

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

CYNTHIA ARCHER,

Plaintiff,

v.

Case No. 15-cv-992

JOHN CHISHOLM, DAVID ROBLES,
BRUCE LANDGRAF, ROBERT
STELTER, and DAVID BUDDE,

Defendants.

**ANSWER TO COMPLAINT ON BEHALF OF DEFENDANTS
DAVID BUDDE AND ROBERT STELTER**

NOW COME the defendants David Budde and Robert Stelter, by and through their attorneys of record, Wilson Elser Moskowitz Edelman & Dicker, LLP, and for their Answer to the Complaint by plaintiff Cynthia Archer, state and show the Court as follows:

**GENERAL STATEMENT REGARDING INFORMATION CONTAINED
HEREIN AND EXHIBITS ATTACHED HERETO**

Whether information and documents arising in a Wisconsin John Doe proceeding may be disclosed to the public is a matter for the Wisconsin judiciary. *O'Keefe v. Chisholm*, 769 F.3d 936, 943 (7th Cir. 2014). All information contained herein and exhibits attached hereto are disclosed publicly pursuant to the Order Permitting Use and Dissemination of John Doe Information and Materials—Cynthia Archer, executed on July 10, 2015 by the Honorable Neal P. Nettesheim, presiding John Doe Judge in *In the Matter of a John Doe Proceeding*, Milwaukee County Case No. 10-JD-7. A copy of the Order is attached hereto as Exhibit 1 and expressly incorporated herein. The information contained herein and exhibits attached hereto are necessary to respond adequately to the plaintiff's baseless and meritless allegations.

ANSWER

1. Since at least May 2010, the Milwaukee County District Attorney's Office, under the direction of Defendant Chisholm, has conducted a continuous campaign of harassment and intimidation against individuals and organizations in retaliation for their association with Scott Walker and their support for his policies, especially public sector collective-bargaining reforms, including 2011 Wisconsin Act 10 ("Act 10"). Defendants orchestrated home raids, issued invasive subpoenas, badgered victims in secret interrogations, and took numerous other actions calculated to silence the voices that favored Walker's agenda and to punish his allies for their support of and association with him.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

2. The purpose of these actions was retaliation. Defendant Chisholm informed subordinates in his office that it was his duty to "stop" Governor Walker from reforming public-sector unions in Wisconsin, and individuals at all levels of the office understood that the ongoing investigation into Walker's aides was undertaken for the purpose of ending Walker's political career and reversing his policies. That purpose was confirmed in the actions of Chisholm and his subordinates between 2010 and 2014. All Defendants were aware of that purpose and shared it.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

3. Plaintiff Cynthia Archer was a longtime close aide to Scott Walker and instrumental in drafting Act 10 and securing its enactment. Because of her association with Walker and her support of his policies, Defendants targeted Archer for investigation, seized her professional and personal email communications, staged a raid on her Madison home, directly or

indirectly leaked this event to reporters, and interrogated her at least seven times in Madison and Milwaukee. The scope of Defendants' warrant and searches was limitless, and Defendants detained Archer in her home for hours of questioning without giving her a *Miranda* warning, Defendants had no probable cause to believe she had committed a crime and never charged her or anyone else in any of the pretextual inquiries they claimed to be investigating as to Archer.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

4. Defendants' actions, as they anticipated, devastated Archer. She suffered severe mental and emotional distress as a direct result of Defendants' actions. This was the proximate result of Defendants' retaliatory purpose and would not have occurred otherwise.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

THE PARTIES

5. Plaintiff Cynthia Archer is an individual residing in Rock County, Wisconsin.

ANSWER: Upon information and belief, these answering defendants admit the allegations set forth in this paragraph.

6. Defendant John Chisholm is the District Attorney of Milwaukee County and, on information and belief, resides in Milwaukee County. He is named as a defendant in his personal capacity.

ANSWER: These answering defendants admit the allegations set forth in this paragraph.

7. Defendant David Robles is an Assistant District Attorney of Milwaukee County and, on information and belief, resides in Milwaukee County. He is named as a defendant in his personal capacity.

ANSWER: These answering defendants admit the allegations set forth in this paragraph.

8. Defendant Bruce Landgraf is an Assistant District Attorney in Milwaukee County and, on information and belief, resides in Milwaukee County. He is named as a defendant in his personal capacity.

ANSWER: These answering defendants admit the allegations set forth in this paragraph.

9. Defendant Robert Stelter is an investigator in the Milwaukee County District Attorney's office and, on information and belief, resides in Milwaukee County. He is named as a defendant in his personal capacity.

ANSWER: These answering defendants admit the allegations set forth in this paragraph.

10. Defendant David Budde is an investigator in the Milwaukee County District Attorney's office and, on information and belief, resides in Milwaukee County. He is named a defendant in his personal capacity.

ANSWER: These answering defendants admit that Defendant David Budde is the Chief Investigator in the Milwaukee County District Attorney's Office and resides in Milwaukee County.

JURISDICTION AND VENUE

11. This Court has personal jurisdiction over Defendants pursuant to Wis. Stat. § 801.05(1)(b) & (d) because Defendants are domiciled in this state and because all Defendants conduct substantial, non-isolated activities within this state.

ANSWER: These answering defendants removed this lawsuit, which alleges causes of action founded on 42 U.S.C. § 1983, to federal court pursuant to 28 U.S.C. § 1441. Therefore, this paragraph no longer has legal significance and is, thus, denied.

12. Venue is proper in this County pursuant to Wis. Stat. § 801.50(2)(a) & (c) because it is the County in which this claim arose, Defendants reside in this County, and Defendants conduct substantial, non-isolated activities within this County.

ANSWER: These answering defendants removed this lawsuit, which alleges causes of action founded on 42 U.S.C. § 1983, to federal court pursuant to 28 U.S.C. § 1441. Therefore, this paragraph no longer has legal significance and is, thus, denied.

FACTS

I. ARCHER'S LONGTIME POLITICAL RELATIONSHIP WITH WALKER AND HER ROLE IN CRAFTING AND ADVOCATING FOR ACT 10

13. Archer is a longtime public servant in Wisconsin state and local government. She began her career as a budget analyst in the Wisconsin budget office and worked her way through multiple administration director positions in Madison and across the state before becoming Deputy Secretary of Administration, effectively third in command in Wisconsin government.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

14. Most of her positions have been with Republican administrations. These include civil-service and appointed positions.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

15. In 2006, Archer interviewed with then-Milwaukee County Executive Scott Walker to become budget director for the Department of Administrative Services in Milwaukee County. She was hired for the position and reported to the Director of Administrative Services.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

16. In her capacity as budget director, Archer became a valuable policy advisor to then-County Executive Walker and Walker came to rely on her to carry out his agenda for the County. Archer became a supporter of Walker's policy agenda, unlike many career County employees and officers. In 2008, Archer was promoted to the Director of Administrative Services in Milwaukee County.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

17. Archer was well suited for her role as the Director of Administrative Services because of her Master's degree in Public Policy and Administration, her diligence in carrying out the Walker agenda, and her experience in similar positions in both state and local governments.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

18. In her new role, Archer was effectively third in command in the County, behind County Executive Scott Walker and his Chief of Staff, Tom Nardelli. The Department of Administration oversaw most agencies of the County government. Accordingly, Archer played a key role in developing and implementing Walker's policy agenda.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

19. Archer also played a key role in advocating for Walker's policy agenda within County government, including within the other County departments and before the County Board of Supervisors. Walker relied on her almost exclusively to carry forward his message and agenda.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

20. In her role as Director of Administrative Services, Archer oversaw labor negotiations with the union representing Milwaukee County employees. Given the various difficulties she experienced in dealing with the union, she came to believe that public-sector unions in Wisconsin had become too powerful and that their power should be curtailed so as to better serve the public interest.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

21. During her tenure in the Milwaukee County Executive's Office, Archer became acquainted with Defendant John Chisholm. Chisholm was aware of Archer's association with Walker and her support for Walker's policies. On information and belief, the other Defendants also became aware of these things.

ANSWER: These answering defendants lack information sufficient to either admit or deny that Archer became acquainted with defendant Chisholm or that defendant Chisholm was aware of Archer's association with then-County Executive Walker and her support for then-County Executive Walker's policies. These answering defendants admit that they became aware

of Archer's association with then-County Executive Walker when they began investigating Archer for criminal violations in 2010. These answering defendants lack information sufficient to either admit or deny that Archer personally supported then-County Executive Walker's policies.

22. When Scott Walker was elected governor in November 2010, he resigned as County Executive. Archer joined Walker's transition team in creating a new state administration in Madison. In that role, Archer interviewed potential appointees for various government positions, and she played a lead role in crafting policy for the Walker administration.

ANSWER: These answering defendants admit that, when Governor Walker was elected governor in November 2010, he resigned as County Executive. These answering defendants lack information sufficient to either admit or deny the remaining allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before November 2010.

23. Archer was appointed Deputy Secretary of Administration in the Walker administration. She answered to the Secretary of Administration and was second in command in the state Department of Administration. As in Milwaukee County, the Department of Administration oversees most departments of state government and is generally viewed as the most significant agency in Wisconsin government. Archer was therefore one of the top government officers in Wisconsin state government.

ANSWER: These answering defendants admit that Archer was appointed Deputy Secretary of Administration in the Walker administration. These answering defendants lack information sufficient to either admit or deny the remaining allegations set forth in this

paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before Archer's appointment as Deputy Secretary of Administration.

24. Walker appointed Archer to this role because of her prior experience in supporting and implementing his fiscal, policy, and political agendas, because they had a strong relationship from their time together in Milwaukee County, and because Walker knew that Archer would be an effective administrator.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before Archer's appointment as Deputy Secretary of Administration.

25. Archer's annual salary in this role was over \$124,000.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

26. When Walker proposed substantial public-sector collective-bargaining reforms, Archer played a lead role in crafting and implementing them. This role, however, was not inherent to her position as Deputy Secretary of Administration. Rather, recognizing the importance of the reforms and believing strongly that they represented substantial progress for Wisconsin, Archer took the initiative to participate in the policy-making, advising, drafting, and implementation processes.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of public-sector collective-bargaining reforms. These answering defendants

affirmatively state that they became aware of Archer's involvement with public-sector collective-bargaining reforms after the September 14, 2011 search warrant execution.

27. Archer took a lead role in overseeing the drafting of the legislation to ensure that the legislation reflected the Governor's intent and would succeed. Her review and analysis included every detail of the legislation, including making sure the appropriate classes of public-sector employees were covered in the legislation and ensuring the legislation did not conflict with existing statutory language or the Governor's intent. She was in regular contact with Walker during this process. Because of Archer and Walker's shared experience in managing relations with public-sector unions, Archer was also able to provide advice to the Governor and his policy staff and draw their attention to issues they might not have otherwise recognized.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of public-sector collective-bargaining reforms. These answering defendants affirmatively state that they became aware of Archer's involvement with public-sector collective-bargaining reforms after the September 14, 2011 search warrant execution.

28. Both before and after Act 10 was passed, Archer became a point person for responding to Act 10-related inquiries from legislators, government officers and employees statewide. This role arose because Archer was intimately familiar with the details of the bill. Archer handled inquiries and complaints from Walker's cabinet and other state officials, as well as from the public university and various school districts and county-level offices and officials. Through this role Archer became associated with Act 10 in the minds of public officials and employees statewide, including in Milwaukee.

ANSWER: These answering defendants deny that Archer ever became associated with Act 10 in the minds of public officials and employees statewide, including in Milwaukee. These answering defendants lack information sufficient to either admit or deny the remaining allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of public-sector collective-bargaining reforms. These answering defendants affirmatively state that they became aware of Archer's involvement with public-sector collective-bargaining reforms after the September 14, 2011 search warrant execution.

29. It was common knowledge in Milwaukee, Madison, and across the state—through news publications and through word of mouth—that Archer played a crucial role in drafting Act 10, supporting its passage, and implementing its provisions once enacted. On information and belief, all defendants became aware of these facts. All defendants also were aware of her political and policy-related association with Walker both in Milwaukee County and in Madison once Walker became governor.

ANSWER: These answering defendants deny that it was common knowledge in Milwaukee, Madison, and across the state—through news publications and through word of mouth—that Archer played a crucial role in drafting Act 10, supporting its passage, and implementing its provisions once enacted. Consequently, these answering defendants deny any such awareness. These answering defendants lack information sufficient to either admit or deny the remaining allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of public-sector collective-bargaining reforms. These answering defendants

affirmatively state that they became aware of Archer's involvement with public-sector collective-bargaining reforms after the September 14, 2011 search warrant execution.

II. DEFENDANTS' OPPOSITION TO WALKER AND ACT 10 AND THEIR RETALIATORY PURPOSE

30. Between January 2011 and June 2012, Wisconsin underwent the most tumultuous period of political events in recent history.

ANSWER: These answering defendants object to the allegations set forth in this paragraph as they are irrelevant, vague, hyperbolic, and matters of opinion. As such, these answering defendants deny the same. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before January 2011.

31. On November 2, 2010, candidates of the Republican Party won control of the executive and legislative branches of Wisconsin's government. Scott Walker was elected governor. He was inducted into office on January 3, 2011. Prior to that time, beginning in April 2002, Mr. Walker served as County Executive for Milwaukee County.

ANSWER: These answering defendants admit the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before November 2010.

32. Projecting severe budget shortfalls, the Walker gubernatorial administration proposed a "Budget Repair Bill" (also known as Act 10) in February 2011, which included various public-sector union reforms. Believing these reforms to be an existential threat to some Wisconsin unions, thousands of protestors flooded Madison, and protests were staged across the state. State senators opposing the Bill fled the state in an effort to thwart its passage by denying a quorum. The events gained nationwide press coverage.

ANSWER: These answering defendants admit that the Walker gubernatorial administration proposed a “Budget Repair Bill” (also known as Act 10). These answering defendants lack information sufficient to either admit or deny that severe budget shortfalls were projected. These answering defendants object to the remaining allegations set forth in this paragraph as they are irrelevant and vague, and these answering defendants lack information sufficient to either admit or deny them. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before February 2011.

33. Walker and his legislative allies succeeded in passing Act 10 on March 10, 2011, and the protests continued. Other efforts to reverse Act 10 were commenced, including numerous lawsuits. Death threats were made against Act 10 supporters, including Walker.

ANSWER: These answering defendants admit that the Legislature passed Act 10 and Walker signed Act 10 into law. These answering defendants object to the remaining allegations set forth in this paragraph as they are irrelevant and vague, and these answering defendants lack information sufficient to either admit or deny them. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before March 2011.

34. Recall efforts were undertaken against state legislators, including supporters and opponents of Act 10, resulting in special elections for a record nine legislators in 2011 and 2012. A recall effort was also launched against Governor Walker in November 2011, resulting in a special election on June 5, 2012. Milwaukee Mayor Tom Barrett was selected as Walker’s Democratic opponent in the recall election. Walker was victorious in that election.

ANSWER: These answering defendants object to the relevancy of the allegations set forth in this paragraph. These answering defendants admit that recall efforts were undertaken involving Legislators of both political parties. These answering defendants admit that recall

efforts were undertaken involving Governor Walker and that Governor Walker prevailed in a special election against nominee Mayor Tom Barrett. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before 2011.

35. Defendant Chisholm is—and was during that time period—the District Attorney for Milwaukee County, a partisan elected office. Defendant Chisholm campaigned for that office as a member of the Democratic Party.

ANSWER: These answering defendants admit the allegations set forth in this paragraph.

36. Defendants Landgraf and Robles are assistant district attorneys and play leadership roles in Chisholm’s administration. On information and belief, they were promoted to those roles at least in part because they share Chisholm’s political convictions.

ANSWER: These answering defendants admit that defendants Landgraf and Robles are Assistant District Attorneys. These answering defendants object to the allegation that defendants Landgraf and Robles play leadership roles in the District Attorney’s Office as it is vague. These answering defendants know of no formal leadership position held by defendants Landgraf and Robles in the District Attorney’s Office and know of no promotions received by either in the relevant time period. These answering defendants object to the allegation that defendants Landgraf and Robles were promoted to those roles at least in part because they share Chisholm’s political convictions because the term “political convictions” is vague and undefined. These answering defendants deny that the employment of defendants Landgraf and Robles has been affected in any way by defendant Chisholm’s political convictions.

37. Defendants Budde and Stelter are lead investigators in Chisholm's office and play similar leadership roles. On information and belief, they were promoted to those roles at least in part because they share Chisholm's political convictions.

ANSWER: Defendant Budde admits that he is the Chief Investigator in defendant District Attorney's Office. Defendant Stelter denies that he is a lead investigator in District Attorney's Office. These answering defendants object to the allegation that they play leadership roles in District Attorney's Office as it is vague. Defendant Budde is the Chief Investigator, a co-budget manager, and serves on the District Attorney's Office's executive committee. Defendant Stelter holds no formal leadership position. These answering defendants object to the allegation that defendants Budde and Stelter were promoted to those roles at least in part because they share Chisholm's political convictions because the term "political convictions" is vague and undefined. These answering defendants deny that their employment has been affected in any way by defendant Chisholm's political convictions. These answering defendants affirmatively state that they have never been promoted by Chisholm at all.

38. Defendant Chisholm has received significant support for his campaigns from labor unions, including unions affected by Act 10.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

39. Defendant Chisholm is a political ally of Milwaukee Mayor Tom Barrett—a two-time Democratic gubernatorial candidate and two-time Walker opponent. Chisholm expressly advocated for Mr. Barrett's reelection as mayor in 2008, but did not report his advocacy as a

contribution to Barrett. On information and belief, Chisholm has lent Mr. Barrett other political support at various times in their respective political careers.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph.

40. On information and belief, Chisholm supported Barrett over Walker for the 2010 gubernatorial election. Chisholm and Walker were political antagonists, and there were several points of contention between them.

ANSWER: These answering defendants lack information sufficient to either admit or deny that defendant Chisholm supported Mayor Barrett over Governor Walker for the 2010 gubernatorial election. These answering defendants object to the remaining allegations in this paragraph as they are vague and, as such, deny the same. These answering defendants affirmatively state that Governor Walker and defendant Chisholm have cooperated on matters in the past, including the creation of the witness protection program and the formulation of budgets for District Attorney's Offices.

41. Like many public-sector employment divisions, assistant district attorneys in Wisconsin are represented by a union, which was affected by Act 10. Under Act 10, assistant district attorneys, including Defendants Landgraf and Robles, were required to contribute more to their health care and pension plans than was required previously, resulting in a direct financial impact to them.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

42. During the political upheaval surrounding Act 10, including in 2011 and 2012, the Milwaukee County District Attorney's Office became a hotbed of pro-union, anti-Act 10, and anti-Walker activity. Among other things, "Blue-Fist" signs were posted in various public areas of the Milwaukee County District Attorney's Office and in the parking lot, representing solidarity with the unions' political efforts against Walker.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. This never occurred to their knowledge. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

43. These signs were plainly visible in areas that Chisholm visited daily, and, on information and belief, Chisholm expressly or impliedly encouraged these expressions of opposition to Mr. Walker and made no effort to have the signs removed.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. This never occurred to their knowledge. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

44. Numerous employees of Chisholm's office supported the demonstrations against Walker's reforms, advocated for these demonstrations, and participated in these demonstrations during office hours. On information and belief, Chisholm was aware or should have been aware of this activity yet took no corrective action.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

45. On information and belief, Defendants Chisholm, Landgraf, and Robles lent express or implied support to these campaign activities on County property.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

46. Frequent discussions were held during office hours, on County time, by assistant district attorneys and others complaining about the purported negative impact of Walker's reforms on assistant district attorney pay and on public unions generally. On information and belief, Defendants Chisholm, Landgraf, and Robles shared these views, never took corrective action, and expressly or impliedly encouraged this activity during work hours.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

47. At least 43 and possibly as many as 70 employees within Chisholm's office signed the petition advocating for the recall of Governor Walker. This included at least one Deputy District Attorney, 19 Assistant District Attorneys, and other members of the District Attorney's Public Integrity Unit.

ANSWER: These answering defendants object to the allegations set forth in this paragraph as they are irrelevant. These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

48. Just one of many examples of the support provided by individuals in Chisholm's office was a "Recall Walker" yard sign identified in the front lawn of the residence of Defendant Budde, Budde and the other Defendants, on information and belief, supported the recall effort and advocated against Walker's policies, especially concerning collective bargaining.

ANSWER: Defendant Budde admits that a "Recall Walker" yard sign was in his front lawn on behalf of others in his household. These answering defendants object to the remaining allegations set forth in this paragraph as they are vague and, consequently, unanswerable. As such, they deny the same. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

49. As of April 2012, employees in Chisholm's office had donated to Democratic over Republican candidates by roughly a four to one ratio.

ANSWER: These answering defendants object to the allegations set forth in this paragraph as they are irrelevant. These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. Defendant Stelter admits that he has donated to the Republican National Committee and Republican candidates in the past. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

50. Defendant Chisholm's wife, Colleen, is a public school teacher and a union shop steward for the union, representing the employees at her school. That union was also affected by Act 10. Chisholm and his wife attended anti-Act 10 rallies.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state

that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

51. In March 2011, around the time Act 10 passed, Defendant Chisholm informed a junior prosecutor in his office, Michael Lutz, of Chisholm's personal, emotional, and political interest in the ongoing budget reform debate.

ANSWER: These answering defendants deny that Michael Lutz was a junior prosecutor in District Attorney's Office. These answering defendants lack information sufficient to either admit or deny the remaining allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

52. Mr. Lutz informed Chisholm that he had interest in working on the campaign of Wisconsin Supreme Court Justice David Prosser, who is generally believed to be associated with conservative politics and legal positions. Mr. Lutz also informed Chisholm that Mr. Prosser was interested in meeting with Chisholm to discuss criminal justice reform issues and explore the possibility of support by Chisholm for Prosser's campaign.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

53. Defendant Chisholm informed Mr. Lutz that neither Mr. Lutz nor anyone else in Chisholm's office would be permitted to participate in Justice Prosser's campaign.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state

that they were never told by anyone in the District Attorney's Office, including defendant Chisholm, that they could not participate in any political campaign, including Justice Prosser's campaign. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

54. Defendant Chisholm informed Mr. Lutz that he could not support any right-leaning candidate for the Wisconsin Supreme Court. In particular, Chisholm expressed the concern that Act 10 would likely be subject to litigation and come before the Wisconsin Supreme Court. Defendant Chisholm expressed that he "could not stand" to have Justice Prosser on the Wisconsin Supreme Court, given that Justice Prosser would likely vote to uphold Act 10.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that they have never heard defendant Chisholm state anything to the effect that he "could not stand" to have Justice Prosser on the Wisconsin Supreme Court for any reason. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

55. Mr. Lutz understood Chisholm's statements to be a threat of termination if Mr. Lutz supported Justice Prosser's campaign.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

56. In the same meeting, Chisholm informed Mr. Lutz that Act 10 was devastating to unions and their members and that Chisholm believed it was his “duty” to “stop Governor Walker from treating people that way.”

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that they have never heard defendant Chisholm state anything to the effect that it was his “duty” to “stop Governor Walker from treating people that way.” These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

57. Defendant Chisholm informed Mr. Lutz that Chisholm’s wife was often moved to tears after talking to her fellow teachers concerning the potential effects of Act 10. Chisholm informed Mr. Lutz that his wife cried at home after discussions of Act 10.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that they have never heard defendant Chisholm discuss his wife’s opinions on Act 10. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

58. Defendant Chisholm also informed Mr. Lutz that he had a personal dislike for Governor Walker that stemmed from their interactions when Walker served as Milwaukee’s County Executive.

ANSWER: These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state

that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

59. Based on these statements and corroborating statements by Chisholm's subordinates, Mr. Lutz concluded that Defendant Chisholm was allowing partisan animus to influence his official decisions as the Milwaukee County District Attorney.

ANSWER: These answering defendants object to the relevancy of the allegations set forth in this paragraph. These answering defendants lack information sufficient to either admit or deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

60. On information and belief, Chisholm impliedly or expressly informed other subordinates—including all Defendants—that he opposed Act 10 and Walker's other policies. They understood that the means to promotion in his office was by using their power as prosecutors and investigators in a manner that would be politically advantageous for Chisholm and politically disadvantageous for Walker and Act 10.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

III. DEFENDANTS' RETALIATORY ACTIONS

61. In order to "stop" Walker, Defendants worked in tandem to launch and conduct an aggressive investigation into him, his associates, and his supporters.

ANSWER: These answering defendants deny that they acted in order to "stop" Governor Walker, whatever the plaintiff means by that allegation. These answering defendants

affirmatively state that the investigation of Archer for criminal violations began before the crafting or implementation of Act 10.

62. The ostensible basis Defendants used to launch this campaign of harassment was a tip provided by Walker's own Chief of Staff, Nardelli, who told Defendant Budde in April 2009 that a few thousand dollars had gone missing from a local charity. Nardelli informed Budde that Nardelli believed that an individual named Kevin Kavanaugh had stolen these funds. From April 2009 to May 2010, however, Chisholm's office did little if anything to investigate the matter and took no action against Kavanaugh.

ANSWER: These answering defendants deny any campaign of harassment. These answering defendants admit that then-County Executive Walker's Chief of Staff, Tom Nardelli, told defendant Budde in April 2009 that approximately \$11,000 in funds held in trust by the Military Order of the Purple Heart, a charity organization for war veterans and their families, had gone missing following the receipt of those funds from the County Executive's Office. The funds originated from donations collected at the County charity event known as "Operation Freedom." These answering defendants admit that Nardelli further told defendant Budde that he believed that Kevin Kavanaugh, a county official who was also the treasurer of the Military Order of the Purple Heart, may be responsible. These answering defendants deny that, from April 2009 to May 2010, the District Attorney's Office did little if anything to investigate the matter and took no action against Kavanaugh. These answering defendants affirmatively state that, during this period of time, the County Executive's Office was uncooperative and obstructed the District Attorney's Office's efforts to obtain documentation of the County's receipt and disbursement of donations from Operation Freedom. As a consequence, the District Attorney's Office was forced to petition a John Doe proceeding in order to have legal mechanisms to obtain relevant

documentation from the County Executive's Office. A copy of the Petition for Commencement of a John Doe Proceeding and supporting Affidavit filed with the John Doe Court are attached hereto as Exhibit 2 and expressly incorporated herein. See pages 1-2 of the Petition and 2-3 of the Affidavit. These documents were reviewed by two judges, Chief Judge Jeffrey A. Kremers and appointed John Doe Judge Neal P. Nettesheim, who both agreed that they set forth cause to commence a John Doe proceeding. Copies of these Orders, which show that the John Doe proceeding was commenced on or about May 11, 2010, are attached hereto as Exhibit 3 and expressly incorporated herein. Kavanaugh, along with former Deputy Chief of Staff for then-County Executive Walker, Timothy Russell, were later charged and convicted of felonies for stealing in excess of \$60,000 in charitable donations received from Operation Freedom based on documents which were obtained through the John Doe proceeding and which were not made available by the County Executive's Office prior to the John Doe proceeding. *State v. Kavanaugh*, Milwaukee Co. Case No. 12-CF-52 (filed January 5, 2012); *State v. Russell*, Milwaukee Co. Case No. 12-CF-53 (filed January 5, 2012). Defendant Stelter further affirmatively states that he was not hired by the District Attorney's Office until September 2010.

63. But in May 2010, when Walker emerged as the leading candidate for the governorship, Chisholm's office sprang to action. Defendant Landgraf, working with the other Defendants, asked a judge to open a John Doe investigation into the missing funds.

ANSWER: These answering defendants deny that, in May 2010, when Walker emerged as the leading candidate for the governorship, Chisholm's office sprang to action. These answering defendants repeat their Answer to Paragraph 62 and expressly incorporate it herein. These answering defendants admit that Defendant Landgraf signed the Petition to open a John

Doe proceeding into the missing funds. Defendant Stelter further affirmatively states that he was not hired by the District Attorney's Office until September 2010.

64. In fact, the missing money was a pretext, and the purpose was to obtain warrants to raid Walker's office, which Defendants did within a week. There were multiple other misrepresentations and half-truths in the John Doe petition. The purpose was political.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants affirmatively state that the purpose of initiating the John Doe proceeding was stated explicitly in the Petition for Commencement of a John Doe Proceeding and supporting Affidavit, attached hereto as Exhibit 2 and expressly incorporated herein. These answering defendants repeat their Answer to Paragraph 62 and expressly incorporate it herein. In order to obtain the documents that the County Executive's Office refused to produce, the District Attorney's Office applied for subpoenas and search warrants during the course of the John Doe proceeding, all of which were reviewed by John Doe Judge Nettesheim. Defendant Stelter further affirmatively states that he was not hired by the District Attorney's Office until September 2010.

65. Defendants immediately targeted the private email accounts of Walker aides and began seeking to expand the investigation until the investigation had become an open-ended fishing expedition. None of the additional avenues of investigation bore any relation to the missing charitable funds.

ANSWER: These answering defendants deny that the John Doe proceeding was ever "an open-ended fishing expedition" and deny that none of the additional avenues of investigation bore any relation to the missing charitable funds. These answering defendants admit that they sought emails from County Executive employees. These answering defendants affirmatively

state that, during the course of the John Doe proceeding, certain subpoenas and search warrants—all of which were reviewed and approved by John Doe Judge Nettesheim upon a finding of probable cause—which sought to investigate one criminal violation yielded evidence of one or more other criminal violations. This commonly occurs in criminal investigations of any type. Additionally, during the course of the John Doe proceeding, sources of information independent from the John Doe proceeding provided evidence of one or more other criminal violations. When subpoenas and search warrants which sought to investigate one criminal violation yielded evidence of one or more other criminal violations, or when sources of information independent from the John Doe proceeding provided evidence of one or more other criminal violations, the District Attorney's Office did not simply ignore these criminal violations. The District Attorney's Office petitioned John Doe Judge Nettesheim to expand the scope of the John Doe proceeding to include the subject matter of those criminal violations based on the previously-acquired evidence. Each of these petitions to expand the scope of the John Doe proceeding, together with the evidence supporting the petition, was reviewed and approved by John Doe Judge Nettesheim. As such, not all of the criminal violations discovered during the John Doe proceeding related directly to the \$60,000+ in donations that Kavanaugh and Russell stole from Operation Freedom. For example:

a. Electronic information obtained while investigating Russell's theft of charitable donations from Operation Freedom contained sexually explicit pictures of males who appeared to be under the age of 18, and appeared to be as young as 12 to 16 years old, on computers shared by Russell and Brian Pierick, Russell's domestic partner. Electronic information obtained from Pierick's cell phone contained sexually explicit text message conversations with a 17-year-old boy. Based on these text message conversations, Pierick was

later charged and convicted of intentionally contributing to the delinquency of a minor. *State v. Pierick*, Waukesha Co. Case No. 12-CF-22 (filed January 5, 2012).

b. Evidence obtained during the investigation from legal processes approved by John Doe Judge Nettesheim contained documentation of the existence of a non-County wireless network, set up within the County Executive's Office, to allow employees to undertake campaign activities on county time without having to produce the electronic correspondences pursuant to open records requests. Believing that the correspondence exchanged on the non-County wireless network may contain evidence relating to the theft of charitable funds, John Doe Judge Nettesheim approved retrieval of electronic correspondence from Kelly Rindfleisch, the Deputy Chief of Staff for then-County Executive Walker and Russell's successor. Electronic correspondence obtained from Rindfleisch contained evidence that she communicated with campaign advisors to then-County Executive Walker, a then-gubernatorial candidate, and Brett Davis, a then-candidate for lieutenant governor, on county time. Based on this electronic correspondence, which involved more than one thousand offending emails that she either sent or received while serving as the Deputy Chief of Staff, John Doe Judge Nettesheim approved an expansion of the scope of the John Doe proceeding to include Rindfleisch's misconduct in public office for performing campaign fundraising on county time. Rindfleisch was later charged and convicted of a felony for misconduct in public office. *State v. Rindfleisch*, Milwaukee Co. Case No. 12-CF-438 (filed January 26, 2012).

c. After the John Doe proceeding had commenced, the Milwaukee Journal Sentinel reported on May 14, 2010 that Darlene Wink, the constituent services coordinator for the County Executive's Office, admitted to the newspaper that she frequently posted comments on a Journal Sentinel political blog promoting then-County Executive Walker as a gubernatorial

candidate while on county time and in her county suite. Based on the statements Wink made to the Journal Sentinel, John Doe Judge Nettesheim approved retrieval of Wink's electronic correspondence. Electronic correspondence obtained from Wink contained hundreds of emails which organized campaign events for then-County Executive Walker, a then-gubernatorial candidate, while on county time. Based on this electronic correspondence, John Doe Judge Nettesheim approved an expansion of the scope of the John Doe proceeding to include Wink's political solicitation violations. Wink was later charged and convicted of political solicitation involving public officials and employees. *State v. Wink*, Milwaukee Co. Case No. 12-CM-579 (filed January 26, 2012).

d. After the John Doe proceeding had commenced, the District Attorney's Office learned of a May 10, 2010 memorandum from the Director of the Government Accountability Board ("GAB") to the GAB Board which contained a statement from an individual who was asked by William Gardner, a railroad executive and campaign donor to then-County Executive Walker, to donate \$10,000 of Gardner's money to Friends of Scott Walker, the gubernatorial campaign for then-County Executive Walker. The statement also reflected that Gardner had asked other associates to do the same. Based on this statement, John Doe Judge Nettesheim approved an expansion of the scope of the John Doe proceeding to include Gardner's excessive and unlawful political contributions. Gardner was later charged and convicted of felonies for excessive political contributions and intentional unlawful political contributions. *State v. Gardner*, Washington Co. Case No. 11-CF-137 (filed April 11, 2011).

66. Instead, their targets were Walker's associates and employees as well as a donor to his campaign. The only common denominator among the various pretextual lines of

investigation was Walker. The actual purpose of the investigation was to retaliate against Walker and his associates for their political and policy positions.

ANSWER: These answering defendants admit that some of the individuals investigated during the John Doe proceeding were then-County Executive Walker's associates and employees and that one individual was a donor to his campaign. These answering defendants lack information sufficient to either admit or deny as to whether then-County Executive Walker considered Pierick, who was convicted for exchanging sexually explicit text messages with a 17-year-old boy, an associate. These answering defendants deny that the John Doe proceeding was pretextual; that the only common denominator was then-County Executive Walker; or that the actual purpose of the investigation was to retaliate against then-County Executive Walker and his associates for their political and policy positions. These answering defendants repeat their Answers to Paragraphs 62 and 65 and expressly incorporate them herein.

67. Defendants sought and obtained all emails in the custody of individuals of whom they had no probable cause to suspect any criminal activity and did not even represent to be targets. The John Doe judge repeatedly granted requests of this nature and did not place any meaningful limits on the mails Defendants could obtain from non-targets.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants affirmatively state that all emails obtained during the John Doe proceeding were pursuant to subpoenas and search warrants. All subpoenas and search warrants were reviewed and approved by John Doe Judge Nettesheim upon a finding of probable cause.

68. After rummaging through these materials at will. [sic] Defendants would then claim they had a basis for targeting other persons, and the process would repeat itself. All targets Defendants selected for their investigation were connected to Walker in some way.

ANSWER: These answering defendants admit that, during the John Doe proceeding, documents were obtained pursuant to subpoenas and search warrants. All subpoenas and search warrants were reviewed and approved by John Doe Judge Nettesheim upon a finding of probable cause. These documents were reviewed by the District Attorney's Office and some of them provided the basis for investigating individuals for criminal violations. The scope of the John Doe proceeding was altered based on these suspected criminal violations, and these proposed alterations to the John Doe proceeding were reviewed and approved by John Doe Judge Nettesheim upon a finding of cause. These answering defendants repeat their Answers to Paragraphs 62 and 65 and expressly incorporate them herein. These answering defendants admit that evidence dictated who was investigated for criminal violations and that some of the individuals investigated were connected to then-County Executive Walker in some way. These answering defendants lack information sufficient to either admit or deny as to whether all individuals investigated were connected to then-County Executive Walker in some way.

69. In written correspondence to Defendant Chisholm, Mr. Nardelli expressed his view that the John Doe investigation was unnecessary because all the relevant facts to obtain a conviction regarding the embezzled funds had been discovered. Mr. Nardelli expressed his concern that Defendant Chisholm was undertaking the investigation out of an improper political motive to harm Scott Walker's bid for governor.

ANSWER: These answering defendants object to the allegations set forth in this paragraph as they are irrelevant to the plaintiff's claims. These answering defendants admit that,

in written correspondence to defendant Chisholm, Nardelli expressed his view that the John Doe proceeding was unnecessary because all the relevant facts to obtain a conviction regarding the embezzled funds had been discovered. These answering defendants deny that the John Doe proceeding was unnecessary; Nardelli was not privy to the information obtained through the John Doe proceeding. These answering defendants admit that Nardelli expressed his concern that defendant Chisholm was undertaking the investigation out of an improper political motive to harm then-County Executive Walker's bid for governor. These answering defendants deny that the John Doe proceeding was undertaken out of an improper or any other political motive to harm then-County Executive Walker's bid for governor; Nardelli was not privy to the information obtained through the John Doe proceeding. These answering defendants repeat their Answers to Paragraphs 62 and 65 and expressly incorporate them herein.

70. This was but one of many examples of recognition by persons involved and observers that the investigation was conducted for political purposes. A Wisconsin circuit court judge, in a case brought by an individual jailed by Landgraf, observed on the record in open court that the purpose of Landgraf's actions was political. Attorneys for various individuals that were targeted or questioned by Defendants expressed amazement at Defendants' outrageous actions.

ANSWER: These answering defendants object to the allegations set forth in this paragraph as they are irrelevant to the plaintiff's claims. These answering defendants deny that the John Doe proceeding was conducted for political purposes. These answering defendants are unaware of the "many examples of recognition by persons involved and observers that the investigation was conducted for political purposes" or that "[a]ttorneys for various individuals that were targeted or questioned by Defendants expressed amazement at Defendants' outrageous

actions referenced by the plaintiff.” These answering defendants lack information sufficient to either admit or deny the remaining allegations set forth in this paragraph.

71. Defendants staged raids at an unknown number of homes and businesses, they jailed witnesses who did not provide incriminating testimony against Walker or those close to him, and they engaged in surveillance of electronic communications to targets and non-targets alike. Defendants questioned witnesses in secret sessions, usually not in the presence of a judge, and verbally abused those witnesses—such as by screaming at them—in an effort to intimidate them and persuade them to give incriminating testimony against Walker.

ANSWER: These answering defendants deny that they staged “raids.” These answering defendants admit that they executed search warrants on individuals’ homes and businesses, all of which were reviewed and approved by John Doe Judge Nettesheim upon a finding of probable cause. These answering defendants deny that they ever jailed witnesses who did not provide incriminating testimony against Governor Walker or those close to him. These answering defendants deny that there were ever any wire taps or other surveillance of electronic communications at any time during the John Doe proceeding. These answering defendants deny that anyone was ever questioned in “secret sessions.” While some individuals provided voluntary statements in the presence of their attorneys and outside the presence of a judge, most witnesses were questioned before John Doe Judge Nettesheim. Witnesses who gave statements absent a subpoena or search warrant were not bound by the secrecy order imposed by John Doe Judge Nettesheim. These answering defendants deny that they ever verbally abused witnesses or screamed at witnesses in an effort to intimidate or persuade them to provide testimony of any kind. This never occurred.

72. Many of the events were timed around significant political events, such as a raid of the County Executive's office the day before the 2010 gubernatorial election.

ANSWER: These answering defendants deny that the County Executive's Office was ever "raided." These answering defendants admit that a search warrant, approved by John Doe Judge Nettesheim upon a finding of probable cause, was executed on the County Executive's Office on November 1, 2010 but deny that it had anything to with the 2010 gubernatorial election. These answering defendants affirmatively state that no information about the search warrant was made public during the 2010 gubernatorial election.

73. Defendants directly and indirectly leaked information about their investigation to reporters to smear the reputations of Walker aides and associates and to influence the debate about collective-bargaining reforms and, later, the recall efforts and special elections. The leaked information became fodder for anti-Walker attack advertisements.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. This allegation is untrue and frivolous.

74. One method of conveying secret information obtained in the investigation to the press was through overbroad criminal complaints, which included information concerning Walker even though that information had no bearing on the alleged criminal activity and did not remotely demonstrate the guilt of the accused. Multiple Defendants, including Budde and Stelter, were involved in drafting these complaints, and they did so for political purposes. Defendant Landgraf took similar actions in sentencing hearings where he disclosed political information to the press corps that had little or nothing to do with the defendant being sentenced.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. Defendant Stelter admits that he assisted in drafting criminal complaints against

Timothy Russell, Brian Pierick, Kelly Rindfleisch, and Darlene Wink. Defendant Budde admits that he may have had a role in reviewing criminal complaints against Kevin Kavanaugh, Timothy Russell, Brian Pierick, Kelly Rindfleisch, and Darlene Wink. Copies of these Criminal Complaints are attached hereto as Exhibits 4 through 9 and expressly incorporated herein.

75. This information also became fodder for anti-Walker attack advertisements during the recall petition drive and special election from 2011 through 2012. That was the natural and probable consequence of disclosing unnecessary political information to the public, and Defendants intended that result, further evidencing their retaliatory purpose.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraphs 74 and expressly incorporate it herein.

76. Meanwhile, targets and witnesses were told that they could not defend their reputations or otherwise speak about the investigation on pain of contempt because of a secrecy order imposed by the John Doe judge. Those involved therefore had to watch in silence as their reputations and, in some cases, livelihoods were destroyed, as a result of the actions of Defendants. They were also afraid to report Defendants' flagrant abuses occurring in secret interrogation sessions.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants admit that John Doe Judge Nettesheim issued a secrecy order in the John Doe proceeding pursuant to Wis. Stat. § 968.26. A copy of the secrecy order is attached hereto as Exhibit 10 and expressly incorporated herein. These answering defendants affirmatively state that all witnesses and their counsel were free to bring any objections or grievances to John Doe Judge Nettesheim.

77. In the two-year period between May 2010 and May 2012, the investigation was formally expanded at least 18 times.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

78. In August 2012, Defendant Robles petitioned for a second John Doe proceeding, also to target Walker, his campaign, and his supporters. Subsequently, four additional separate proceedings were commenced, and Defendants continued their retaliatory efforts against Walker through these investigations and through independent means, until a judge finally scrutinized their stated basis for investigation and found that their actions in these proceedings were unsupported by probable cause. Since then, Defendants have explored every avenue possible to continue to carry out their political vendetta against Walker and his supporters.

ANSWER: These answering defendants admit that defendant Robles petitioned for a second John Doe proceeding in August 2012 and that four additional separate John Doe proceedings were commenced. These answering defendants deny the remaining allegations set forth in this paragraph.

IV. DEFENDANTS INVADE ARCHER'S HOME

79. Sometime in late spring 2011, Defendants set their sights on Archer. Act 10 had recently passed, and protests and civil unrest engulfed the state. Defendants were participants in and supporters of those efforts and had by this time, at the very latest, turned the John Doe investigation to political uses.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants affirmatively state that Archer became a focus of investigation in the John Doe proceeding beginning in August and September 2010 (before the

gubernatorial election had occurred or Act 10 was ever an issue). Her initial involvement in the John Doe proceeding was threefold:

a. The Ruess Federal Plaza Bid Information: Based on electronic correspondence obtained from Russell by way of a search warrant during the investigation into stolen charity payments and a August 27, 2010 letter from Jerome Herr, the Director of the County Department of Audit, the investigation revealed misconduct relating to the bidding process for housing the County's Department on Aging in August 2010. Copies of the September 28, 2010 Fifth Petition for Enlargement of the Scope of the John Doe Proceedings and the supporting Affidavit are attached hereto as Exhibit 11 and expressly incorporated herein. The documents providing the basis for this aspect of the investigation are attached to the supporting Affidavit in Exhibit 11, and Archer is referred to in paragraphs 11-13 therein. This petition was granted by John Doe Judge Nettesheim upon a finding of cause. A copy of this Order is attached hereto as Exhibit 12 and expressly incorporated herein.

b. Political Activities on County Time: Based on electronic correspondence obtained from Russell and Rindfleisch, by December 2010 the investigation revealed misconduct relating to Archer's political activities performed on county time. Signed copies of the December 17, 2010 Search Warrant and the Affidavit in Support of Application for Search Warrants (Information and Records Relating to Cindy Archer) are attached hereto as Exhibit 13 and expressly incorporated herein. Copies of the January 14, 2011 Eighth Petition to Enlarge the Scope of John Doe Proceeding is attached hereto as Exhibit 14 and expressly incorporated herein. This petition was granted by John Doe Judge Nettesheim upon a finding of cause. A copy of this Order is attached hereto as Exhibit 15 and expressly incorporated herein.

c. Circumvention of Open Record Laws: Based on electronic correspondence obtained from multiple sources, including Archer, by February 2011 the investigation revealed Archer's unlawful circumvention of Wisconsin open record laws. Copies of the February 7, 2011 Tenth Petition to Enlarge Scope of John Doe Proceeding and the supporting Affidavit are attached hereto as Exhibit 16 and expressly incorporated herein. This petition was granted by John Doe Judge Nettesheim upon a finding of cause. A copy of this Order is attached hereto as Exhibit 17 and expressly incorporated herein.

80. Defendants were aware of Archer's role in drafting and advocating for the reforms they opposed. They were also aware of her longstanding association with, and close ties to, Walker as his political appointee and supporter. Archer was targeted in retaliation for her political and policy views, her actions and speech to promote those views, and her expressive associations with and in support of Walker.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 79 and expressly incorporate it herein.

81. Defendants directly or indirectly leaked to the media that Archer was a target. A reporter asked Governor Walker about the investigation in June 2011. The reporter stated that "the talk at the courthouse right now is that the John Doe investigation has been focusing on your current Deputy Secretary of Administration"—referencing Archer. The only plausible source of that information was Chisholm's office, and, on information and belief, that leak was directly or indirectly caused by some or all Defendants and with the approval of Defendant Chisholm, despite being subject to the same secrecy order imposed by the John Doe judge. At a minimum, Chisholm took no meaningful efforts to stop leaks from his office or cure the damage they

caused. Archer was not aware of this interview at the time and was not informed that Defendants had made her a target.

ANSWER: These answering defendants lack information sufficient to admit or deny what reporters might have told Governor Walker in June 2011. These answering defendants deny the remaining allegations set forth in this paragraph.

82. On or about September 13, 2011, Archer received a phone call from Steve Schultz of the *Milwaukee Journal Sentinel*. He asked her whether she was a target of the John Doe investigation. Having no reason to believe she had done anything wrong, she responded in the negative. On information and belief, Schultz had been tipped off directly or indirectly by Defendants about what was about to occur.

ANSWER: These answering defendants lack information sufficient to admit or deny what reporters might have told Archer on September 13, 2011. These answering defendants deny the remaining allegations set forth in this paragraph.

83. At dawn on September 14, 2011, roughly a dozen law-enforcement officers, acting under Chisholm's orders, raided Archer's home in Madison. David Budde and Robert Stelter were involved in overseeing the raid and coordinated it with another raid that occurred at the same time, also at the home of an associate of Walker. This raid was conducted with the support of Chisholm, Landgraf, and Robles, who intended it as retaliation for Archer's association with Walker and support of his policies. The Defendants were aware of this purpose and shared in and supported it.

ANSWER: These answering defendants deny that Archer's home was "raided" on September 14, 2011. None of the defendants were present when the search warrant was executed. Investigator Weiss of the District Attorney's Office was present during the execution

of the search warrant. Signed copies of the September 13, 2011 Search Warrant and supporting Affidavit are attached hereto as Exhibit 18 and expressly incorporated herein. Copies of the February 28, 2011 and September 13, 2011 Affidavits specifically incorporated into Exhibit 18 are attached hereto as Exhibit 19 and expressly incorporated herein. A copy of the Federal Bureau of Investigation's September 19, 2011 Report on the Execution of the Search Warrant, including photographs, is attached hereto as Exhibit 20 and expressly incorporated herein. These answering defendants deny that they oversaw or coordinated the execution of the search warrant, and they deny that there was any purpose for the search warrant other than the purpose stated in Exhibit 18.

84. That morning, Archer was asleep in her bed and was not dressed. Archer's partner was in the shower. Archer awoke at dawn to thunderous hammering on her front door and the coordinated yelling of the investigative team members, who ordered her to open the door immediately or they would break it down. The noise was sufficiently loud to be heard throughout the neighborhood. Through a window by her bed, Archer saw a battering ram on the front lawn.

ANSWER: These answering defendants were not present on September 14, 2011. These answering defendants lack information sufficient to admit or deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein.

85. Alarmed and believing the team would burst through immediately. Archer ran downstairs without dressing, and the investigators saw her naked through the glass on the front door. Some yelled at her to get dressed, and others ordered her to open the door. Confused, she grabbed clothing and dressed in their line of sight.

ANSWER: These answering defendants were not present on September 14, 2011. These answering defendants lack information sufficient to admit or deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein.

86. Archer, within seconds of the investigators' entrance into the house, noticed a reporter taking notes in a notebook on the sidewalk in front of her house. He appeared to have been present before the beginning of the raid and must have been tipped off about what was going to happen at Archer's home (as Schultz had been). On information and belief, Chisholm's office was the direct or indirect source of the tip, and it was made with Chisholm's express or implied approval. The other Defendants, including Budde and Stelter, were aware of the press coverage of the event. Before long, a swarm of reporters had gathered around Archer's home, taking pictures, interviewing neighbors, and peering in at what was occurring. Neighbors also gathered and observed, as they could not help but hear the commotion.

ANSWER: These answering defendants were not present on September 14, 2011. These answering defendants deny that defendants tipped off a reporter or approved of the same. These answering defendants deny that they were aware of the press coverage of the event beforehand. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein.

87. When Archer opened the door, officers and others flooded in, throwing the warrant at her without giving her an opportunity to read it. Their guns were drawn, and Archer believed they would shoot her two dogs, who were barking at the intruders. There was no reason to believe drawn guns or even armed officers were required to protect the officers from the two

unarmed women who lived there. The purpose of these actions was retaliation, harassment, and intimidation.

ANSWER: These answering defendants were not present on September 14, 2011. These answering defendants deny that the purpose of the search warrant was retaliation, harassment, and intimidation. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. These answering defendants affirmatively state that the warrant was read to Archer upon the execution of the search warrant. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein. The audio recording at 3:56 (reading search warrant aloud to Archer) shows that this allegation is untrue and frivolous (see also Exhibit 19).

88. Officers, acting under orders of Chisholm, Landgraf, Robles, Budde, and Stelter, invaded every corner of the home. Even after Archer informed them that her partner was in the shower, they entered the bathroom where Archer's partner was clearly visible through the full-length clear glass door of the shower. They had no reason to believe evidence relevant to their pretextual purposes was in the bathroom while Archer's partner was showering. The purpose of these actions was retaliation, harassment, and intimidation.

ANSWER: These answering defendants deny that anyone, acting under the defendants' orders, invaded every corner of Archer's home. The defendants were not there. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. These answering defendants deny that the purpose of the search warrant was retaliation,

harassment, and intimidation. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph.

89. The officers monitored Archer's partner while she dressed, despite that the warrant did not allow them to search or detain her and that they had no reasonably articulable suspicion that she might place them in danger. They attempted to seize her partner's computer and cell phone despite having no authority in the warrant to seize her possessions. They would not allow her to leave the premises even though she expressed the need to leave for work where she was expected that morning; Archer's partner was required to stay in the home, against her will, for the duration of the raid. The purpose of these actions was retaliation, harassment, and intimidation.

ANSWER: These answering defendants deny that the purpose of the search warrant was retaliation, harassment, and intimidation. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. These answering defendants deny that anyone attempted to seize Archer's partner's cell phone. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein. The audio recording at 12:55 (expressing no need for Archer's partner's cell phone) shows that this allegation is untrue and frivolous.

90. The officers, including Stelter, informed Archer that they intended to question her during the raid. At that point, Archer reached for her cigarettes, and the officers screamed at her and forbade her from leaving the residence, even for a brief period to smoke a cigarette. When Archer questioned their orders, an officer stated "you can do it my way or you can do it your

way, but I can handcuff you right now and sit you right there”—he pointed to the couch. At that point, it was clear to Archer that she was forbidden from leaving her residence.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. These answering defendants deny the remaining allegations set forth in this paragraph. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein. The audio recording, including at 12:00 (offering Archer to get a coffee and smoke a cigarette) and 15:15 (going outside with Archer), shows that these allegations are untrue and frivolous.

91. Out of fear and intimidation, Archer agreed to answer their questions and to cooperate with their wishes. No one informed her that she had a constitutional right to remain silent and the right to an attorney. The purpose was retaliation and harassment, as well as to intimidate Archer into providing evidence that could be used against Walker and his other associates.

ANSWER: These answering defendants deny that the purpose of the search warrant was retaliation, harassment, or intimidation. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. These answering defendants deny the remaining allegations set forth in this paragraph. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein. The audio recording, including at 29:00 (reading Archer her *Miranda* rights), shows that these allegations are untrue and frivolous.

92. Officers, including Stelter, debated among themselves as to where in the house to question Archer: Some officers suggested she be questioned in the basement, instead of the dining room table, even though there was no seating available in the basement, and the only table there was covered with boxes. Archer was confused and afraid because the officers appeared resistant to interviewing her in the dining room in sight of persons outside the house who may have passed by.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. These answering defendants deny the remaining allegations set forth in this paragraph. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein. The audio recording, including at 20:05, shows that these allegations are untrue and frivolous.

93. During the questioning, Archer was asked why she went to a pay phone in the preceding days indicating that the Defendants or their agents had been following her. Archer replied that she had not been to a pay phone, but rather she went to an air pump to till her wheelbarrow tire.

ANSWER: These answering defendants admit that Archer's residence was surveilled prior to the execution of the search warrant on September 14, 2011. This is common practice to learn when the subject will be home versus at work and to learn the description of the home. This information is used in applying for the search warrant. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto

as Exhibit 21 and expressly incorporated herein. The audio recording at 2:44:43 supports this answer.

94. Archer was questioned about her relationship with Scott Walker and events that occurred during her tenure in Milwaukee. Archer understood their questions to be focused on obtaining information related to Scott Walker.

ANSWER: These answering defendants admit that Archer was questioned about Governor Walker as one of a variety of topics. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein.

95. Members of the investigative team exhaustively searched the home, including areas where there was little or no probability of finding items covered by the search warrant. They rifled through kitchen cabinets, dresser drawers, and closets. They went through the most intimate items in Archer's possession with no reason to believe any evidence was there.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph.

96. They left items Archer inherited from her mother strewn about the basement floor after emptying a cabinet. They left messes in other cabinets. Their purpose was to humiliate Archer.

ANSWER: These answering defendants deny that the purpose of the search warrant was to humiliate Archer. These answering defendants repeat their Answer to Paragraph 83 and

expressly incorporate it herein. These answering defendants affirmatively state that the exit photographs contained in Exhibit 20 show that these allegations are untrue and frivolous.

97. Because of the reporters outside, the news spread immediately on the Internet. This was the natural and probable consequence of Defendants' actions, and they intended it.

ANSWER: These answering defendants were not present on September 14, 2011. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph but deny any ill-intention. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein.

98. Defendant Stelter and others questioned Archer about events that occurred when she worked in the Milwaukee County Executive's Office under Walker. They had no probable cause to believe Archer committed any wrongdoing related to these events. Any concern they may have had regarding Archer's conduct could have been resolved with simple phone call or informal interview, which would have revealed that no criminal activity occurred.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants deny the remaining allegations set forth in this paragraph. These answering defendants repeat their Answers to Paragraphs 83 and 79 and expressly incorporate them herein. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein.

99. The raid lasted several hours, much longer than necessary. After questioning Archer, the officers seized her computer and her phone. Before they took her phone, Archer asked if she could obtain her brother's phone number from her contacts list. They rejected this

request. Archer's brother would fly to Madison from Texas the next day, and they were unable to contact each other to arrange a rendezvous.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph.

100. Before the investigators left, they asked Archer if she had anything else to say, making clear they expected her to tell them "anything at all" and reiterated: "now is the time to say it." Based on the content of their previous questioning, Archer understood that they were implying that she knew facts about Walker that she had not disclosed to them.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein. The audio recording shows that these allegations are untrue and frivolous.

101. At that time the investigators also informed Archer that they expected her to travel the next day to the Milwaukee County District Attorney's Office for further questioning. Archer asked if she should bring an attorney, and they represented that an attorney would not be necessary.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated herein. The audio recording shows that these allegations are untrue and frivolous.

102. After the raid, reporters maintained a vigil outside Archer's home to knock on her door, and to call her home phone number, as Defendants either expected or should have expected. Archer's home, including her street address, appeared on the front pages of Wisconsin newspapers, and the raid was a lead story on the evening news that day. Over the next several days, the news of the home raid on one of Walker's aides (Archer) made national news, further damaging Archer's professional reputation.

ANSWER: These answering defendants were not present on September 14, 2011 to know what reporters did or did not do. These answering defendants deny that the defendants either expected or should have expected that reporters would maintain a vigil outside Archer's home to knock on her door or to call her home phone number. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph but deny that Archer has alleged any cognizable injury.

103. The reporters were still in front of her house the next day, and Archer felt trapped inside her own home. Archer felt that they would not disperse until she made a statement, and she did not want them there when her brother arrived, so she allowed a brief interview.

ANSWER: These answering defendants lack information sufficient to admit or deny the allegations set forth in this paragraph.

104. During the raid, either Defendant Stelter or another agent of the Milwaukee DA, acting under Stelter's orders, informed Archer and her partner that they were not allowed to speak to anyone about what occurred because of a secrecy order issued by a Milwaukee judge. Archer therefore believed she was prohibited from defending herself in the press—or to anyone else—and she was unable to provide any information to the press in her defense, other than a general apology to her neighbors and a general statement regarding her innocence.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. These answering defendants admit that Archer was apprised of the secrecy order imposed by John Doe Judge Nettessheim. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph.

105. Articles have continued to be published about Archer until the present time, as Defendants either expected or should have expected. This has been humiliating for Archer and severely impaired her reputation and invaded her privacy.

ANSWER: These answering defendants lack information sufficient to admit or deny the allegations set forth in this paragraph but deny any ill-intention. These answering defendants deny that Archer has alleged any cognizable injury.

V. THE WARRANT

106. After the raid, Archer was finally able to read the warrant, which the officers had not given her time to read during the raid.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 21 and expressly incorporated

herein. The audio recording at 3:56 (reading search warrant aloud to Archer) shows that this allegation is untrue and frivolous (see also Exhibit 19).

107. There were no meaningful limits on the items to be searched or seized. The warrant was limited only by reference to overbroad statutes which could have covered any number of crimes and provided no limits to the discretion of officers in their search.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. Signed copies of the September 13, 2011 Search Warrant and supporting Affidavit are attached hereto as Exhibit 18 and expressly incorporated herein.

108. The warrant also included a list of topics, but the list was illustrative and did not limit the items to be seized in any way. The list did not include topics that were the subject of their search and their later questioning of Archer, indicating that no one believed the search was limited by these topics and those topics were pretexts to obtain the warrant.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. Signed copies of the September 13, 2011 Search Warrant and supporting Affidavit are attached hereto as Exhibit 18 and expressly incorporated herein.

109. The Milwaukee DA's office took possession of, among other things, every email Archer wrote or received on her personal email account beginning at least in 2006—years before any of the actions that were alleged to involve criminal wrongdoing. Subsequently, these emails were released to the public and now can be obtained at will by anyone. Many are available on the internet. Less than one percent—if that—of the emails are related even to the pretextual inquiries in the warrant. Defendants had no legitimate reason to seize Archer's private correspondence. They were aware that her private correspondence would likely be disclosed to the public. Their purpose was to embarrass and retaliate against Archer.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. Signed copies of the September 13, 2011 Search Warrant and supporting Affidavit are attached hereto as Exhibit 18 and expressly incorporated herein.

110. There was no probable cause to believe Archer had done anything wrong, and all the inquiries referenced by way of illustration were pretextual. One of the inquiries referenced was so frivolous that neither during the home raid nor in the following seven “interviews” of Archer (see Section VI, *infra*) did Defendants ask Archer a single question about the issue.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. Signed copies of the September 13, 2011 Search Warrant and supporting Affidavit are attached hereto as Exhibit 18 and expressly incorporated herein.

111. Defendants were aware from the face of the warrant that it was overbroad and that they had no probable cause to search her home, but they did so anyway for the purpose of retaliation and intimidation.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. Signed copies of the September 13, 2011 Search Warrant and supporting Affidavit are attached hereto as Exhibit 18 and expressly incorporated herein.

112. Defendants were able to obtain all evidence related to their pretextual investigative purposes through other means, such as subpoenas and warrants to internet and email providers. None of the materials the Defendants’ agents seized from Archer’s home had any relation to the pretextual inquiries. The purpose of the raid, even assuming the bogus legal theories were valid, was harassment, intimidation, and retaliation, and all Defendants were aware of that purpose and shared it.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. Signed copies of the September 13, 2011 Search Warrant and supporting Affidavit are attached hereto as Exhibit 18 and expressly incorporated herein.

VI. THE INTERROGATIONS

113. The day of the raid, either Defendant Stelter or a person acting under Stelter's orders informed Archer that Chisholm expected her in Milwaukee the next day for further questioning. Defendants interrogated Archer in at least seven secret sessions. Most took place at a nondescript office building away from Milwaukee County government that was not disclosed to Archer in advance (she was driven there by her attorney). Archer was typically required to take time off of work and to travel to Milwaukee for questioning.

ANSWER: These answering defendants deny that they were present at any time on September 14, 2011. These answering defendants repeat their Answer to Paragraph 83 and expressly incorporate it herein. A copy of a September 14, 2011 audio recording from the execution of the search warrant and interview with Archer is attached hereto as Exhibit 20 and expressly incorporated herein. The audio recording shows that the allegation that anyone expected her in Milwaukee the next day for further questioning is untrue and frivolous. These answering defendants admit that Archer was interviewed seven times, none of which were in secret sessions. All interviews, except for the one performed at her home on September 14, 2011, were done in the presence of Archer's attorney, Stephen L. Morgan. All of the interviews were done voluntarily and with Archer's full understanding of her right not to answer questions. On September 30, 2011, Archer and her attorney executed a proffer letter to voluntarily cooperate with law enforcement in giving interviews. All interviews of substance, except for the one performed at her home on September 14, 2011, were done pursuant to the proffer agreement. A

copy of a September 30, 2011 proffer letter is attached hereto as Exhibit 22 and expressly incorporated herein. The interviews took place away from County buildings at Archer's request and out of respect for Archer's privacy. The interviews were scheduled around Archer's work schedule, including ones occurring after work hours and in Madison. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph.

114. Archer was ordered not to speak about these events because of the secrecy order. The Defendants informed Archer that, in their view, the secrecy order prohibited her from discussing the investigation with her partner or her family. This prohibition placed substantial strain on Archer's relationships and left Archer isolated, alone, and depressed. Archer believed that she could not speak even to her medical professionals regarding the investigation for fear of prosecution.

ANSWER: These answering defendants admit that they were required to apprise Archer of the secrecy order imposed by John Doe Judge Nettesheim pursuant to Wis. Stat. § 968.26. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph but deny that Archer has alleged any cognizable injury. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein.

115. Each of the Defendants was personally involved in the interrogations at one time or another, and Stelter and Budde typically took the lead role in questioning her. There were between four and seven individuals from the investigative team at each session, crowded around Archer in a small room.

ANSWER: These answering defendants were never a part of any interrogation of Archer. Defendant Budde admits that he was involved in five voluntary interviews with Archer and her attorney but took the lead role in questioning on none of those occasions. Defendant Stelter admits that he was involved in five voluntary interviews with Archer and her attorney but took the lead role in questioning on none of those occasions. These answering defendants deny that there were ever more than four individuals from the District Attorney's Office at any interview with Archer or that the rooms were ever crowded (although Archer's attorney was always part of the crowd). These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein.

116. All Defendants understood that the purpose was to intimidate Archer into providing evidence that could be used against Walker and his other associates and to retaliate against her political and policy views, her actions and speech to promote those views, and her expressive association with Walker.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein.

117. Defendants offered an immunity deal to Archer, which she accepted, but it soon became clear that, unless she told them what they wanted to hear—i.e., provided incriminating evidence against Walker and his other associates—they would continue to threaten her with prosecution.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein.

118. Archer was forced to hire legal counsel to advise her about her testimony and the possibility of criminal charges. This cost Archer over \$20,000, the payment of which required her to take out a home-equity loan.

ANSWER: These answering defendants deny that Archer was forced to hire legal counsel to advise her about her testimony and the possibility of criminal charges but acknowledge that it was within her right to do so. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph but deny that Archer has alleged any cognizable injury.

119. None of the interrogations were conducted before a judge or in a court. Archer was never brought before a judge at any time during the investigation.

ANSWER: These answering defendants admit that none of the interviews were conducted before a judge or in a court and that Archer was never brought before a judge at any time during the investigation. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein. These answering defendants affirmatively state that Archer and her attorney knew that they could have presented any objections or grievances to John Doe Judge Nettlesheim at any time. They did not do so. Archer and her attorney also knew that they could have requested that Archer be questioned before John Doe Judge Nettlesheim. They did not do so.

120. During these interrogations, Stelter, Budde, and/or others would slam their fists on the table close to Archer and yell at her to intimidate her into providing incriminating testimony against Walker and his other associates. They tried to confuse her and trick her into admitting wrongdoing. Whenever Budde, Stelter and/or others on the team did not like the

answer Archer gave to a question, they accused her of lying, despite having no basis for that assertion. At one point they tried to persuade her that she committed a criminal act by breaching terms of a contract. (In fact, Archer did not even breach the provisions of the contract, and breach of contract is not a crime.)

ANSWER: These answering defendants were never a part of any interrogation of Archer. These answering defendants deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein. These allegations are both untrue and frivolous.

121. On one occasion, Defendant Landgraf provided Archer with a file of dozens of emails to review in preparation for an interrogation session, and Archer dutifully studied them. But at the following session and all sessions to come, Archer was not asked about them and was instead questioned on a myriad of unrelated topics. Although the search warrant represented that the investigative team was interested in two topics, the vast majority of time in the interrogations concerned unrelated matters not listed in the search warrant.

ANSWER: These answering defendants were never a part of any interrogation of Archer. These answering defendants object to the allegations set forth in paragraph as they are exceedingly vague. These answering defendants admit that Archer was asked about several different topics relating to the investigation. These answering defendants lack information sufficient to admit or deny the remaining allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein.

122. Stelter, Budde, and/or others involved in questioning Archer would frequently change subjects to trick and confuse her.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein.

123. Defendants used statements they obtained from Archer during the home raid against her in the secret sessions.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein.

124. These events occurred between September 2011 and May 2012, during the Walker recall petition effort and special-election campaign and during the time when Chisholm was informing subordinates that it was his duty to “stop” Walker, when Budde was displaying a recall Walker sign displayed in his front yard, and when the Milwaukee DA’s office had become a *de facto* campaign office against Walker.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 113 and expressly incorporate it herein. These answering defendants affirmatively state that the investigation of Archer for criminal violations began before then-County Executive Walker was ever even elected to the governorship.

125. Also during this time period, a barrage of leaks from the DA’s office streamed to the press, including leaks stating that evidence uncovered in the investigation was a “bombshell” likely to result in the issuance of criminal complaints against high-level government officials, such as Archer. On information and belief, Defendants were the direct or indirect sources of those leaks, despite being subject to the secrecy order imposed by the John Doe judge.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

126. The leaks served the important purpose of influencing politics as the John Doe investigation became widely regarded as the single most important issue in the special election to recall Walker. This further impaired Archer's reputation, which was the natural and probable consequence of Defendants' actions, as well as their intention.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

127. Once Walker won the recall election, the inquiries related to Archer ceased. No one was charged in connection with any of them. After the recall election, no further communication was made from Chisholm's office to Archer. This further demonstrates that Archer was targeted for political reasons, and not for any legitimate law-enforcement purpose.

ANSWER: These answering defendants deny the allegations set forth in this paragraph. These answering defendants affirmatively state that a criminal complaint naming Archer and others, setting forth two counts of conspiracy to commit misconduct in public office and one count of solicitation to commit misconduct in public office, was drafted by the District Attorney's Office and reviewed by John Doe Judge Nettlesheim. While the District Attorney's Office ultimately decided not to issue the draft criminal complaint, it reflects the good faith basis all defendants had in investigating Archer's conduct.

128. Defendants, however, continued to seek new avenues of attack against Walker, leading them to target virtually the entire conservative movement in the state of Wisconsin for its support of Walker's policies. The only judge so far to review the facts of this phase of the investigation found that they "easily" stated a claim for First Amendment retaliation.

Defendants' retaliatory purpose in that phase of their investigation supports the inference that their purpose throughout has been retaliation.

ANSWER: These answering defendants object to the allegations set forth in paragraph as they are irrelevant and, in any event, deny the same.

129. Archer's attorney approached Chisholm's office at or after the end of their investigation into Archer and requested that a statement be issued from the DA's office clearing Archer of criminal wrongdoing, so that some of the damage to her reputation might be alleviated. Chisholm refused, despite that Archer was never charged with any crime.

ANSWER: These answering defendants lack information sufficient to admit or deny the allegations set forth in this paragraph. These answering defendants repeat their Answer to Paragraph 127 and expressly incorporate it herein.

130. The initial John Doe proceeding commenced in May 2010 was formally closed in 2013, and no one was charged in connection with any of the pretextual inquiries supposedly forming the basis of the investigation against Archer.

ANSWER: These answering defendants admit that the initial John Doe proceeding commenced in May 2010 was formally closed in 2013. These answering defendants affirmatively state that six individuals were convicted of one or more crimes relating to the John Doe proceeding. These answering defendants deny that any of the inquiries involved in the John Doe proceeding were pretextual. These answering defendants repeat their Answer to Paragraph 127 and expressly incorporate it herein.

VII. THE PROXIMATE RESULT OF DEFENDANTS' ACTIONS

131. Archer suffered humiliation, anguish, and emotional distress during the home raid and interrogations.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

132. Archer suffered the loss of her time in preparing for, travelling to and from, and attending these secret interrogation sessions. Her doctors diagnosed her with post-traumatic stress disorder and severe depression and anxiety and believe Defendants' actions are to blame.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

133. Archer's reputation was destroyed. Hundreds of articles are available online suggesting that Archer committed criminal misconduct, which is false. Archer's name was maligned in newspapers, blogs, radio shows, and other media outlets. She became a household name associated with criminal wrongdoing. Articles ran in the paper stating that the architect of Act 10 is a criminal.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

134. Archer's house was egged. She was harassed at the grocery store. She was yelled at by passers-by in her neighborhood. Her car was defaced, her family relationships were strained, and she lost long-term friendships and contact with many long-term professional colleagues who became afraid to associate with her. The harassment has continued to, most recently, May 2015.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

135. Archer had owned her Madison home since 1988 and was a longtime resident of her neighborhood in Madison, where she always felt safe and welcomed, even though the

neighborhood is known as one of the most liberal in Wisconsin. That was no longer the case, and she began locking her doors, closing her shades, and keeping her dogs in the house for fear of further retaliation by Defendants or officers acting under their control, or else by others who were aware of Defendants' actions and understood them to mean that Archer was a criminal. This was the natural and probable consequence of Defendants' actions.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

136. After the home raid, a radio talk-show host named John "Sly" Sylverster ran at least six half-hour episodes ridiculing Archer, making fun of her sexual orientation, denouncing her involvement with Act 10, and implying that she was a criminal. Sly invited callers to join in mocking her. Archer became the subject of similar forms of ridicule in public forums. None of this attention occurred before the home raid, and it was all the proximate result of Defendants' making her the public target of a bogus criminal investigation during a time of historic political turmoil.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

137. Due to Defendants' actions, Archer was forced to resign from her position as second in command at Wisconsin's most important agency. Her pay was cut by over \$26,000 annually. Subsequently, out of despair and the onset of depression for losing her career-long professional goal of being appointed Deputy Secretary of Administration and due to the damage to Archer's professional reputation that had been built over almost 30 years as a public servant. Archer took roughly three months of medical leave. Her removal from the Deputy Secretary of Administration position was swift and her demotion substantial. Her peers and colleagues in

Wisconsin government shunned her and colleagues she considered personal friends abandoned her.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury. These answering defendants affirmatively state that, because of her poor job performance and conflicts of personality, the Walker administration forced Archer's resignation in August 2011.

138. In subsequent positions, Archer was not allowed to perform her job duties and was forced out of any role that might become public. Her work was attributed to others. She was cut out of important tasks and meetings. She was not allowed to speak with high-level government officials or people critical to her job functions. Some co-workers refused to work with her or talk to her, and her authority as a manager and supervisor was curtailed as compared to her prior positions. This was all a proximate result of the harm Defendants did to her reputation, and this was their intent.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

139. Archer's future earning potential was impaired. Archer unsuccessfully applied for several positions in the years following the home raid and was informed by a human-resources professional, a supervisor, and a national recruiter that, as long as the John Doe investigation hung over her head, she would not be competitive for the forms of government work she had done throughout her career. Because Chisholm refused to clear her name—even though he had no *basis* to charge her—the John Doe investigation still hangs over Archer's head and she is unable to find employment commensurate with her career experience to this day. Her career

trajectory has been irreparably altered due to Defendants' actions. One need only run a Google search for "Cindy Archer" to see the devastation Defendants inflicted on her reputation.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

140. Any time Archer is given a pay raise due to a change in position (which has not brought her salary up to what she earned as Deputy Secretary or Administration) a slew of open-records requests and allegations of wrongdoing plague Archer because of the John Doe publicity. Accordingly, Archer has been placed in non-visible work roles and informed that she will not be eligible for merit raises or bonuses because of the publicity that would result.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

141. Having nowhere to turn and despairing that her career had been destroyed, Archer fell into depression, which required her to be hospitalized for over a week. She also became suicidal.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

142. Archer's personal relationships suffered. Her friendships with individuals in the Walker administration were destroyed beyond repair.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

143. Archer incurred medical and related expenses and a substantial loss in income due to these and other health problems that were the proximate result of Defendants' actions.

ANSWER: These answering defendants deny the allegations of causal injury set forth in this paragraph and deny that Archer has alleged any cognizable injury.

COUNT 1: 42 U.S.C. § 1983—FIRST AMENDMENT RETALIATION

144. Plaintiff Archer repeats and re-alleges the preceding paragraphs as if fully set forth herein.

ANSWER: These answering defendants incorporate and restate their responses to the foregoing paragraphs as if fully set forth herein.

145. Archer engaged in activity protected by the First Amendment, including, without limitation, drafting and advocating for Act 10, expressively associating with Scott Walker on the basis of their shared political and policy views, and advocating for those views and taking other actions to further them.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

146. Defendants' conduct under color of state law would deter the exercise of First Amendment rights such as speech and association by a person of reasonable firmness.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

147. Archer's political speech and association was the sole, or at least a substantially motivating factor, in Defendants' decision to take their retaliatory actions.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

148. As a direct result of Defendants' violation of Archer's First and Fourteenth amendment rights, Archer has sustained damages in an amount to be determined at trial.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

149. The actions of Defendants were intentional, malicious, willful, wanton, callous, and showed a reckless disregard for Archer's First Amendment rights.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

COUNT II: 42 U.S.C. § 1983—UNREASONABLE SEARCH AND SEIZURE

150. Plaintiff Archer repeats and realleges the preceding paragraphs as if fully set forth herein.

ANSWER: These answering defendants incorporate and restate their responses to the foregoing paragraphs as if fully set forth herein.

151. Defendants searched Archer's home, computer, phone, email account, and other areas as to which Archer has a reasonable expectation of privacy.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

152. Defendants' search was unreasonable because Defendants lacked probable cause for the search, because the warrant was obviously overbroad, and because Defendants' search did not comport with any limits that could be inferred in the warrant, among other reasons.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

153. Defendants were purporting to act in the performance of their official duties and under color of state law.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

154. Archer was harmed in numerous ways described above.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

155. Defendants' unreasonable search was a substantial factor in causing her harm.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

156. The actions of Defendants were intentional, malicious, willful, wanton, callous, and showed reckless disregard for Archer's Fourth Amendment rights.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

**COUNT III: 42 U.S.C. § 1983—DENIAL OF *MIRANDA* WARNING/DUE
PROCESS**

157. Plaintiff Archer repeats and realleges the preceding paragraphs as if fully set forth herein.

ANSWER: These answering defendants incorporate and restate their responses to the foregoing paragraphs as if fully set forth herein.

158. Defendants placed Archer in custody where she reasonably believed she was unable to escape their custody.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

159. Defendants coerced Archer into answering questions purportedly in furtherance of their criminal investigation.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

160. Defendants did not advise Archer of her right to remain silent or of her right to an attorney.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

161. Defendants were purporting to act under color of state law.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

162. Defendants used the statements against her in the John Doe interviews.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

163. Defendants' deprivation of Archer's rights caused harm in numerous ways described above.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

164. Defendants' deprivation of Archer's rights was a substantial factor in causing her harm.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

165. The actions of Defendants were intentional, malicious, willful, wanton, callous, and showed reckless disregard for Archer's Fifth and Fourteenth Amendment rights.

ANSWER: These answering defendants deny the allegations set forth in this paragraph.

AFFIRMATIVE DEFENSES

NOW COME the defendants Robert Stelter and David Budde, by and through their attorneys of record, Wilson Elser Moskowitz Edelman & Dicker, LLP, assert the following affirmative defenses to the Complaint by plaintiff Cynthia Archer:

1. Plaintiff has failed to name indispensable and necessary parties.
2. The Complaint fails to adequately state a claim, either in law or in fact, upon which relief can be granted as to each cause of action set forth therein, and judgment on the pleadings is warranted in the defendants' favor as a consequence.
3. These defendants are entitled to qualified immunity.
4. These defendants are entitled to absolute immunity.
5. The plaintiff lacks standing to prosecute the claims alleged in the Complaint, in whole or in part.
6. Because the Complaint does not allege harm that is analogous to defamatory accusation of criminal wrongdoing, damages may not be presumed.
7. Plaintiff is entirely or partially barred from any recovery because of her failure to take reasonable and necessary steps to mitigate her alleged damages, including availing herself in a timely manner of legal processes afforded to her.
8. To the extent plaintiff's claims are based on the doctrine of respondeat superior or vicarious liability, such claims are barred because the doctrine of respondeat superior and vicarious liability is not a basis for recovery under 42 U.S.C. § 1983. A defendant in a 42 U.S.C. § 1983 action is responsible only for his or her own conduct.

9. Plaintiff seeks to impose liability on defendants for the conduct of third persons and entities over which these defendants have no control.

10. Plaintiff has failed to adequately state a claim for punitive damages.

11. The Complaint fails to state a claim on grounds that any damages or constitutional injury are not concrete, particularized, actual, or imminent and lack sufficient causal connection to defendants' conduct.

12. Plaintiff does not have standing to pursue claims of constitutional violations on behalf of others.

13. All or some of plaintiff's claims are barred by the doctrine of laches.

14. These defendants reserve the right to amend their answer and assert additional defenses as discovery proceeds.

PRAYER FOR RELIEF

WHEREFORE, the defendants David Budde and Robert Stelter pray for judgment against the plaintiff as follows:

1. That judgment be awarded in favor of defendants and against the plaintiff, 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.

DEFENDANTS DEMAND TRIAL BY JURY

Dated this 31st day of July, 2015.

**WILSON ELSER MOSKOWITZ EDELMAN &
DICKER, LLP**

/s/ Samuel J. Leib

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