

STATE OF WISCONSIN
GOVERNMENT ACCOUNTABILITY BOARD

The Complaint of the Democratic Party of Wisconsin,

by Margaret Brick,

Complainant,

against

Alberta Darling, Individually and in her Capacity as State

Senator of Wisconsin's 8th State Senate District,

Friends of Alberta Darling,

Wisconsin Right to Life,

Wisconsin Family Action,

American Federation for Children,

Americans for Prosperity Wisconsin,

Respondents

VERIFIED COMPLAINT

On behalf of the Democratic Party of Wisconsin, I, Margaret Brick, primarily based on public records, but also on information and belief, hereby allege as follows:

1. This Complaint is brought against Alberta Darling ("Darling"), Friends of Alberta Darling ("FAD"), Wisconsin Right to Life ("WIRTL"), Wisconsin Family Action ("WFA"), Americans for Prosperity ("AFP") and American Federation for Children ("AFC").

2. I am a citizen, resident, and elector of the State of Wisconsin. I am the Executive Director of the Democratic Party of Wisconsin, 110 King Street, Suite 203, Madison, Wisconsin 53703, on behalf of which I bring this Complaint.

3. Darling maintains an address at 1325 West Dean Road, River Hills, WI 53217.

4. FAD maintains an address at 311 W. Silver Spring Dr, Glendale, Wisconsin 53217.

5. WIRTL maintains an address at 9730 W. Bluemound Rd., Suite 200, Milwaukee, WI 53226.

6. WFA maintains an address at 222 S Hamilton Street, Suite 23 Madison WI 53703.

7. AFPW maintains an address at 1126 South 70th Street Suite S219A Milwaukee, WI 53214.

8. AFC maintains an address at 1660 L St Nw Ste 1000, Washington, DC 20036-5634.

9. Pursuant to the action of the Wisconsin Government Accountability Board on or about June 3, 2011, Darling will face a recall election against challenger Sandy Pasch on August 9, 2011 to retain her seat as State Senator of Wisconsin's 8th State Senate District.

10. On or about July 13, 2011, Petitioner submitted to Darling's legislative office a request for open records, a copy of which is attached hereto and incorporated herein as Exhibit "A," pursuant to Wis. Stat. Sections 19.31-19.39 requesting the following records:

"Any digitally transmitted correspondence – including, but not limited to, e-mails, faxes, and scanned documents – sent or received by Senator Alberta Darling or any member of her staff between February 1, 2011 and July 11, 2011, that contain any of the following terms:

Club for Growth
Republican State Leadership Committee
RSLC
Americans for Prosperity
Media Trackers
Wisconsin Right to Life
Waukesha County Tea Party
American Federation for Children Action Fund Inc
GOPAC
American Legislative Exchange Council
State Government Leadership Foundation
Patty Reiman
Mary Sitt

Haley McCullough
Andrew Davis
Laura Gralton"

11. Darling is the "legal custodian" of the above-described records, as that term is defined by Wis. Stat. Section 19.33.

12. Wis. Stat. Section 19.31, "Declaration of policy," states that:

"In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them. Further, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility it is to provide such information. To that end, ss. 19.32 to 19.37 shall be construed in every instance with a presumption of complete public access, consistent with the conduct of governmental business. The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied." (emphasis added)

13. To date, Darling has not provided documents responsive to the above-described request or a written denial of the request stating the legal basis for such denial, as required by Wisconsin law. Darling's refusal to comply with Petitioner's request violates Wisconsin's Open Records Law and Wis. Stat. Section 19.35(4)(a), which requires a response, "as soon as practicable and without delay."

14. Violation of Wis. Stat. Section 19.35(4)(a) carries a penalty of a forfeiture not to exceed \$1,000.

15. Darling's refusal to provide responsive documents violates Wis. Stat. Section 946.72 "Tampering with public records and notices," which states that whoever with intent to injure or defraud destroys, damages, removes or conceals any public record is guilty of a Class H felony. (emphasis added)

16. A Class H felony carries a penalty of a fine not to exceed \$10,000, imprisonment not to exceed 6 years, or both.

17. Darling's refusal to responsive documents violates Wis. Stat. Section 946.12 "Misconduct in public office," which states that any public officer who, "[i]ntentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the officer's or employee's office or employment

within the time or in the manner required by law" (emphasis added) is guilty of a Class I felony.

18. A Class I felony carries a penalty of a fine not to exceed \$10,000, imprisonment not to exceed 3 and ½ years, or both.

19. AFPW has a history of elaborate, illegal and fraudulent schemes designed to suppress Democratic votes in Wisconsin. Specifically, AFP has recently operated in violation of Wis. Stat. Section 12.13(3)(c) which states, in pertinent part, that no person shall willfully prevent the delivery of official ballots within the required time. See *Verified Complaint of Petitioner Democratic Party of Wisconsin against Americans for Prosperity Wisconsin*.

20. WRTL and WFA are presently under investigation by the Milwaukee County District Attorney's office for violation of Wis. Stat. Section 12.11 "Election bribery" based on their offering of "rewards for volunteers who make an impact over the weekend by educating and encouraging family and friends to vote by absentee ballot." See *"DA investigating gift card offer in recall elections" Milwaukee Journal Sentinel, August 3, 2011*.

21. Darling is the subject of a lawsuit brought forth by One Wisconsin Now that alleges that Darling failed to comply with the State's Open Records Law by refusing to disclose correspondence detailing illegal collusion with AFC, in violation of Wis. Stat. Section 11.06. See *OWN, Inc. v. Darling, Dane County Circuit Court Case No.: 11CV3529*

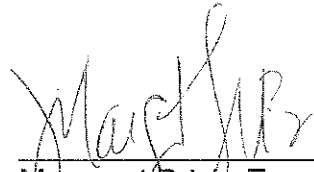
22. Based on the allegations contained in paragraphs 1-21, above, Petitioner has reason to believe that Darling's refusal to provide records that detail her correspondence and communication with Respondents is not an innocent act of omission: It is a deliberate and willful violation of her oath of office as a public official. Further, Darling's refusal is an intentional cover-up of her illegal collusion and campaign activity with Respondents, her knowledge and/or approval of Respondents' illegal electioneering practices, to include Election Fraud and Election Bribery, and the incriminating implications such activity has on Darling personally and in her capacity as State Senator for Wisconsin's 8th State Senate District.

23. Therefore, regardless of whether the Board addresses this matter pursuant to Chapter 11, Wisconsin Statutes, or finds it appropriate to refer the matter to a district attorney for investigation, the Complainant respectfully submits that the facts warrant the Board's attention.

I, Margaret Brick, being first duly sworn upon oath, state that I personally read the above complaint and that the above allegations are true and correct based upon my personal knowledge and my review of public records and, as to those allegations stated on my information and belief, I believe them to be true.

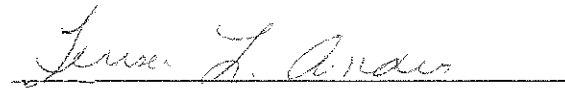
Dated this 4 day of August, 2011.

Respectfully submitted,



Margaret Brick, Executive Director
Democratic Party of Wisconsin

Subscribed and sworn to before me
this 4th day of August, 2011.

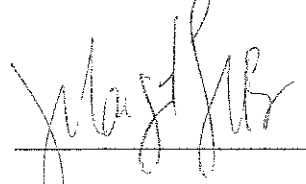


Notary Public

My commission expires: 12-2-2012

CERTIFICATE OF SERVICE

I, Margaret Brick, hereby certify that on this 4 day of August, 2011, a true and correct copy of this Complaint was forwarded via U.S. Mail, first class postage prepaid and properly addressed, to Alberta Darling at 1325 West Dean Road, River Hills, WI 53217, Friends of Alberta Darling at 311 W. Silver Spring Dr, Glendale, Wisconsin 53217, Wisconsin Right to Life at 9730 W. Bluemound Rd., Suite 200, Milwaukee, WI 53226, Wisconsin Family Action at 222 S Hamilton Street, Suite 23 Madison WI 53703, Americans for Prosperity Wisconsin at 1126 South 70th Street Suite S219A, Milwaukee, WI 53214 and American Federation for Children at 1660 L St Nw Ste 1000, Washington, DC 20036-5634.



Margaret Brick, Complainant

Exhibit 4A'

From: **David Kreisman** <davidk@wisdems.org>

Date: Wed, Jul 13, 2011 at 9:19 PM

Subject: Open Records Request

To: Sen.Darling@legis.wi.gov

Cc: Jelena.Radich@legis.wisconsin.gov, Kasie.Lundell@legis.wisconsin.gov, Bob.Delaporte@legis.wisconsin.gov, Kristen.Wall@legis.wisconsin.gov, James.Emerson@legis.wisconsin.gov, Heather.Smith@legis.wisconsin.gov

To Whom It May Concern:

Pursuant to Wisconsin open records law, I am requesting copies of the following records in your possession:

Any digitally transmitted correspondence – including, but not limited to, e-mails, faxes, and scanned documents – sent or received by Senator Alberta Darling or any member of her staff between February 1, 2011 and July 11, 2011, that contain any of the following terms:

Club for Growth
Republican State Leadership Committee
RSLC
Americans for Prosperity
Media Trackers
Wisconsin Right to Life
Waukesha County Tea Party
American Federation for Children Action Fund Inc
GOPAC
American Legislative Exchange Council
State Government Leadership Foundation
Patty Reiman
Mary Sitt
Haley McCullough
Andrew Davis
Laura Grafton

As required per state law, I expect a response from you without delay regarding this request. If you fail to respond to this request on or before July 25, 2011, I will assume that you are refusing my request for this information. Any refusal, per a failure to respond or through any other form of notification from your office, should be accompanied by a detailed summary of the reasons for the refusal.

Thank you in advance for your attention to this request. I will look forward to hearing from you.

Sincerely,

Dave Kreisman

STATE OF WISCONSIN
GOVERNMENT ACCOUNTABILITY BOARD

The Complaint of the Democratic Party of Wisconsin,

by Margaret Brick,

Complainant,

against

Americans for Prosperity Wisconsin

Respondent

VERIFIED COMPLAINT

On behalf of the Democratic Party of Wisconsin, I, Margaret Brick, primarily based on public records, but also on information and belief, hereby allege as follows:

1. This Complaint is brought against Americans for Prosperity Wisconsin ("AFPW"), a registered 501(c)(4) organization under the Internal Revenue Service code, by and through its State Director, Matt Seaholm.
2. I am a citizen, resident, and elector of the State of Wisconsin. I am the Executive Director of the Democratic Party of Wisconsin, 110 King Street, Suite 203, Madison, Wisconsin 53703, on behalf of which I bring this Complaint.
3. Respondent maintains an office at 1126 South 70th Street Suite S219A Milwaukee, WI 53214.
4. On or about June 3, 2011, the Wisconsin Government Accountability Board ordered recall elections in Wisconsin State Senate Districts 2, 8, 10, 14, 18, and 32 to be held on August 9, 2011.
5. On or about June 8, 2011, the Wisconsin Government Accountability Board ordered recall elections in Wisconsin State Senate Districts 12, 22 and 30 to be held on August 16, 2011.
6. On or about July 30, 2011 Respondent delivered, or caused to be delivered, a flier ("AFPW Flier") that includes an application ("Application") to request an

absentee ballot for the August 9 and August 16 State Senate recall elections. A copy of the AFPW Flier and Application are attached hereto and incorporated herein as Exhibit "A."

7. The Application states that absentee ballots must be received, "by your city clerk by August 11."

8. The Application falsely represents the time frame permitted under Wis. Stat. Section 6.87(6), which states that an absentee ballot, "shall be returned so it is received by the municipal clerk no later than 8 p.m. on election day." (emphasis added)

9. Notwithstanding the conflict with applicable state law mentioned in paragraph 8, above, the August 11 return date enumerated by Respondent on the Application falls *after* the recall election on August 9, 2011. Respondent's timeline is blatantly false and misleading and, if followed, would lead electors to forfeit their right to vote.

10. Wis. Stat. Section 12.13(3)(c) states, in pertinent part, that no person shall willfully prevent the delivery of official ballots within the required time.

11. Violation of Wis. Stat. Section 12.13(3)(c) carries a penalty per violation of a fine not to exceed \$1,000, imprisonment not to exceed six months, or both, as defined by Wis. Stat. Section 12.60.

12. Wis. Stat. Section 12.05 states, in pertinent part, that no person may make a false statement which is intended or tends to affect voting at an election.

13. Violation of Wis. Stat. Section 12.05 carries a penalty per violation of a fine not to exceed \$1,000, imprisonment not to exceed six months, or both, as defined by Wis. Stat. Section 12.60.

14. Respondent has displayed a continued pattern of tampering with the electoral process in Wisconsin with elaborate, illegal and fraudulent schemes designed to suppress Democratic votes and to systematically disenfranchise large segments of voters.

15. Therefore, regardless of whether the Board addresses this matter pursuant to Chapter 11, Wisconsin Statutes, or finds it appropriate to refer the matter to a district attorney for investigation, the Complainant respectfully submits that the facts warrant the Board's attention.

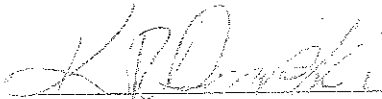
I, Margaret Brick, being first duly sworn upon oath, state that I personally read the above complaint and that the above allegations are true and correct based upon my personal knowledge and my review of public records and, as to those allegations stated on my information and belief, I believe them to be true.

Dated this 2 day of August, 2011.

Respectfully submitted,


Margaret Brick, Executive Director
Democratic Party of Wisconsin

Subscribed and sworn to before me
this 2nd day of August, 2011.



Notary Public

My commission expires 1/27/13

CERTIFICATE OF SERVICE

I, Margaret Brick, hereby certify that on this 2 day of August, 2011, a true and correct copy of this Complaint was forwarded via U.S. Mail, first class postage prepaid and properly addressed, to Respondent, c/o State Director Matt Seaholm, 1126 South 70th Street Suite S219A Milwaukee, WI 53214.



Margaret Brick, Complainant



1126 S 70th Street
Suite S219A
Milwaukee, WI 53214

Office 1101-5-DIGIT 54130

KAUKAUNA WI 54130-1072

[illegible]

IMPORTANT:
Absentee Ballot
Application Enclosed

AMERICANS FOR PROSPERITY®

WISCONSIN

Dear [REDACTED]

Important State Senate Recall Election in your area soon!

Enclosed, please find an application for an absentee ballot. As a member of Americans for Prosperity who lives in a district where one of the eight state senate recall elections are taking place in August 2011, we wanted to make it as easy as possible for you and one other person in your home to vote.

Please follow the 4-step process:

Step 1: Fill out the attached application for an absentee ballot today (be sure to sign the application).

Step 2: Mail your application to: Absentee Ballot Application Processing Center,
P.O. Box 1327, Madison, WI 53701-1327.

Step 3: When you receive your absentee ballot from your city clerk, fill it out immediately.

Step 4: Mail in your completed absentee ballot which must be received by your city clerk on the Thursday of the week before the general election (your clerk will provide more instructions)

If you intend to apply for the absentee ballot to vote, please fill out the application and mail it today

More so than ever before, the control of the State Senate is in your hands. I strongly encourage you to vote early and let your voice be heard.

Thank you,



Matt Seaholm,

State Director

1126 S 70th Street, Suite S219A, Milwaukee, WI 53214

Phone: (414) 476-7900 | Fax: (414) 476-2800 | www.americansforprosperity.org

↑ TAPE HERE ↑

Place
First Class
Postage
Here

Absentee Ballot Application Processing Center
P.O. Box 1327
Madison, WI 53701-1327

ABSENTEE BALLOT APPLICATION

FOLD HERE

FOLD HERE

Fill out the attached application for an absentee ballot today
(be sure to sign the application).

Mail your application to: Absentee Ballot Application
Processing Center, P.O. Box 1327, Madison, WI 53701-1327

When you receive your absentee ballot from your city clerk, fill
it out immediately.

Mail in your completed absentee ballot which must be
received by your city clerk before August 11.

FOLD HERE

FOLD HERE

FOR QUESTIONS CALL : (414) 476-7900

Paid for by Americans for Prosperity.

RECALL
ELECTION 2011

OFFICIAL ABSENTEE
BALLOT REQUEST

(NOTE: You must be registered to vote before you can receive an absentee ballot. You can confirm your voter registration at <https://vpa.wi.gov>)

Last Name	Suffix (e.g. Jr. II, etc.)	First Name	Middle Name
Telephone	Date of Birth (MM/DD/YYYY)	Email Address	
Residence Address: Street Number & Name		Apt. Number	
City	State (WI Only)	ZIP+4	County

If Mailing Address is different than the Residence Address, Send Ballot To:

Name	Nursing Home Name (If applicable)		
Mailing Address: Street Number & Name			
Apt. Number	City	State	Zip+4

Voter Declaration: I certify that I am a qualified elector, a U.S. citizen, at least 18 years old, having resided at the above residential address for at least 28 consecutive days immediately preceding this election, not currently serving a sentence including probation or parole for a felony conviction, and not otherwise disqualified from voting.

I request an absentee ballot for all elections from today's date through the end of the current calendar year (ending 12/31).

Voter Signature	Date
-----------------	------

This form is not an official form by the Wisconsin Government Accountability Board

(NOTE: You must be registered to vote before you can receive an absentee ballot. You can confirm your voter registration at <https://vpa.wi.gov>)

Last Name	Suffix (e.g. Jr. II, etc.)	First Name	Middle Name
Telephone	Date of Birth (MM/DD/YYYY)	Email Address	
Residence Address: Street Number & Name		Apt. Number	
City	State (WI Only)	ZIP+4	County

If Mailing Address is different than the Residence Address, Send Ballot To:

Name	Nursing Home Name (If applicable)		
Mailing Address: Street Number & Name			
Apt. Number	City	State	Zip+4

Voter Declaration: I certify that I am a qualified elector, a U.S. citizen, at least 18 years old, having resided at the above residential address for at least 28 consecutive days immediately preceding this election, not currently serving a sentence including probation or parole for a felony conviction, and not otherwise disqualified from voting.

I request an absentee ballot for all elections from today's date through the end of the current calendar year (ending 12/31).

Voter Signature	Date
-----------------	------

This form is not an official form by the Wisconsin Government Accountability Board

1126 S 70th Street
Suite S219A
Milwaukee, WI 53214

Absentee Ballot Application Processing Center
P.O. Box 1327
Madison, WI 53701-1327

Place
First Class
Postage
Here

DA investigating gift card offer in recall elections

By Larry Sandler and Patrick Marley of the Journal Sentinel

Aug. 3, 2011 | (189) Comments

A Milwaukee County prosecutor is examining allegations that abortion opponents offered rewards for volunteers who signed up sympathetic voters in Wisconsin's high-stakes Senate recall elections.

According to an email obtained by the Journal Sentinel, the Wisconsin Right to Life and Family Action coalition offered gift cards ranging from \$25 to \$75 to volunteers who hit targets for persuading voters to fill out absentee ballot applications in the July recall primary elections.

State law prohibits offering voters anything of value to vote.

Six Republican state senators face recall elections Aug. 9 against Democratic opponents chosen in primaries July 12. Recall elections are set Aug. 16 for two Democratic senators, after GOP primaries July 19. One Democratic senator has already survived a July 19 recall vote.

The recall elections will determine whether Republicans hold their edge in the Senate, now at 19-14, or whether Democrats regain control. The email, dated July 1, says the elections "put a pro-family, pro-life state Senate at stake."

It then offers "rewards for volunteers who make an impact over the weekend by educating and encouraging family and friends to vote by absentee ballot," including:

- A "\$25 gift card or gas card reward for any volunteer who can get at least 15 pro-life/pro-family voters (and family and friends) to complete an absentee ballot application" by July 5.
- A "\$75 gift card or gas card reward for the volunteer in each Senate district who gets the most absentee ballot applications completed" by July 5.

Assistant District Attorney Bruce Landgraf, who prosecutes election law violations, said he had been "advised by the Milwaukee County Election Commission and the (city) clerk of Glendale that Wisconsin Right to Life may have been offering things of value in exchange for signing up pro-life people to vote by absentee ballot in the Alberta Darling recall election." Landgraf said he was reviewing the issue.

Darling, a River Hills Republican, is defending her 8th Senate District seat against state Rep. Sandy Pasch (D-Whitefish Bay), on Aug. 9.

A Wisconsin Right to Life leader did not return repeated calls seeking comment.

Meanwhile, the state Republican Party and Media Trackers, a conservative group, have filed complaints with the state's Government Accountability Board and the district attorney's office over get-out-the-vote "block parties"

sponsored by a liberal jobs group, Wisconsin Jobs Now.

Over the past two weeks, the jobs group has held five such parties on Milwaukee's northwest side, offering voters free food, drawings for prizes and free shuttles to Milwaukee City Hall, where they could cast absentee ballots. Jobs Now Executive Director Mike Lauer said his organization followed the law, because nobody was required to vote in order to get the food.

But an accountability board spokesman has said free food and transportation to the polls shouldn't be part of the same event. Landgraf said he is looking into that complaint as well.

On Wednesday, the jobs organization lashed back, accusing the GOP of trying to suppress minority votes. Jobs Now has said it held the block parties in various neighborhoods to encourage minorities to vote. In other recall developments Wednesday:

- In Madison, conservatives renewed their criticisms of Pasch for her involvement with Wisconsin Citizen Action, a group that backs her recall bid. Pasch sits on the board of Citizens Action but said this week she has had no contact with the group on political matters since she entered the race May 6. On Wednesday, she called the charge a "baseless accusation."

Media Trackers released emails that showed Pasch's office had been in touch with Citizens Action since she became a candidate. However, the emails do not include discussions of campaign issues.

Both Media Trackers and the GOP have filed complaints with the accountability board, asking election officials to look into whether Pasch illegally coordinated her Senate campaign with Citizen Action.

Media Trackers acquired the emails through the state's open records law. They include emails from Jennifer Epps of Citizen Action to Pasch's office, asking her to film a video stating her opposition to cuts to the Wisconsin Shares child care program. Epps also encouraged her to call into a WMCS-AM (1290) radio show on the issue.

The video was eventually filmed, as were ones by seven other elected officials, said Robert Kraig, executive director of Citizen Action.

Darling was also asked to shoot a video, but her office declined because of her schedule, according to emails Kraig released to the Journal Sentinel on Wednesday.

He said the communication with Pasch's office were appropriate because it had to do with a policy issue, rather than campaign strategy.

- In Menomonee Falls, Darling told reporters that she had sent One Wisconsin Now records sought in the second of two open records requests. The group had sued to force her to turn over emails.

Darling said the first request was complied with promptly, but not the second. She said it was done unintentionally, adding that she planned to speak to her office staff about why the request was not addressed as soon as possible.

One Wisconsin Now posted one of the emails on its website, which showed contact in May between Darling's office and the American Federation for Children. The federation works on voucher schools legislation and later

ran ads in support of Darling.

Don Walker of the Journal Sentinel staff contributed to this report.

ascript language="JavaScript" src="http://js.adsonar.com/js/adsonar.js">

Find this article at:

<http://www.jsonline.com/news/statepolitics/126733888.html>

☐ Check the box to include the list of links referenced in the article.

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY

ONE WISCONSIN NOW, INC.
152 West Johnson Street, Suite 214
Madison, WI 53703

11CV3529

Case No. _____
30952 Petition for Writ of Mandamus
30954 Other Extraordinary Writ

and

CODY OLIPHANT
152 West Johnson Street, Suite 214
Madison, WI 53703,

Plaintiffs,

v.

ALBERTA DARLING
Room 317 East
State Capitol
Madison, WI 53702,

Defendant.

THIS IS AN AUTHENTICATED COPY OF THE
ORIGINAL DOCUMENT FILED WITH THE DANE
COUNTY CLERK OF CIRCUIT COURT.

CARLO ESQUEDA
CLERK OF CIRCUIT COURT

CIRCUIT COURT
11 AUG - 2 PM 12:15
DANE COUNTY WI

COMPLAINT

Plaintiffs, by their attorneys, McGillivray Westerberg & Bender LLC, complain
against Defendant as follows:

PARTIES

1. One Wisconsin Now, Inc. ("OWN") is a Wisconsin non-stock corporation and political advocacy group that works to advance progressive leadership and values.
2. The plaintiff, Cody Oliphant, is an adult resident of the State of Wisconsin and a "requester" as that term is defined in Wis. Stat. § 19.32(3), and as that term is used in the Open Records Law, Wis. Stat. §§ 19.31-19.39.

3. The defendant, Alberta Darling, is an adult resident of the State of Wisconsin and an elected member of the Wisconsin State Senate. Senator Darling is an "authority" as that term is defined in Wis. Stat. § 19.32(1), and as that term is used in the Open Records Law.

4. On information and belief, Senator Darling also is the "legal custodian" of the records at issue in this action under Wis. Stat. § 19.33, and as that term is used in the Open Records Law.

FACTS

5. On June 8, 2011, OWN sent a written request, through Oliphant, by e-mail to Senator Darling, seeking a copy of various records for the period April 7, 2011 to June 7, 2011, including her office and staff appointment calendars, and records of Senator Darling's communications on specified subjects and with specified individuals and organizations. A copy of OWN's request is attached to and incorporated in this complaint as Exhibit A.

6. Senator Darling has not acknowledged or otherwise responded to OWN's request.

7. Oliphant sent a follow-up e-mail to Senator Darling on July 13, 2011, inquiring about the status of OWN's record request. A copy of Oliphant's July 13, 2011 e-mail is attached to and incorporated in this complaint as Exhibit B.

8. Senator Darling has not acknowledged or otherwise responded to Oliphant's July 13, 2011 e-mail.

CLAIMS

9. Under Wis. Stat. § 19.31, it is the declared public policy of this state that every citizen is entitled to the greatest possible information regarding the affairs of government. Wis. Stat. § 19.31 affirms the presumption of complete public access to governmental records, consistent with the conduct of governmental business. The statute provides that "[t]he denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied." Wis. Stat. § 19.31. This is not an exceptional case.

10. Senator Darling has violated the Open Records Law and Wis. Stat. § 19.35(4)(a) by failing to, "as soon as practicable and without delay either fill [OWN's] request or notify [OWN] of [her] determination to deny the request in whole or in part and the reasons therefore."

11. Senator Darling's delay in responding to OWN's request has the same effect as a denial; it has caused and will continue to cause injury to the plaintiffs by depriving them and the rest of the public of their rights under the Open Records Law.

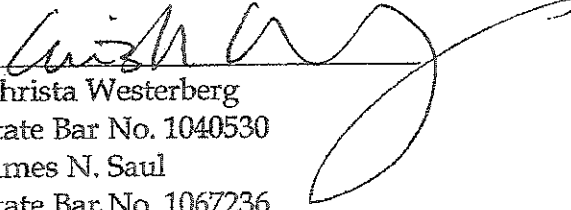
RELIEF REQUESTED

WHEREFORE, the plaintiffs demand judgment against the defendant under Wis. Stat. § 19.37(1):

- A. Compelling the defendant to permit OWN forthwith to inspect and copy the requested records;
- B. Awarding the plaintiffs their reasonable attorneys fees, actual costs and damages under Wis. Stat. § 19.37(2); and
- C. Awarding such other relief as the Court deems just.

Dated: August 2, 2011.

McGILLIVRAY WESTERBERG & BENDER LLC
Attorneys for Plaintiffs



Christa Westerberg
State Bar No. 1040530
James N. Saul
State Bar No. 1067236

211 S. Paterson St., Suite 320
Madison, Wisconsin 53703
Telephone: (608) 310-3560
Facsimile: (608) 310-3561
westerberg@mwbattorneys.com
saul@mwbattorneys.com

ONEWISCONSIN NOW



Alberta Darling
Room 317 East
State Capitol
P.O. Box 7882
Madison, WI 53707

Dear Sen. Alberta Darling,

This is to request, under the state's Open Records Law (19.31-39, Wisconsin Statutes) a copy of the following records for the period of April 7, 2011 to June 7, 2011:

- A copy of your office and staff appointment calendars;
- A copy of all letters, correspondence and emails related to school vouchers, school choice, charter schools and expansion or increased funding for any of these programs to or from your office;
- A copy of all emails to and from your office that include the names of any of the following individuals:
 - John Gard
 - Scott Jensen
 - George Mitchell
 - Susan Mitchell
 - James Bender
 - Jonathan Nikkila
 - Thomas Fonfara
 - Brian Pleva
 - Robert Seitz
 - Sean Bradley
 - Whitney Rhoades
 - Adam Rogalski
 - Steve Baas
 - Katherine Veskus
 - Timothy Sheehy
 - Mary Ellen Power
 - Debra Jordan
 - Brett Healy
 - John Huebscher
 - Kimberly Wadas
 - Barbara Sella
 - Matthew Kussow
 - Kyle Olson
 - Howard Fuller
 - Dennis Conta
 - John Gee
 - Michelle Kussow
 - Brandon Scholz
- As well as any emails or correspondence directly to or from these organizations or any communications referencing these organizations:
 - American Federation for Children

- o Metropolitan Milwaukee Association of Commerce
- o School Choice Wisconsin
- o Wisconsin Catholic Conference
- o Wisconsin Council of Religious and Independent Schools
- o Education Action Group Foundation
- o Wisconsin Charter Schools Association

Wisconsin's Open Records Law states, in relevant part:

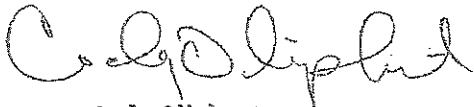
"In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of the government and the official acts of those officers and employees who represent them. Further, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility and duty is to provide such information."

The law continues: "To that end [the Open Records Law] shall be construed in every instance with the presumption of complete public access consistent with the conduct of governmental business. The denial of access generally is contrary to the public interest and only in exceptional cases can access be denied."

If my request is denied, please do so in writing and state what part of the law you believe entitles you to do so, and advise me of the process through which I may appeal. As you know, the law requires you to respond to this request "as soon as practicable and without delay."

Thank you for your prompt attention to this request.

Sincerely,



Cody Oliphant
One Wisconsin Now
152 W. Johnson Street
Suite 214
Madison, WI 53707

CC: Robert J. Marchant, Wisconsin Senate Chief Clerk

From: Cody Oliphant <cody@onewisconsinnow.org>
Date: Wed, Jul 13, 2011 at 10:39 AM
Subject: Fwd: One WI Now - Open Records Request
To: Sen.Darling@legis.wisconsin.gov

Dear Senator,

When will you be fulfilling this request? It has been over one month since I first filed the open records request with your office (see below) and I have received no indication from your office that the request was received and/or will be fulfilled.

Thank you,
Cody Oliphant
One Wisconsin Now

----- Forwarded message -----

From: Cody Oliphant <cody@onewisconsinnow.org>
Date: Wed, Jun 8, 2011 at 11:44 AM
Subject: One WI Now - Open Records Request
To: Sen.Darling@legis.wisconsin.gov

Dear Sen. Alberta Darling,

This is to request, under the state's Open Records Law (19.31-39, Wisconsin Statutes) a copy of the following records for the period of April 7, 2011 to June 7, 2011:

- A copy of your office and staff appointment calendars;
- A copy of all letters, correspondence and emails related to school vouchers, school choice, charter schools and expansion or increased funding for any of these programs to or from your office;
- A copy of all emails to and from your office that include the names of any of the following individuals:
 - John Gard
 - Scott Jensen
 - George Mitchell
 - Susan Mitchell
 - James Bender
 - Jonathan Nikkila
 - Thomas Fonfara
 - Brian Pleva
 - Robert Seitz
 - Sean Bradley
 - Whitney Rhoades
 - Adam Rogalski
 - Steve Baas

EXHIBIT B

- o Katherine Veskus
- o Timothy Sheehy
- o Mary Ellen Power
- o Debra Jordan
- o Brett Healy
- o John Huebscher
- o Kimberly Wadas
- o Barbara Sella
- o Matthew Kussow
- o Kyle Olson
- o Howard Fuller
- o Dennis Conta
- o John Gee
- o Michelle Kussow
- o Brandon Scholz

- As well as any emails or correspondence directly to or from these organizations or any communications referencing these organizations:
 - o American Federation for Children
 - o Metropolitan Milwaukee Association of Commerce
 - o School Choice Wisconsin
 - o Wisconsin Catholic Conference
 - o Wisconsin Council of Religious and Independent Schools
 - o Education Action Group Foundation
 - o Wisconsin Charter Schools Association

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"In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persons are entitled to the greatest possible information regarding the affairs of the government and the official acts of those officers and employees who represent them. Further, providing persons with such information is declared to be an essential function of a representative government and an integral part of the routine duties of officers and employees whose responsibility and duty is to provide such information."

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Thank you for your prompt attention to this request.

Sincerely,
Cody Oliphant
One Wisconsin Now
152 W. Johnson Street
Suite 214
Madison, WI 53707