

STATE OF MINNESOTA

IN SUPREME COURT

CASE NO. _____

In re Government Shutdown Litigation

**MOTION OF STATE OF MINNESOTA
TO CONSOLIDATE**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Civil

In re Temporary Funding of Core
Functions of the Executive Branch
of the State of Minnesota

Court File No. 62-CV-11-5203
Chief Judge Kathleen R. Gearin

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT

Case Type: Civil

Canterbury Park Holding Corporation, a
Minnesota company, and Minnesota
Horsemen's Benevolent & Protective
Association, Inc., a Minnesota company,

Court File No. 70-CV-11-13433
Judge Diane M. Hanson

Plaintiffs,

vs.

State of Minnesota and Jim Schowalter,
Commissioner of Minnesota Management &
Budget,

Defendants.

STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

Case Type: Civil

Minnesota Zoological Gardens,
Plaintiff,

Court File No. 19HA-CV-11-3622
Judge Jerome B. Abrams

vs.

Office of Minnesota Management & Budget,
Defendants.

STATE OF MINNESOTA
COUNTY OF ANOKA

DISTRICT COURT
TENTH JUDICIAL DISTRICT

Case Type: Civil

Minnesota Harness Racing, Inc., and North
Metro Harness Initiatives, LLC, d/b/a Running
Aces Harness Park,
Plaintiffs,

Court File No. 02-CV-11-4462
Judge Donald J. Venne

vs.

State of Minnesota and Jim Schowalter,
Commissioner of Minnesota Management &
Budget,

Defendants.

INTRODUCTION

Pursuant to Minn. R. Gen. P. 113.03, the Attorney General, Lori Swanson, on behalf of the State of Minnesota, moves the Chief Justice for an expedited Order consolidating all filed and to be filed lawsuits involving the potential government shutdown with the existing case, *In Re Temporary Funding of Core Functions of the Executive Branch of the State of Minnesota*,

Ramsey County District Court File No. 62-CV-11-5203, over which Judge Kathleen Gearin is presiding.

FACTS

On June 13, 2011 Attorney General Lori Swanson brought a petition before the Ramsey County District Court requesting that the court direct that the core functions of the executive branch constitutional officers be performed after June 30, 2011, in the event the current budget impasse is not resolved. On June 15, the court issued an Order to Show Cause why it should not grant the requested relief and scheduled a hearing for June 23. Approximately 464 state and local government officials and entities were served with the Order to Show Cause and Appellee's petition.

By Order dated June 29, 2011, Judge Gearin granted temporary funding. *Findings of Fact, Conclusions of Law and Order Granting Motion for Temporary Funding*. Through the Order, Judge Gearin appointed a Special Master to address additional petitions or requests for continued funding in the event of a shutdown.

At least three separate lawsuits have been filed seeking an injunction against the State of Minnesota to ensure continuation of the respective Plaintiffs' functions. This motion requests the consolidation of those cases with the over-arching litigation before Judge Gearin.

I. THE MOTION TO CONSOLIDATE SATISFIES MINN. R. GEN. P. 113.03.

The State of Minnesota,¹ a party to pending litigation to be consolidated, requests consolidation pursuant to Rule 113.03. That Rule provides in part:

¹ The Attorney General files this motion as the chief legal officer for the State of Minnesota. *See, e.g., Slezak v. Ousdigian*, 260 Minn. 303, 308, 110 N.W.2d 1, 5 (1961); Minn. Stat. § 8.01. As Special Counsel for the Governor indicated in footnote 3 of his Motion, he does not represent the State of Minnesota or its departments and, accordingly, the Attorney General files this separate motion on behalf of the State of Minnesota.

(a) Assignment by Chief Justice. When two or more cases pending in more than one judicial district involve one or more common questions of fact or are otherwise related cases in which there is a special need for or desirability of central or coordinated judicial management, a motion by a party or a court's request for assignment of the cases to a single judge may be made to the chief justice of the supreme court.

In addition, consolidation of the cases involving the financial effects of the potential shutdown satisfies the purposes of Minn. R. Gen. P. 113.03. The purposes for consolidation are satisfied when it will "eliminate duplicative litigation in different districts, prevent inconsistent rulings, conserve the resources of the parties, their counsel, and the judiciary, and facilitate resolution of the cases." *In re Minn. Intoxilyzer 50000EN Source Code Litig.*, 2010 Minn. LEXIS 12 (Minn. Jan. 11, 2010) (Magnuson, C.J.).

The instant motion to consolidate satisfies all of these interests. Of paramount importance is the conservation of the resources of the State in light of a potential shutdown. This consolidation will insure that the resources of the State are not wasted in duplicative efforts in various venues in the state. In addition, the existing lawsuits and potential future lawsuits are pieces of a larger picture which should be under the control of one judge. Since Ramsey County Judge Kathleen Gearin is already adjudicating the over-arching case, she is in the best position to understand how each individual case fits in the bigger picture so that duplication of efforts and inconsistent decisions can be avoided.

Dated: June 30, 2011

Respectfully submitted,

LORI SWANSON
Attorney General
State of Minnesota

A handwritten signature in black ink that reads "Alan I. Gilbert". The signature is written in a cursive style and is positioned above a horizontal line.

ALAN I. GILBERT
Solicitor General
Atty. Reg. No. 0034678

GARY R. CUNNINGHAM
Assistant Attorney General
Atty. Reg. No. 0180610
445 Minnesota Street, Suite 1100
St. Paul, Minnesota 55101-2128
(651) 757-1450 (Voice)
(651) 296-1410 (TTY)

ATTORNEYS FOR MOVANT STATE OF
MINNESOTA

AG: #2847603-v1