

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

ERIC O'KEEFE and
WISCONSIN CLUB FOR GROWTH,
INC.,

Plaintiffs,

vs.

Case No. 14-CV-139-RTR

FRANCIS SCHMITZ, in his official and
personal capacities, et al.,

Defendants.

**DEFENDANTS CHISHOLM, LANDGRAF AND ROBLES'
ANSWER TO PLAINTIFFS' COMPLAINT, MOTIONS TO STRIKE,
AFFIRMATIVE DEFENSES, AND JURY DEMAND**

Defendants Chisholm, Landgraf, and Robles, by and through their attorneys of record,
Wilson Elser Moskowitz Edelman & Dicker, LLP, answer plaintiffs' Complaint filed February
10, 2014 as follows:

General Response to the Plaintiffs' Complaint

The fundamental rule in drafting a complaint is to set forth a "short and plain statement" of the claims supporting the plaintiff's request for relief. Fed. R. Civ. P. 8(a). "Rule 8(a) requires parties to make their pleadings straight forward, so that judges and adverse parties need not try to fish a gold coin from a bucket of mud." *United States, ex rel. Garst v. Lockheed-Martin Corp.*, 328 F.3d 374, 378 (7th Cir. 2003). Likewise, each allegation "must be simple, concise, and direct." Fed. R. Civ. P. 8(e)(1). "As the word 'Rule' implies, Rule 8 is not merely aspirational; if

a complaint does not comply with the Rule, it may be stricken.” *Mendez v. Draham*, 182 F. Supp. 2d 430, 433 (D.N.J. 2002).

Here, the plaintiffs elected not to plead “simple, concise, and direct” allegations or anything near a “short and plain statement” of the claims supporting their request for relief. Far from being “short and plain statement” of their claims, their Complaint rambles on for 62 pages, contains single paragraphs spanning nearly a full page, and lapses into discussions of Wisconsin politics and elections in general without reference to the plaintiffs, defendants, or even the offices or counties of jurisdiction in which they work. *See, e.g.*, Compl. ¶¶23-53. “Only through superhuman patience, effort, and insight could any attorney review the allegations of the Complaint and make paragraph-by-paragraph responses.” *Mendez*, 182 F.Supp. 2d at 433. Unfortunately, plaintiffs’ Complaint was drafted for media consumption rather than compliance with the Rules of Civil Procedure. The plaintiffs’ unwillingness to draft a Complaint adhering to Rule 8’s requirements makes these answering defendants’ answer impossible short of parsing out plaintiffs’ many sentences, clauses, words, and generally vague allegations, in addition to filing hundreds of motions to strike and motions for more definite statement.

Without burdening the Court with those numerous motions, the following is these answering defendants’ responses with motions to strike where most obvious at this point in this matter. The defendants reserve the right to amend their responses and file additional motions with respect to plaintiffs’ allegations. Moreover, defendants’ responses should not be construed to any extent as an admission that plaintiffs’ numerous allegations are relevant and material.

ANSWER TO PARAGRAPHS AND MOTIONS TO STRIKE

1. Admit that Defendant Chisholm is the Milwaukee County District Attorney and that Scott Walker will run for re-election as Wisconsin's governor. As to the remaining allegations, deny.

2. Deny.

3. Deny.

4. Deny that the Court has jurisdiction over this matter. Deny that the *Ex Parte Young* doctrine applies to these answering defendants.

5. Admit the Defendants Chisholm, Robles, and Landgraf are residents of Wisconsin. These answering defendants lack sufficient knowledge and information to form a belief as to truth or falsity of the residencies of the other defendants and therefore deny the same. As to remaining allegations, deny.

PARTIES

6. Admit that the plaintiff O'Keefe is a resident of Iowa County, Wisconsin. As to the remaining allegations, these answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of those remaining allegations and therefore deny same.

7. Admit that the plaintiff WCFG purports to be a 501(c)(4) organization, but deny that the plaintiff qualifies as one. As to the remaining allegations, these answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of those remaining allegations and therefore deny same.

8. Admit that a [REDACTED]. As to the remaining allegations, deny.

9. These answering defendants lack sufficient knowledge and information to form a belief as to truth or falsity of the residency of Mr. Schmitz. As to remaining allegations, deny.

10. Admit that Defendant Chisholm is a resident of Milwaukee County, that he is the elected District Attorney, and that he ran as a Democrat for that position. As to remaining allegations, these answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

11. Admit that Defendant Landgraf is a resident of Milwaukee County, that he is employed as an Assistant District Attorney in the Milwaukee County District Attorney's Office, and that he prosecutes cases for that Office's Public Integrity Unit. As to the remaining allegations regarding "the proceedings" and "the investigation," these answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

12. Admit that Defendant Robles is a resident of Milwaukee County, that he is employed as an Assistant District Attorney in the Milwaukee County District Attorney's Office, and that he prosecutes cases for that Office's Public Integrity Unit. As to the remaining allegations regarding "the investigation," "other parties," and "heavily involved," these answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

13. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

14. Admit [REDACTED]. As to his residence, these answering defendants lack knowledge or information sufficient to form a belief

as to the truth or falsity of the allegations and therefore deny same. As to the remaining allegations, they are legal conclusions which do not require a response. As to any factual allegations implied or asserted, this defendant lacks sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

“FACTS”

15. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations pertaining to plaintiffs’ phrases the allegations within this paragraph and therefore deny same.

16. Deny.

17. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

18. As to plaintiffs’ allegation regarding “many with left-leaning views,” these answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same. As to plaintiffs’ comments regarding Supreme Court case *Citizens United v. Federal Election Committee*, the allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, this defendant lacks sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

19. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

20. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

21. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

22. Admit.

23. These answering defendants, pursuant to Fed. R. Civ. P. 12(f), move to strike paragraphs **23-53** as redundant, immaterial, impertinent and scandalous. The allegations in these paragraphs pertain to hundreds of persons and entities and political events, including, for example, decisions and actions of the state legislative, executive, and judicial branches regarding certain legislation (Compl., ¶¶23-25, 30-39, 44-53), the strategy of worker organizations and political groups during elections and protests (Id., ¶¶26-29, 40, 44-53), whether and why ammunition was found in government buildings in Madison, Wisconsin, (Id., ¶28), if and why an unidentified “women from Cross Plains ” threatened “to kill fifteen Republican state senators,” (¶41), whether an unidentified “onlooker scream[ed] ‘you’re F-A-C-I-S-T’” to members of the state legislature, (Id., ¶42), or whether a state supreme court justice choked a fellow justice, (Id., ¶43), and, generally, the accuracy of newspaper reports and blogs covering the election and protest events. Those allegations occurred over a period of several years and have little, if any, relation to the plaintiffs or defendants. Like other allegations throughout plaintiffs’ Complaint, these paragraphs reflect an improper attempt to insinuate that the alleged improper actions of non-parties, including unidentified protestors of a certain legislation and an entire political party, are somehow related to the John Doe proceedings specific to plaintiffs simply because one of defendants, Defendant District Attorney Chisholm, ran as a Democrat for his position nearly a decade ago in 2007. All this, despite the absence of any allegation that any of the defendants here supported any candidate for election or recall or even protested any legislation discussed in plaintiffs’ allegations. Defendants should not need to litigate in this

matter the factual allegations within these paragraphs, and therefore, move to strike these paragraphs. *See* 5A Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1382, at 706-08 (2d ed. 1990) (citing cases) (“‘Immaterial’ matter is that which has no essential or important relationship to the claim for relief or the defenses being pleaded, or a statement of unnecessary particulars in connection with and descriptive of that which is material.”); *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993), *rev’d on other grounds*, *Fogerty v. Fantasy, Inc.*, 510 U.S. 517 (1994) (“The function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial.”). To the extent a response is required these answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the plaintiffs’ allegations and therefore deny same.

...

54. Deny.

55. Deny.

56. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the plaintiffs’ allegations related to “the investigation” and therefore deny same. As to any remaining expressed or implied allegations, deny.

57. Admit that Defendant Chisholm is the District Attorney of Milwaukee County and that he ran as a Democrat for that position. As to plaintiffs’ allegations regarding District Attorney Chisholm’s “support” during his election, including “support from, among others, AFL-CIO,” and regarding his donations “making him one of the top donors in the Milwaukee County District Attorney’s Office,” these answering defendants lack knowledge or information

sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same. As to any remaining expressed or implied allegations, deny.

58. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

59. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

60. As to the first part, these answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations regarding “close ties” or plaintiffs’ “information and belief” of “other forms of support” and “similar support” and therefore deny same. As to the 2008 clip, admit. As to any remaining expressed or implied allegations, deny.

61. These answering defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations and therefore deny same.

62. The allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, this defendant lacks sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

63. The allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations regarding plaintiffs’ term “this investigation” and therefore denies the same.

64. Admit that a John Doe Proceeding was commenced in 2010 based on information received indicating that money was missing from a veteran’s fund called Operation Freedom. Deny that it “lasted nearly four years.” As to the remaining allegations, deny.

65. Deny.

66. Deny.

67. Admit.

68. Deny.

69. Admit that the petition for commencement referred to in the paragraph is attached as Exhibit A and contains the reasons for the petition. Deny any allegations regarding the content of the petition that are inconsistent with that attached document. As to the remaining allegations, deny.

70. Admit that the petition for commencement referred to in the paragraph is attached as Exhibit A and contains the reasons for the petition. Deny any allegations regarding the content of the petition that are inconsistent with that attached document. As to the remaining allegations implied or asserted, deny.

71. Deny.

72. Admit that the petition for commencement referred to in the paragraph is attached as Exhibit A and contains the reasons for the petition. Deny any allegations regarding the content of the petition that are inconsistent with that attached document. As to any remaining factual allegations implied or asserted, deny.

73. Deny.

74. Deny.

75. Deny.

76. Deny.

77. As to the first sentence, lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore deny the same. As to the second sentence, deny.

78. Deny.

79. Deny.

80. Deny.

81. Deny.

82. Deny.

83. Deny.

84. Deny.

85. Deny.

86. Deny.

87. Deny.

88. Deny.

89. Admit only that other John Doe proceedings were opened in other counties, and that [REDACTED]. As to the other allegations, deny.

90. Deny. Further put plaintiffs on notice that the answering defendants will seek **Rule 11** sanctions for plaintiffs' allegation. Rule 11 requires attorneys to make an "objectively reasonable" inquiry into the facts and law supporting their pleadings. This allegation is refuted by the published Wisconsin Court of Appeals decision and order, dated January 30, 2014, denying plaintiffs' petition for supervisory writ. Not only did the plaintiffs fail to make any

inquiry, they knew the allegation to be false at the time of filing on February 10, 2014 and have failed to withdraw the allegation to this date.

91. Admit t [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. As to remaining allegations, deny.

92. Deny.

93. Admit that attached as Exhibit B is a letter from Attorney J.B. Van Hollen to John Chisholm dated May 31, 2013. Deny plaintiffs' allegations to the extent they are inconsistent with Exhibit B.

94. Deny. Further put plaintiffs on notice that the answering defendants will seek **Rule 11** sanctions for plaintiffs' allegation. Rule 11 requires attorneys to make an "objectively reasonable" inquiry into the facts and law supporting their pleadings. As will be shown (and has been shown in this case), the plaintiffs made no inquiry into the truthfulness of this allegation before and at the time of filing on February 10, 2014 and have failed to withdraw the allegation to this date.

95. Admit that the [REDACTED] in part implicate Wis. Stat. § 11.01(16). As to the remaining allegations, they are legal conclusions which do not require a response. As to any factual allegations implied or asserted, these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

96. As to plaintiffs' allegations regarding "potentially every activity" and the illegal activity of "28 other social welfare organizations," these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore deny the same.

97. Admit that attached as Exhibit C to the plaintiffs' Complaint is the State's Consolidated Response to the Motion to Quash. As to plaintiffs' interpretation of that Response, that allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

98. Deny.

99. Deny.

100. This allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

101. The allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, this defendant lacks sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

102. The allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, this defendant lacks sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same. As to the final sentence in this paragraph, deny.

103. The allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, this defendant lacks sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

104. The allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, this defendant lacks sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

105. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegation regarding terms such as “monetary transfers” “conservative social welfare organizations” and “the John Doe investigation,” therefore deny the same. Many of the allegations as to legality are also legal conclusions which do not require a response. As to any factual allegations implied or asserted, these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore deny the same.

106. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegation regarding terms such as “Liberal groups” and “the same activities” therefore deny the same. The allegation is also a legal conclusion which does not require a response. As to any factual allegations implied or asserted, this defendant lacks sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same. Defendants deny plaintiffs’ allegations pertaining to “selective use of prosecutorial discretion and retaliation” and any implication thereof that these answering defendants engaged in such conduct.

107. Deny.

108. Admit that Judge Peterson quashed certain subpoenas as ordered in Exhibit D attached to plaintiffs' Complaint. Deny any allegations that are inconsistent with that order.

109. Admit that Judge Peterson quashed certain subpoenas as ordered in Exhibit D attached to plaintiffs' Complaint. Deny any allegations that are inconsistent with that order.

110. Admit that Judge Peterson quashed certain subpoenas as ordered in Exhibit D attached to plaintiffs' Complaint. Deny any allegations that are inconsistent with that order. Deny that the "ruling makes clear this law was well settled by 2013."

111. Admit that Judge Peterson quashed certain subpoenas as ordered in Exhibit D attached to plaintiffs' Complaint. Deny any allegations that are inconsistent with that order.

112. Deny.

113. Deny.

114. Deny.

115. Deny.

116. Move to strike as immaterial and impertinent pursuant to Fed. R. Civ. P. 12(f). The case referred to in this allegation was dismissed before any responsive pleading was ever filed and without ever addressing the merits of the plaintiff's claim. *See Brekken v. Landgraf*, 2013AP1771 (Wis. Ct. App. April 1, 2014).

117. Deny.

118. Deny.

119. Deny.

120. Deny.

121. Deny.

122. Deny.

123. Deny.

124. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore deny the same.

125. Deny.

126. Deny.

127. Deny.

128. Deny.

129. Admit that attached to the Complaint as Exhibit E is the Secrecy Order entered in the Iowa County John Doe Proceedings. As to plaintiffs' remaining allegations and any allegations that are inconsistent with the order, deny.

130. [REDACTED]

[REDACTED] As to the remaining allegations, deny.

131. Deny.

132. Deny.

133. Deny.

134. Deny.

135. As to plaintiffs' legal allegations, those are legal conclusions which do not require a response. As to any factual allegations implied or asserted, these answering defendants deny.

136. Deny.

137. Deny.

138. Deny.

139. Admit the John Doe Judge quashed the subpoenas and that [REDACTED]

[REDACTED] As to any other factual allegations implied or asserted, these answering defendants deny.

140. Deny.

141. Deny.

142. Deny.

143. Deny.

144. Deny.

145. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegations regarding the filing of a "complaint with the GAB" and therefore deny the same. Admit these defendants did not investigate Shelley Moore on grounds that they lacked jurisdiction or a referral to do to so.

146. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegations regarding Shelley Moore and therefore deny the same. Admit these defendants did not investigate Shelley Moore on grounds that they lacked jurisdiction or a referral to do to so.

147. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegations regarding the filing of a complaint with the GAB and therefore deny the same. Admit these defendants did not investigate Senator Hansen on grounds that they lacked jurisdiction or a referral to do to so.

148. Admit that a complaint was filed with the GAB. As to the remaining allegations, deny.

149. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegations contained within this paragraph, and state further that plaintiffs' legal conclusions contained therein do not require a response. Admit that, whatever "illegal" activity plaintiffs imply regarding the groups identified in the paragraph, these answering defendants did not investigate on grounds that they lacked jurisdiction or a referral to do to so.

150. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegations contained within this paragraph, and state further that plaintiffs' legal conclusions contained therein do not require a response. Admit that, whatever "illegal" activity plaintiffs imply regarding the groups identified in the paragraph, these answering defendants did not investigate on grounds that they lacked jurisdiction or a referral to do to so.

151. Deny.

152. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegations contained within this paragraph, and state further that plaintiffs' legal conclusions contained therein do not require a response. Admit that, whatever "illegal" activity plaintiffs imply regarding the groups identified in the paragraph, these answering defendants did not investigate on grounds that they lacked jurisdiction or a referral to do to so. As to any remaining allegations, deny.

153. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegations contained within this paragraph, and state further that plaintiffs' legal conclusions contained therein do not require a response. Admit that, whatever "illegal" activity plaintiffs imply regarding the groups identified in the paragraph, these

answering defendants did not investigate on grounds that they lacked jurisdiction or a referral to do to so. As to any remaining allegations, deny.

154. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegations contained within this paragraph, and state further that plaintiffs' legal conclusions contained therein do not require a response. Admit that, whatever "illegal" activity plaintiffs imply regarding the groups identified in the paragraph, these answering defendants did not investigate on grounds that they lacked jurisdiction or a referral to do to so. As to any remaining allegations, deny.

155. Admit that the plaintiffs' claims are as described, but deny the existence of any factual or legal basis for plaintiffs' claims. As to any remaining factual allegations, deny.

156. Deny.

157. Admit that the plaintiffs' claims are as described, but deny the existence of any factual or legal basis for plaintiffs' claims. As to any remaining factual allegations regarding the source of any "leaks," deny.

158. Admit that the plaintiffs' claims are as described, but deny the existence of any factual or legal basis for plaintiffs' claims. As to any remaining factual allegations regarding the source of any "leaks," deny.

159. Deny.

160. Move to strike this allegation as immaterial and impertinent pursuant to Fed. R. Civ. P. 12(f). What Michael Tate and an unidentified party spokesperson, non-parties to this case and in no way affiliated with any of the defendants, stated is immaterial and impertinent. Defendants should not have to litigate Mr. Tate's and an unidentified party spokesperson's alleged statements. *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993), *rev'd on other*

grounds, Fogerty v. Fantasy, Inc., 510 U.S. 517 (1994) (“The function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial.”). To the extent an answer is required, these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore deny the same.

161. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore deny the same.

162. Deny.

163. Admit that the plaintiffs’ claims are as described, but deny the existence of any factual or legal basis for plaintiffs’ claims. As to any remaining factual allegations, deny.

164. Admit that the plaintiffs’ claims are as described, but deny the existence of any factual or legal basis for plaintiffs’ claims. As to any remaining factual allegations, deny.

165. Admit that the plaintiffs’ claims are as described, but deny the existence of any factual or legal basis for plaintiffs’ claims. As to any remaining factual allegations, deny.

166. Admit that the plaintiffs’ claims are as described, but deny the existence of any factual or legal basis for plaintiffs’ claims. As to any remaining factual allegations, deny.

167. Admit that the plaintiffs’ claims are as described, but deny the existence of any factual or legal basis for plaintiffs’ claims. As to any remaining factual allegations, deny.

168. Deny.

169. Admit that the plaintiffs’ claims are as described, but deny the existence of any factual or legal basis for plaintiffs’ claims. As to any remaining factual allegations as well as those regarding the source of “leaks,” deny.

170. Move to strike this allegation as immaterial and impertinent pursuant to Fed. R. Civ. P. 12(f). What Chris Larson, a non-party to this case and in no way affiliated with any of the defendants, stated is immaterial and impertinent. Defendants should not have to litigate Mr. Larson's alleged statements. *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993), *rev'd on other grounds, Fogerty v. Fantasy, Inc.*, 510 U.S. 517 (1994) ("The function of a 12(f) motion to strike is to avoid the expenditure of time and money that must arise from litigating spurious issues by dispensing with those issues prior to trial."). To the extent an answer is required, these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore deny the same.

171. These answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore deny the same.

172. Deny.

173. Deny.

174. Admit that Kevin Kavanaugh was convicted of embezzlement and that the conviction was "the result of a disciplined, ethical investigation undertaken without political motivation." As to the remaining of the plaintiffs' allegations, admit that they are as described, but deny the existence of any factual or legal basis for plaintiffs' allegations. As to any remaining factual allegations, deny.

175. As to the first sentence, admit. As to the remaining of the plaintiffs' allegations, admit that they are as described, but deny the existence of any factual or legal basis for plaintiffs' allegations. As to any remaining factual allegations, deny.

176. As to the first and last sentence, admit. As to the remaining of the plaintiffs' allegations, admit that they are as described, but deny the existence of any factual or legal basis for plaintiffs' allegations. As to any remaining factual allegations, deny.

177. As to the first sentence, admit. As to the remaining of the plaintiffs' allegations, admit that they are as described, but deny the existence of any factual or legal basis for plaintiffs' allegations. As to any remaining factual allegations, deny.

178. As to the first sentence, admit. As to the remaining of the plaintiffs' allegations, admit that they are as described, but deny the existence of any factual or legal basis for plaintiffs' allegations. As to any remaining factual allegations, deny.

179. As to the first sentence, admit. As to the second sentence, deny.

180. Deny.

181. Deny.

182. Deny.

183. Deny.

184. Deny.

185. Deny.

186. Deny.

187. Deny.

188. As to the first sentence, these answering defendants lack sufficient knowledge and information to form a belief as to the truth of falsity of the allegations and therefore deny the same. As to the second sentence, admit that [REDACTED] and admit that, as shown in documents submitted to the Court already, the plaintiffs engaged in "unethical" fundraising as alleged in this paragraph.

189. Deny.

190. These answering defendants lack sufficient knowledge and information to form a belief as to the truth of falsity of the allegations and therefore deny the same.

191. These answering defendants lack sufficient knowledge and information to form a belief as to the truth of falsity of the allegations and therefore deny the same.

192. Admit that the plaintiffs' allegation is as described, but deny the existence of any factual or legal basis for plaintiffs' allegation. As to any remaining factual allegations, deny.

193. Admit that the plaintiffs' allegation is as described, but deny the existence of any factual or legal basis for plaintiffs' allegation. As to any remaining factual allegations, deny.

194. These answering defendants lack sufficient knowledge and information to form a belief as to the truth of falsity of the allegations and therefore deny the same.

195. Deny.

COUNT I

196. These answering defendants repeat and re-allege their responses to paragraphs 1-195 as if set forth herein.

197. Deny.

198. Admit that the plaintiffs' claim is as described, but deny the existence of any factual or legal basis for plaintiffs' claim. As to any remaining factual allegations, deny.

199. Deny.

200. Deny.

201. Deny.

COUNT II

202. These answering defendants repeat and re-allege their responses to paragraphs 1-195 of the plaintiffs' Complaint as if set forth herein.

203. Deny.

204. Deny.

205. Deny.

206. Deny.

COUNT III

207. These answering defendants repeat and re-allege their responses to paragraphs 1-195 of the plaintiffs' Complaint as if set forth herein.

208. Deny.

209. Deny.

210. Deny.

211. Deny.

212. Deny.

COUNT IV

213. These answering defendants repeat and re-allege their responses to paragraphs 1-195 of the plaintiffs' Complaint as if set forth herein.

214. Deny.

215. Deny.

216. Deny.

217. Deny.

218. Deny.

219. Deny.

220. Deny.

COUNT V

221. These answering defendants repeat and re-allege their responses to paragraphs 1-195 of the plaintiffs' Complaint as if set forth herein.

222. This allegation is a legal conclusion which does not require a response. As to any factual allegations implied or asserted, these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of the allegations and therefore denies the same.

223. Deny the Defendants "ordered" anything, as they cannot. Admit that the secrecy order of the John Doe judge imposes certain obligations on plaintiffs but these answering defendants lack sufficient knowledge and information to form a belief as to the truth or falsity of plaintiffs' allegation regarding "much of the facts alleged above" and therefore denies the same.

224. Admit that the secrecy order imposes certain obligations on plaintiffs. Deny any allegations that are inconsistent with the secrecy order, and deny that the secrecy order violates any constitutional rights or improperly causes irreparable injury.

225. Deny.

AFFIRMATIVE DEFENSES

Defendants Chisholm, Landgraf, and Robles, by and through their attorneys of record, Wilson Elser Moskowitz Edelman & Dicker, LLP, assert the following affirmative defenses to plaintiffs' Complaint filed February 10, 2014 as follows:

1. Plaintiffs' Complaint should be stricken for its failure to comply with the pleading requirement provided in Fed. R. Civ. P. 8(a),(d)(1).

2. Plaintiffs seek to impose on defendants liability for the conduct of third persons and entities over whom these defendants have no control.

3. Plaintiffs have failed to name indispensable and necessary parties.

4. This Court lacks jurisdiction over this matter because plaintiffs' claims involve only interpretation of a state statute without raising a federal question and without diversity amongst the parties.

5. These answering defendants are not proper parties because they did not, nor could they have, petitioned for or commenced the John Doe proceeding [REDACTED], and further these answering defendants do not have the authority to vacate the order commencing John Doe proceeding [REDACTED].

6. The Complaint is barred in its entirety by the doctrine of judicial abstention.

7. The Complaint is barred in whole or in part because it impermissibly seeks an advisory opinion from this Court. [REDACTED]

[REDACTED]

8. The Complaint, and each cause of action therein, fails to state facts sufficient to constitute a cause of action upon which relief may be granted against any of the answering defendants.

9. The plaintiffs' claims are barred by the Eleventh Amendment of the United States Constitution.

10. These defendants are entitled to absolute immunity from suit and liability.

11. These defendants are entitled to qualified immunity from suit and liability.

12. The plaintiffs, individually and collectively, lack standing to prosecute the claims alleged in the Complaint, in whole or in part.

13. The Complaint, and each alleged cause of action contained therein, is barred by the equitable doctrine of unclean hands.

14. Any damages alleged in the Complaint, which these answering defendants deny, were caused by and/or contributed to by plaintiffs' own acts or failures to act, and plaintiffs' recovery if any should be reduced by any amount proportionate to the amount by which such acts or failures to act caused or contributed to plaintiffs' alleged damages.

15. The Complaint, and each cause of action therein, is barred because the acts complained of were undertaken in good faith in a manner authorized and/or required by applicable law which controls plaintiffs' rights, if any, with regard to the matters alleged in the Complaint.

16. No threat of immediate harm exists to support a grant of injunctive relief.

17. Plaintiffs are entirely or partially barred from any recovery because of their failure to take reasonable and necessary steps to mitigate their alleged damages.

18. All or a portion of plaintiffs' claims are barred by the equitable doctrine of laches.

19. To the extent plaintiffs' claims are based on the doctrine of respondeat superior, such claims are barred because the doctrine of respondeat superior is not a basis for recovery under 42 U.S.C. § 1983.

20. The Complaint fails to state a claim and should be dismissed on grounds that the action is an unprecedented and baseless scheme to foreclose a valid state court proceeding in order to protect the plaintiffs and their accomplices from prosecution for their illegal activities.

21. The Complaint fails to state a claim and should be dismissed on grounds that plaintiffs have no First Amendment or other right to engage in [REDACTED] nor can the defendants consideration of such activity be deemed retaliation in violation of a valid or recognized constitutional right.

22. The Complaint should be dismissed on grounds that it seeks to enjoin or obtain other relief from parties outside the Court's jurisdiction and over whom the Court has no personal or subject matter jurisdiction.

23. The Complaint fails to state a claim and should be dismissed on grounds that the relief sought would violate the Due Process rights of persons and entities not represented in the matter.

24. The Complaint fails to state a claim on grounds that plaintiffs have failed to comply with Wisconsin Statutes and Federal Rules of Civil Procedure requiring impleader of the State of Wisconsin while implicitly and explicitly challenging the constitutionality of Wisconsin laws.

25. The Complaint fails to state a claim and should be dismissed on grounds that the relief requested would violate principals of comity, federalism, and Full Faith and Credit.

26. The Complaint fails to state a claim and should be dismissed on grounds that it is an improper collateral challenge to a valid and lawful orders of Wisconsin State Courts.

27. The Complaint fails to state a claim on grounds that it fails to allege with specificity any conduct by these defendants that has caused injury to plaintiffs or plaintiffs' rights.

28. The Complaint fails to state a claim on grounds that any damages or constitutional injury are vague and speculative.

29. The Complaint should be dismissed on principals of issue on claim preclusion arising out of the plaintiffs' parallel litigation in Wisconsin State Courts.

30. These defendant reserve the right to amend his answer and assert additional defenses as discovery proceeds.

PRAYER FOR RELIEF

WHEREFORE, Defendants pray for judgment against plaintiffs, as follows:

1. That judgment be awarded in favor of Defendants and against plaintiffs, and that the Complaint be dismissed with prejudice;

2. That Defendants be awarded their costs of suit;

3. That Defendants be awarded their reasonable attorneys' fees as may be determined by this Court; and

4. For such other and further relief as the Court shall deem just and proper.

PURSUANT TO FED. R. CIV. P. 38, THESE ANSWERING DEFENDANTS DEMAND TRIAL BY JURY.

Dated this 29th day of April, 2014.

WILSON ELSER MOSKOWITZ EDELMAN & DICKER,
LLP

/s/ Douglas S. Knott

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