STATE OF MINNESOTA

IN SUPREME COURT

A19-0481

Court of Appeals — Anderson, J.

Tyler Halva,

Appellant,

vs.

Minnesota State Colleges and Universities,

Respondent.

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S Y L L A B U S

1. The pleading standard for civil actions in Minnesota permits the use of broad general allegations in complaints, and a complaint that contains information sufficient to fairly notify the opposing party of the claim is sufficient to survive a motion to dismiss.

2. The Minnesota Official Records Act, Minn. Stat. § 15.17 (2020), does not explicitly or impliedly authorize a private cause of action.

Affirmed in part, reversed in part.

O P I N I O N

ANDERSON, Justice.

This dispute arises from respondent Minnesota State Colleges and Universities (MnSCU) failing to maintain and produce certain government data. Appellant Tyler Halva sued MnSCU, alleging that its actions violated both the Minnesota Government Data Practices Act (Data Practices Act) and the Minnesota Official Records Act (Official Records Act). The district court dismissed both claims, concluding that Halva could not pursue judicial remedies under the Data Practices Act after obtaining an administrative remedy under that act and that the Official Records Act does not authorize a private cause of action. The court of appeals affirmed on both claims, though decided the Data Practices Act issue on the alternate ground that Halva's complaint was insufficiently pleaded. We reverse the court of appeals' determination that Halva's complaint was insufficiently pleaded, but affirm that court's decision that the Official Records Act does not authorize a private cause of action.

FACTS

In March 2015, MnSCU posted a request for proposals for a professional services contract. MnSCU sought bids to develop an online registration system for continuing education and customized training. Proposals, which had to meet a number of specific criteria, were due by September 30, 2015.

Four vendors, including Halva, timely responded. MnSCU reviewed Halva's proposal during a WebEx video meeting and electronically highlighted portions of Halva's submission using Adobe Acrobat Reader's highlight function. MnSCU did not save the highlights it made on Halva's bid document. Halva's proposal was eventually disqualified because he failed to provide certain required information.

On December 23, 2015, Halva made the first of five data requests related to the bidding procedure by specifically asking MnSCU for the names of other vendors who submitted proposals. MnSCU responded to Halva's request with a brief e-mail on February 19, 2016. The e-mail listed the competing vendors and named one of Halva's competitors as the bid winner.

Over the course of the next five months, Halva made four more data requests, via electronic and paper mail, regarding the bidding process. He sought information concerning his competitors' bids and the highlights made on his own bid document. MnSCU finally responded to these requests on August 5, 2016. In that response, MnSCU simply provided Halva with copies of the competing bids, but none of the other data requested by Halva.

Not satisfied by MnSCU's response, Halva filed a complaint with the Office of Administrative Hearings to compel MnSCU's compliance with the Data Practices Act and the Official Records Act. He paid the statutorily required filing fee and represented himself. *See* Minn. Stat. § 13.085, subd. 2(c) (2020) (requiring a complaint to "be accompanied by a filing fee of $1,000").

Following commencement of the administrative proceedings, MnSCU sent Halva more information, including its evaluation of the proposals, the final contract with the winning vendor, and other communications related to the RFP. Once again, however, MnSCU did not provide Halva with the highlighted version of his bid document.

After a hearing, an Administrative Law Judge (ALJ) concluded that MnSCU did not comply with the Data Practices Act. The ALJ ordered MnSCU to provide additional documents requested by Halva and awarded Halva a $950 refund of his initial filing fee and attorney fees. *See id.*, subd. 6 (allowing for reasonable attorney fees and the filing fee "less $50" to be refunded to a successful complainant). Although MnSCU was unable to reproduce the highlights on Halva's initial bid document because the highlights had not been saved, it otherwise complied with the order of the ALJ. In a subsequent order, the ALJ held that MnSCU was not required to save the highlights nor install technology that would do so. She also determined that administrative jurisdiction over the issue extended only to ordering compliance with the Data Practices Act, but she had no authority to enforce compliance with the Official Records Act.

Eighteen months later, in 2018, Halva sued MnSCU in district court for allegedly violating both the Official Records Act and the Data Practices Act.[1] MnSCU moved to dismiss both claims under Minnesota Rule of Civil Procedure 12.02. MnSCU argued that the Data Practices Act claim should be dismissed because Halva's complaint was insufficiently pleaded and he could not pursue both a legal and an administrative action under that act. MnSCU also argued that Halva was not asking for "records," as that term is defined in the Official Records Act. The district court granted MnSCU's motion in part. The court concluded that Halva already received a remedy for the alleged violation of the Data Practices Act and that any such violations related to that act could not be re-litigated; but it also concluded that the claim under the Official Records Act was properly before the court.

MnSCU then moved for judgment on the pleadings on the Official Records Act claim, asserting that no private cause of action exists under that act. The district court granted the motion, and Halva appealed.

The court of appeals affirmed, based in part on different reasoning than the district court. *Halva v. Minn. State Colls. & Univs.*, 937 N.W.2d 471, 476 (Minn. App. 2019). First, the court of appeals held that the district court erred by concluding that Halva could not pursue both administrative and judicial remedies under the Data Practices Act. *Id.* at 474. But the court found that Halva had not sufficiently pleaded his damages and thus the district court correctly dismissed his complaint. *Id.* at 476. With respect to Halva's Official

[1] Halva also raised two other related claims, but those were dismissed by the district court and are not at issue on appeal.

Records Act claim, the court of appeals affirmed the district court's decision, agreeing that there is no private cause of action under that act. *Id.* We granted Halva's petition for review.

ANALYSIS

Two issues are presented by this appeal: First, did the court of appeals apply the proper notice-pleading standard in evaluating Halva's damage allegations for his Data Practices claim and, second, does the Official Records Act authorize a private cause of action.

I.

We turn first to the pleading issue. In agreeing that the district court correctly dismissed Halva's claim under the Data Practices Act, the court of appeals reasoned that

> [a]t the pleading stage, the plaintiff cannot allege mere "labels and conclusions." *Bahr v. Capella Univ.*, 788 N.W.2d 76, 80 (Minn. 2010). He also is not entitled to recovery of damages that are "remote and speculative." *Jackson v. Reiling*, 249 N.W.2d 896, 897 (1977). In his complaint, Halva claimed only that he "has been injured by [MnSCU]'s failure to provide an opportunity to participate in a competitive bidding process," and alleged that he "has been aggrieved by these violations of the [Data Practices Act] and has suffered damages in an amount to be determined at trial, including costs, disbursements, and reasonable attorney's fees." These alleged damages are conjectural.

Id. at 474–75 (first alteration in original).

A.

Halva and two amici argue that the court of appeals erred by applying a new, heightened pleading standard. Halva contends that the court of appeals failed to apply the longstanding notice-pleading standard provided by Minnesota pleading rules. MnSCU

disagrees, arguing that courts are permitted to, and should, dismiss complaints that assert only legal conclusions, which is what the court of appeals did here.

We review the allegations of a complaint subject to dismissal under Rule 12.02 de novo. *DeRosa v. McKenzie*, 936 N.W.2d 342, 346 (Minn. 2019). We must "accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party." *Id.* We also interpret the Rules of Civil Procedure de novo. *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 601 (Minn. 2014).

"Minnesota is a notice-pleading state." *Id.* at 604–05. Plaintiffs may plead their case "by way of a broad general statement which may express conclusions rather than, as was required under code pleading, by a statement of facts sufficient to constitute a cause of action." *N. States Power Co. v. Franklin*, 122 N.W.2d 26, 29 (Minn. 1963); *see also* Minn. R. Civ. P. 8.01 ("A pleading which sets forth a claim for relief . . . shall contain a short and plain statement of the claim showing the pleader is entitled to relief and a demand for judgement for the relief sought; if a recovery of money is demanded, the amount shall be stated."). An "absolute specificity in pleading" is not necessary; rather, "information sufficient to fairly notify the opposing party of the claim against it" is satisfactory. *Hansen v. Robert Half Int'l, Inc.*, 813 N.W.2d 906, 917–18 (Minn. 2012). "The focus is on the 'incident' rather than on the specific facts of the incident." *Walsh*, 851 N.W.2d at 605.

"[A] claim is sufficient against a motion to dismiss if it is *possible, on any evidence that might be produced*, to grant the relief demanded." *Id.* at 604. Thus, "a pleading will be dismissed only if it appears to a certainty that no facts, which could be introduced consistent with the pleading, exist which would support granting the relief demanded."

Franklin, 122 N.W.2d at 29. And "[a]ll pleadings shall be so construed as to do substantial justice." Minn. R. Civ. P. 8.06; *see also Home Ins. Co. v. Nat'l Union Fire Ins. of Pittsburgh*, 658 N.W.2d 522, 535 (Minn. 2003) (stating that "courts are to construe pleadings liberally").

Here, the court of appeals relied on our decisions in *Bahr v. Capella University*, 788 N.W.2d 76, (Minn. 2010), and *Jackson v. Reiling*, 249 N.W.2d 896 (Minn. 1977), to conclude that the allegations of Halva's complaint did not meet our notice-pleading standard. We take this opportunity to clarify both precedents and reaffirm our notice-pleading standard.

In *Bahr*, we stated that

> "a pleading will be dismissed only if it appears to a certainty that no facts, which could be introduced consistent with the pleading, exist which would support granting the relief demanded." *N. States Power Co. v. Franklin*, 265 Minn. 391, 395, 122 N.W.2d 26, 29 (1963). But a legal conclusion in the complaint is not binding on us. *Hebert*, 744 N.W.2d at 235. A plaintiff must provide more than labels and conclusions. *See id*. (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S. Ct. 1955, 167 L.Ed.2d 929 (2007)).

788 N.W.2d at 80. The court of appeals relied on the "labels and conclusions" phrase from *Bahr* to conclude that the allegations of Halva's complaint were insufficient to survive a motion to dismiss. This was error because the "labels and conclusions" language in *Bahr* references *legal conclusions*, not factual conclusions. *See Walsh*, 851 N.W.2d at 603;[2]

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[2] This point was more thoroughly articulated in *Walsh*, wherein we stated:

> In the wake of *Twombly* and *Iqbal*, we have not expressly adopted or rejected the plausibility standard. We have cited *Twombly* only three times, twice substantively, and we have never cited *Iqbal*. *See Bahr v. Capella Univ.*, 788 N.W.2d 76, 80 (Minn.2010); *Hebert v. City of Fifty Lakes*,

Graphic Commc'ns Local 1B Health & Welfare Fund A v. CVS Caremark Corp., 850 N.W.2d 682, 692 (Minn. 2014) ("But a legal conclusion in the complaint does not bind us, and a plaintiff must provide more than mere labels and conclusions." (citing *Bahr*, 788 N.W.2d at 80)).[3]

In *Jackson*, the other case the court of appeals cited, a plaintiff was injured in an automobile accident and sued the defendant under a negligence theory. 249 N.W.2d at 896. Before his injury, the plaintiff had worked for a railroad company for 9½ years. *Id.* An employee became eligible for pension benefits "after 10 years of employment," so the plaintiff's pension failed to vest. *Id.* at 897. The case went to trial, and the jury found the

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> 744 N.W.2d 226, 235 (Minn.2008); *Lorix v. Crompton Corp.*, 736 N.W.2d 619, 631 n. 3 (Minn.2007).
>
> The first time we substantively cited *Twombly* was in *Hebert v. City of Fifty Lakes.* We cited *Twombly* for its first working principle: the common-sense proposition that we are "not bound by legal conclusions stated in a complaint when determining whether the complaint survives a motion to dismiss for failure to state a claim." *Hebert*, 744 N.W.2d at 235. We did not mention or adopt the plausibility standard.
>
> The second time we substantively cited *Twombly* was in *Bahr v. Capella University*. In that case, as in *Hebert*, we cited *Twombly* for the proposition that "[a] plaintiff must provide more than labels and conclusions" in a complaint. *Bahr*, 788 N.W.2d at 80. Again, we did not mention or adopt the plausibility standard.

851 N.W.2d at 603. Thus the "labels and conclusions" statement in *Bahr* was likened to language from *Hebert*, which stated that we are not bound by legal conclusions in the complaint. We explained these two cases together in *Walsh* because they stand for the same principle. Our language in *Bahr* regarding "labels and conclusions" did not and does not stand for the proposition that *factual* labels and conclusions are insufficient in a complaint.

[3] We also note that *Bahr* must be interpreted in light of our later decision in *Walsh*, which explicitly rejected the *Twombly* "plausibility" standard. *Id.*

plaintiff to be 45 percent at fault for the accident and the defendant to be 55 percent at fault, which allowed the plaintiff to partially recover. *Id.* at 896.

As part of his claim for damages, the plaintiff asserted that he was entitled to damages from his loss of pension. *Id.* at 897. We rejected this argument, stating that "[d]amages which are remote and speculative cannot be recovered." *Id.* We explained:

> The jury, in order to find a causal relationship, would have had to conclude that the accident caused the loss of plaintiff's job; that but for the accident he would have retained his job for the requisite time period; and that he would have survived to retirement age. Determining the amount of the loss is even more difficult. It would depend on whether plaintiff would have retained his job with the railroad until retirement, the amount of his social security benefits from other employment, any pensions or substitute compensation earned in other employment, and the length of time he would have lived past retirement. It is not clear that plaintiff would suffer any loss at all. There was ample justification for the trial court's ruling that these damages were *remote and speculative*.

Id. (emphasis added).

We did not discuss pleading standards in *Jackson*. *See id.* Instead, we discussed what a party must *prove at trial* to recover damages. *Id.* Thus, the court of appeals erred by relying on *Jackson* to conclude that Halva's complaint was properly dismissed because the damages allegations were conjectural. Even though a claimant's damages may be difficult to prove, it is improper to deny the claimant a chance to prove those damages by dismissing the claim based on the allegations of the complaint. When damages for a claim "are purely speculative or unmanageably complex, they will be barred at the summary judgment stage." *Lorix v. Crompton Corp.*, 736 N.W.2d 619, 635 (Minn. 2007). To the extent that the court of appeals applied a heightened standard to a motion to dismiss, we reject that standard and reaffirm the notice-pleading standard that we articulated in *Walsh*.

B.

Applying the notice-pleading standard to Halva's complaint, we conclude that the allegations are sufficient to survive a motion to dismiss. In the complaint, Halva asserts that he is "entitled to an award of any actual damages plus exemplary damages for each [of MnSCU's] violation[s] of the [Data Practices Act]." He also alleges that he "suffered damages in an amount to be determined at trial, including costs, disbursements and reasonable attorney's fees." MnSCU argues that this complaint fails to allege sufficient facts to put it on notice of how Halva's delays in receiving data caused him injury. Halva counters by asserting that the allegations of his complaint are sufficient because they gave MnSCU notice as to his theory of damages.

A pleading is sufficiently detailed when it gives "fair notice to the adverse party of the incident giving rise to the suit with sufficient clarity to disclose the pleader's theory upon which his claim for relief is based." *Franklin*, 122 N.W.2d at 29. "Under our law, the pleading of broad general statements that may be conclusory is permitted." *Barton v. Moore*, 558 N.W.2d 746, 749 (Minn. 1997). "No longer is a pleader required to allege facts and every element of a cause of action." *Franklin*, 122 N.W.2d at 29.

Halva's complaint sufficiently identified the facts that gave rise to his claim. His complaint lists a number of facts that could support a finding of a Data Practices Act violation. In fact, we have something here not often seen in a pleading dispute: earlier litigation on the same issue and an order from an ALJ concluding that MnSCU violated the Data Practices Act. Halva's complaint, admittedly, is sparse with details and does not contain a direct causal statement explaining how those violations caused him harm.

Instead, it simply states that because MnSCU's delay in complying caused him actual damages, he is entitled to exemplary damages for MnSCU's alleged willful violation of the Data Practices Act. The only pleading requirement for this complaint was Halva's explanation of the factual nexus and the alleged damages that resulted from that factual nexus, which he did. *See Walsh*, 851 N.W.2d at 605 (citing *Twombly*, 550 U.S. at 557) (rejecting the need for "factual enhancement" under the Minnesota Rules of Civil Procedure). Assuming, as we must, that all of the facts listed in the complaint are true, Halva's allegations are sufficient to survive a Rule 12.02 motion to dismiss.

This conclusion is not only supported by *Walsh*, but also by our decision in *Hardin County Savings Bank v. Housing & Redevelopment Authority of City of Brainerd*. 821 N.W.2d 184 (Minn. 2012). In *Hardin County*, the plaintiff asserted a negligent misrepresentation claim that was dismissed after a Rule 12.02 motion. *Id.* at 189. One element at issue was that another "person was financially harmed by relying" on the misrepresentation. *Id.* at 192. To support this element of the claim, the plaintiff simply stated that the defendants misrepresented the plaintiff's position, causing the plaintiff to default on some bond obligations that resulted in damages "in an amount greater than $50,000." *Id.* at 195. We held that this statement was sufficient to survive a motion to dismiss even under the heightened pleading standard applicable to allegations of fraud under Rule 9.02. *Id.*

In the same way, because Halva's complaint provides the factual nexus for his alleged damages, it is sufficient under our normal pleading standard. Indeed, in certain cases, Halva's style of pleading is required under our Rules of Civil Procedure. *See* Minn.

R. Civ. P. 8.01 ("If a recovery of money for unliquidated damages in an amount greater than $50,000 is demanded, the pleading shall state merely that recovery of reasonable damages in an amount greater than $50,000 is sought."). Because we conclude that the allegations of Halva's complaint are sufficient, we reverse the court of appeals and remand to the district court to reinstate Halva's Data Practices claim.

II.

We turn next to Halva's Official Records Act claim. The Official Records Act requires the State and its agencies to "make and preserve all records necessary to a full and accurate knowledge of their official activities." Minn. Stat. § 15.17, subd. 1 (2020). The statute is silent as to enforceability and provides no private cause of action. *See generally* Minn. Stat. § 15.17 (2020). Any records maintained pursuant to the Official Records Act are public information and can be publicly obtained via enforcement mechanisms in the Data Practices Act. *See id.*, subd. 4.

Halva makes two arguments in support of his position that the Official Records Act allows a private cause of action. First, he argues that the silence within the Official Records Act is ambiguous because the act is subject to more than one interpretation; that ambiguity, he contends, supports an interpretation that recognizes an implied private cause of action. Second, and alternatively, Halva argues that we should recognize a common law remedy for violations of the Official Records Act. MnSCU counters by asserting the absence of ambiguity and urges us to reject an adoption of any new common law remedy.

We review issues of statutory interpretation de novo. *Roberts v. State*, 945 N.W.2d 850 853 (Minn. 2020); *see Zutz v. Nelson*, 788 N.W.2d 58, 61 (Minn. 2010) (judgments on

the pleadings are reviewed de novo). "A statute does not give rise to a civil cause of action unless the language of the statute is explicit or it can be determined by clear implication." *Becker v. Mayo Found.*, 737 N.W.2d 200, 207 (Minn. 2007). Neither party contends that the language of the Official Records Act has an explicit provision for a civil cause of action. Instead, Halva primarily argues that the language of the statute implies the existence of a cause of action because it is ambiguous and the Legislature would not have enacted the statute without providing a remedy.

We are generally "reluctant to recognize causes of action" when the language of the statute does not expressly provide one. *CVS Caremark Corp.*, 850 N.W.2d at 689. "In determining whether a private cause of action is clearly implied, we look to the language of the statute in question and its related sections." *Id.* at 691. We cannot "add words to the statute that the Legislature did not supply." *Id.* In fact, we have declined to recognize implied private causes of action in four of our decisions from the past 30 years. *Id*. at 692 (declining to find a cause of action within Minnesota's Pharmacy Practice and Wholesale Distribution Act because it was not expressly or impliedly provided by the plain language of the statute); *Krueger v. Zeman Constr. Co.*, 781 N.W.2d 858, 864–65 (Minn. 2010) (declining to find a private cause of action for third parties within a specific subdivision of the Minnesota Human Rights Act because the language of the statute was unambiguous and there was no implied cause of action); *Becker*, 737 N.W.2d at 207–08 (declining to find an implied cause of action within Minnesota's Child Abuse Reporting Act because the Legislature "expressly creates civil liability when it intends to do so"); *Bruegger v.*

Fairbault Cnty. Sheriff's Dep't, 497 N.W.2d 260, 262 (Minn. 1993) (declining to find a private cause of action within Minnesota's Crime Victims Reparations Act).

We decline to recognize an implied private cause of action for violations of the Official Records Act for several reasons. First, subdivision 4 of the Official Records Act reads: "Access to records containing government data is governed by sections 13.03 and 138.17." Minn. Stat. § 15.17, subd. 4. Section 13.03, part of the Data Practices Act, is a statutory provision that allows members of the public to request government data, as Halva did in this case. *See* Minn. Stat. § 13.03 (2020). Section 13.03 can be enforced through the judicial remedies provided by section 13.08. Minn. Stat. § 13.08 (2020). Therefore, an individual aggrieved by the failure of a government body to comply with the Official Records Act has a cause of action under sections 13.03 and 13.08. In other words, the Legislature has already provided a judicial remedy for violations of the Official Records Act within the Data Practices Act. *Dukowitz v. Hannon Sec. Servs.*, 841 N.W.2d 147, 153 (Minn. 2014) ("[A]doption of a new cause of action is particularly inappropriate when the Legislature has already provided other remedies to vindicate the public policy of the state"). Under these circumstances, there is no reason to imply a separate, additional, cause of action under the Official Records Act. *See Becker*, 737 N.W.2d at 207; *see also Lindemer v. Polk Cnty.*, No. 18-CV-3008 (PJS/LIB), 2020 WL 4572201, at *13–14 (D. Minn. Aug. 7, 2020) (rejecting an argument for finding a private cause of action under Minn. Stat. § 192.34 (2020)).

Second, we have customarily concluded that statutory silence on the topic of a private remedy does not make a statute ambiguous. "We have recognized that silence does

not render a statute ambiguous unless the silence renders the statute susceptible to more than one reasonable interpretation." *Rohmiller v. Hart*, 811 N.W.2d 585, 590 (Minn. 2012). On its face, the silence within the Official Records Act on private remedies does not make it open to multiple interpretations. Indeed, Halva failed to propose an alternative interpretation that allows for a private cause of action, and it is impossible to envision a private cause of action based on the plain text of the statute. Furthermore, in each of the four previous decisions in which we declined to find an implied cause of action, the underlying statute was silent as to any private cause of action, and we found no ambiguity in any of the statutes. *See CVS Caremark Corp.*, 850 N.W.2d at 692 (analyzing Minn. Stat. § 151.21, subd. 4 (2014)); *Krueger*, 781 N.W.2d at 863 (analyzing Minn. Stat. § 363A.17(3) (2010)); *Becker*, 737 N.W.2d at 207–09 (analyzing Minn. Stat. § 626.556 (2006)); *Bruegger*, 497 N.W.2d at 261 (analyzing Minn. Stat. § 611A.66 (1992)).

Third, although other provisions of Minnesota Statutes ch. 15 (2020), specifically set forth causes of action, notably, the Official Records Act does not. MnSCU accurately identifies criminal causes of action in chapter 15, civil remedies in section 15.057, and an action to compel compliance in section 15.60, paragraph c. *See* Minn. Stat. §§ 15.054 (providing that a person who illegally purchases state property "is guilty of a misdemeanor"), .0596 ("Every person offending against the provisions of this section shall be guilty of a misdemeanor."), .43, subd. 4 ("A violation of this section is a misdemeanor."). These explicitly enumerated remedies indicate that, although the Legislature knows how to create a cause of action within chapter 15, it elected not to do so with respect to the Official Records Act. *See Transamerica Mortg. Advisors, Inc. v. Lewis*,

444 U.S. 11, 19 (1979) ("[I]t is an elemental canon of statutory construction that where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it."); *see State v. Caldwell*, 803 N.W.2d 373, 383 (Minn. 2011) (explaining the doctrine of *expressio unius est exclusio alterius*); *Lindemer*, 2020 WL 4572201, at *13–14 (reasoning that the Legislature's provision of remedies for violations of one section of Minn. Stat. ch. 192 (2020) indicates that it did not intend to provide a remedy for a different section).

Even if we were to equate silence with ambiguity, the amendment history of the Official Records Act cuts against finding an implied cause of action. Before 1979, we considered whether plaintiffs could enforce requests for disclosure of records under the Official Records Act through judicial relief. *See Minneapolis Star & Trib. Co. v. State*, 163 N.W.2d 46, 48–49 (Minn. 1968); *see also Kottschade v. Lundberg*, 160 N.W.2d 135, 138–39 (Minn. 1968). In 1979, the Legislature amended the Official Records Act and folded any potential Official Records Act remedy into the Data Practices Act. Act of June 5, 1979, ch. 328, § 23, 1979 Minn. Laws 910, 922–23. Indeed, "[t]he [Data Practices Act] has replaced the repealed foia provision of the Official Records Act." Donald A. Gemberling & Gary A Weissman, *Data Privacy: Everything You Wanted to Know About the Minnesota Government Data Practices Act – From "A" to "Z"*, 8 William Mitchell L. Rev. 573, 625–26 (1982) (referring to the Official Records Act as "the outdated predecessor of the [Data Practices Act]"). Instead of finding that the Legislature *implied* a cause of action within the Official Records Act, a more reasonable conclusion is that the Legislature intended to *foreclose* the possibility of a separate cause of action.

Halva's alternative Official Records Act argument fares no better than his ambiguity argument. Halva urges us to recognize a common law remedy for violations of the Official Records Act. He contends that three factors support recognition of a common law remedy: the common law tradition, the absence of any legislative constraint on the judiciary's responsibility to develop the common law, and the compelling reasons that exist for the new remedy. MnSCU counters by stating that causes of action are determined by the Legislature and that creating a common law cause of action is unsupported by relevant case law. We agree with MnSCU.

"Under the principle of judicial restraint, we are generally reluctant to recognize a new common-law right or remedy." *Cent. Hous. Assocs., LP v. Olson*, 929 N.W.2d 398, 408 (Minn. 2019). This reluctance is because "determining public policy" is a job "better performed by the legislature." *Dukowitz*, 841 N.W.2d at 151 (citation omitted) (internal quotation marks omitted). "But we have recognized or extended rights or remedies when there is a compelling reason to do so." *Olson*, 929 N.W.2d at 408.

Halva argues that governmental transparency is a compelling reason to recognize a common law cause of action. Although we agree that governmental transparency is an important interest, the Legislature has already addressed this interest through the Data Practices Act. The Data Practices Act provides that "[t]he responsible authority in every government entity shall keep records containing government data in such an arrangement and condition as to make them easily accessible for convenient use." Minn. Stat. § 13.03, subd. 1. "Government data" is defined as "all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or

conditions of use." Minn. Stat. § 13.02, subd. 7 (2020). If a government agency fails to keep a record "containing government data" in a way that is "easily accessible for convenient use," an aggrieved person can pursue both administrative and private causes of action. Minn. Stat. §§ 13.03, subd. 1, .08, subd. 1 (allowing for people who suffer damages as a result of a Data Practices Act violation to bring a civil cause of action), .085 (allowing an aggrieved party to pursue administrative remedies for Data Practices Act violations) (2020). When a government agency fails to preserve a record, it assuredly has not made it "easily accessible for convenient use" and thus the agency may be liable under the Data Practices Act. We, therefore, decline to create a separate and redundant common law cause of action under the Official Records Act.

CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals holding that Halva's complaint under the Data Practices Act was insufficiently pleaded, and we affirm the court of appeals holding that the Official Records Act does not authorize a private cause of action.

Affirmed in part, reversed in part.