STATE OF MINNESOTA

COUNTY OF DAKOTA

DISTRICT COURT

FIRST JUDICIAL DISTRICT

J.　L.　H.

Petitioner,

v.

Commissioner of Public Safety,

Respondent.
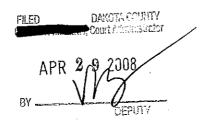
ORDER

Court File No.:

TO:　THE DAKOTA COUNTY DISTRICT COURT – CIVIL FILING; RYAN P.
GARRY, ATTORNEY FOR PETITIONER;　　M██████████
ATTORNEY FOR RESPONDENT.

FACTS

On January 8, 2008, the above-entitled matter came before the Honorable

, Judge of the Dakota County District Court, at the Dakota County Judicial Center,

Western Service Center, Apple Valley, Minnesota, upon Petitioner's Motion for

Supplemental Discovery.　Ryan P. Garry appeared on behalf of Petitioner.

, Assistant Attorney General, represented Respondent.

On March 14, 2008, the Court issued an Order granting Petitioner's request for

additional discovery.　The Court ordered Respondent to produce the complete computer

source code for the Intoxilyzer 5000EN currently in use in the State of Minnesota within

30 days.　The Court further ordered that the Intoxilyzer 5000 test record would be

inadmissible if the source code was not produced within 30 days of the entry of the Order

"leading to a rescission of Petitioner's license revocation." *See* District Court Order.

As of April 28, 2008, Petitioner had not received the complete computer source code for the Intoxilyzer 5000EN currently in use in the State of Minnesota. Consequently, this Court issues the following:

ORDER

1.   Petitioner's motion for sanctions is hereby **GRANTED**. Respondent is prohibited in this proceeding from introducing into evidence the results of Petitioner's implied consent test as completed on the Minnesota Model of the Intoxilyzer 5000EN.

2.   Because Respondent is unable to meet its burden of proof in this proceeding absent the introduction of the evidence excluded in (1) above, Petitioner is entitled to a rescission of the revocation of Petitioner's driver's license.

3.   The revocation of Petitioner's driving privileges is hereby **RESCINDED**.

DATED: 4-28-08

BY THE COURT:

_____
Judge of the Dakota County District Court