used exclusively for the benefit of the Mall of America including all collaborations with law enforcement.

6. All documentation on the Mall of America expansion construction's impact on surrounding public grounds including traffic and pedestrian flow planning documentation.

To the extent that the Court may not be able to determine based on descriptions of the evidence that said evidence is discoverable, Defendants request an in camera review by the Court to determine whether to require disclosure pursuant to *State v. Hokanson*, 821 N.W.2d 340. To the extent that the prosecution fails or refuse to disclose any and all of the above-described evidence, Defendants move for dismissal of the charges against them or such other relief that is just and appropriate.

To the extent that the State asserts that the information requested is—or needs to be—confidential or otherwise secret, Defendant has no objection to having the Court issue a protective order designating any or all documents as “Confidential” or “Attorneys Eyes Only.” Any issues regarding these designations can be resolved post-disclosure before trial, through the good-faith efforts of counsel.

This motion is made pursuant to Minn. R. Crim. P. Rules 9.01 and 9.04, and Defendants' Rights to Due Process under the Fifth Amendment to the United States Constitution and Article I, Section 7 of the Minnesota Constitution. This motion is based on all files, records, proceedings, arguments of counsel and accompanying documents.

Dated: July 1, 2015

BRIGGS AND MORGAN, P.A.

s/ Scott M. Flaherty

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