

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN
MADISON DIVISION

MARK DUWE, ANDREW BOURDO, MARY)
STROSIN, JAMES DRAGANI, RITA DRAGANI,)
AMY GEHRKE, MARY BAXA, MICHAEL BAXA,)
and WISCONSIN RIGHT TO LIFE, INC.,)

Plaintiffs,)

v.)

Civil Action No. _____

JAMES C. ALEXANDER, in his official capacity)
as the Executive Director of the Wisconsin Judicial)
Commission; LARRY BUSSAN, in his official)
capacity as administrative assistant for the Wisconsin)
Judicial Commission; GINGER ALDEN, in her official)
capacity as a Member of the Wisconsin Judicial)
Commission; DONALD LEO BACH, in his official)
capacity as a Member of the Wisconsin Judicial)
Commission; JENNIFER MORALES, in her official)
capacity as a Member of the Wisconsin Judicial)
Commission; JOHN R. DAWSON, in his official)
capacity as a Member of the Wisconsin Judicial)
Commission; DAVID A. HANSHER, in his official)
capacity as a Member of the Wisconsin Judicial)
Commission; GREGORY A. PETERSON, in his)
official capacity as a Member of the Wisconsin)
Judicial Commission; WILLIAM VANDER LOOP,)
in his official capacity as a Member of the Wisconsin)
Judicial Commission; MICHAEL R. MILLER, in)
his official capacity as a Member of the Wisconsin)
Judicial Commission; JAMES M. HANEY, in his)
official capacity as a Member of the Wisconsin)
Judicial Commission; KEITH L. SELLEN, in his)
official capacity as Director of the Office of Lawyer)
Regulation;)

Defendants.)

**VERIFIED COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

COME NOW Plaintiffs Mark Duwe, Andrew Bourdo, Mary Strosin, James Dragani, Rita Dragani, Amy Gehrke, Mary Baxa, Michael Baxa, and Wisconsin Right to Life, Inc. (“WRL”), for their Complaint against the Defendants, state the following:

Introduction

1. This is a civil action for declaratory and injunctive relief arising under the First and Fourteenth Amendments to the Constitution of the United States. It concerns the constitutionality of portions of Wisconsin Supreme Court Rules 60.04(4), 60.04(4)(f) and 60.06(3)(b).

2. Plaintiffs complain that SCR 60.04(4)(f) and 60.06(3)(b) are unconstitutional both on their face and as applied to WRL’s Questionnaires, in violation of the First and Fourteenth Amendments to the United States Constitution. Plaintiffs also complain that SCR 60.04(4) is unconstitutional as applied to WRL’s Questionnaires in violation of the First and Fourteenth Amendment insofar as it can be applied to subject judges and judicial candidates to discipline for announcing their views on disputed legal and political issues.

Jurisdiction and Venue

3. This action arises under Section 1 of the Civil Rights Act of 1871, 17 Stat. 13, 42 U.S.C. § 1983, and the First and Fourteenth Amendments to the Constitution of the United States.

4. The jurisdiction of this Court over the claims arising under 42 U.S.C. § 1983 is founded upon 28 U.S.C. § 1343(a). The jurisdiction over the claims arising under the First and Fourteenth Amendments is founded upon 28 U.S.C. §§ 1331 and 1343(a).

5. Venue in this district is proper pursuant to 28 U.S.C. § 1391(b).

Parties

6. Plaintiff WRL is a non-profit organization registered in the State of Wisconsin. WRL is not associated with any political candidate, political party, or campaign committee. WRL's office is located in the city of Milwaukee in Milwaukee County, Wisconsin. WRL's Articles of Incorporation and By-Laws are attached as Exhibits 1 and 2, respectively.

7. Plaintiff Mark Duwe is a resident and registered voter in the City of Oshkosh, Winnebago County.

8. Plaintiffs Andrew Bourdo, and Mary Strosin are residents and registered voters in the City of Milwaukee, Milwaukee County.

9. Plaintiffs Amy Gehrke is a resident and registered voter in the City of Madison, Dane County.

10. Plaintiffs Mary Baxa and Michael Baxa are residents and registered voters in the City of Brookfield, Waukesha County.

11. Plaintiffs James Dragani, Rita Dragani are residents and registered voters in the Village of Elm Grove, Waukesha County.

12. The Defendants are the members of Wisconsin Judicial Commission ("Commission"), sued in their official capacities: James C. Alexander (Executive Director), Larry Bussan (Administrative Assistant), Ginger Alden, Donald Leo Bach, John R. Dawson, James M. Haney, David A. Hansher, Michael R. Miller, Jennifer Morales, Gregory A. Peterson, and William Vander Loop. The Commission, created pursuant to Article 7, Section 11 of the Wisconsin Constitution and with the inherent power of the Wisconsin Supreme Court, was codified by the Wisconsin legislature in §§ 757.81-757.99 of the Wisconsin Statutes. The executive director of the Commission investigates any allegation of misconduct

by a judicial official and makes an initial determination of whether it warrants review by the Commission. Wis. Admin. Code § JC 4.01. The Commission may then authorize the executive director to conduct a full, fair, and prompt investigation of any violation of the Code of Judicial Conduct and presents the findings to the Commission. Wis. Admin. Code § JC 4.03. The Commission is then empowered to determine whether to file formal charges against a judicial officer in the Wisconsin Supreme Court. Wis. Stat. § 757.85(5). If formal charges are filed, the Commission may authorize the executive director or other counsel to prosecute the case on behalf of the Commission. Wis. Admin. Code § JC 4.08(6), § JC 6.01.

13. Also a Defendant is the Director of the Office of Lawyer Regulation (“OLR”), Keith L. Sellen, sued in his official capacity. The OLR was established by the Wisconsin Supreme Court in order to supervise the practice of law and protect the conduct from misconduct by persons practicing law in Wisconsin. SCR 21 *Preamble*. The director of the OLR is tasked with both investigating and prosecuting any alleged misconduct of attorneys. SCR 22.02(6), 22.03(1), 22.05(1), 22.06(1), 22.08(2), 22.11(1), (3). The Wisconsin Rules of Professional Conduct for Attorneys provide that a “lawyer who is a candidate for judicial office shall comply with the applicable provisions of the code of judicial conduct.” SCR 20:8.2(b). Any attorney running as a judicial candidate who violates the Code of Judicial Conduct is thereby subject to discipline through the Office of Lawyer Regulation.

Facts

14. SCR 60.06(3)(b) forbids judges, judicial candidates, and judges-elect from making “*pledges, promises, or commitments* that are inconsistent with the impartial performance of the adjudicative duties of office” (emphases added). The Comment following the Rule interprets this statement to mean that “a judge or judicial candidate may not, while a proceeding is pending or impending in the

court to which selection is sought, make any public comment that *may reasonably be viewed as committing* the judge, judge-elect, or candidate to a particular case outcome” (emphases added).

15. SCR 60.04(4)(f) requires that a judge recuse himself or herself from a proceeding when, as either a judge or a judicial candidate, he or she “has made a public statement that *commits, or appears to commit*, the judge with respect to . . . [a]n issue in the proceeding . . . [or] [t]he controversy in the proceeding” (emphases added). In addition, SCR 60.04(4) requires that a judge recuse himself or herself when “reasonable, well informed persons knowledgeable about judicial ethics standards . . . and aware of the facts and circumstances . . . would *reasonably question the judge’s ability to be impartial*” (emphases added). Judges who do not recuse in such cases risk being disciplined.

16. Plaintiff WRL gathers information and publishes questionnaires to educate citizens about all Wisconsin candidates running for state office. WRL intended to publish responses to its 2006 Questionnaire of judicial candidates before the 2006 judicial elections, but was unable to do so because of candidates’ refusal to respond for fear of discipline.

17. In January 2006, WRL mailed an explanatory cover letter and the 2006 Questionnaire to all judicial candidates running for election in the State of Wisconsin. *See* Ex. 3 and 4. The 2006 Questionnaire explained that responses to the questions were due by February 22, 2006. WRL intended to use its 2006 Questionnaire to gather and publish judicial candidates’ views on legal and political issues in selected judicial race in the state.

18. WRL received seven completed questionnaires from judicial candidates. Of these, six declined to respond to all of the questions in the 2006 Questionnaire. *See Judicial Candidates’ Responses*,

attached as Ex. 5. Five of these six adopted the following statement provided on the 2006 Questionnaire as their reason for doing so:

This response indicates that I would answer this question, but believe that I am or may be prohibited from doing so by Wisconsin Supreme Court Rule 60.06(3)(b), which forbids judges, judicial candidates, and judges-elect from making “pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office” and which is interpreted to mean by the Comment to this Rule that a “judge or judicial candidate may not, while a proceeding is pending or impending in the court to which selection is sought, make any public comment that may reasonably be viewed as committing the judge, judge-elect or candidate to a particular case outcome.” This response also indicates that I would answer this question, but believe that, if I did so, then I will or may be required to recuse myself as judge in any proceeding concerning this answer on account of Wisconsin Supreme Court Rule 60.04(4)(f), which requires a judge or judge-candidate to recuse himself or herself when he or she “has made a public statement that commits, or appears to commit, the judge with respect to . . . [a]n issue in the proceeding . . . [or] [t]he controversy in the proceeding.”

19. The remaining candidate that returned the 2006 Questionnaire did not adopt the statement from Paragraph 18, but noted his refusal to respond and wrote after each question “pursuant to SCR 60.06(3)(b).” *See* Ex. 5 at 2-6.

20. One candidate provided a substantive answer to one of the questions on the 2006 Questionnaire, but WRL will not publish that answer to prevent the possibility of subjecting that candidate to discipline based on the other candidates’ responses. *See* Ex. 5 at 9. For the remainder of the questions, the candidate declined to answer, adopting as his reason for not doing so the statement from Paragraph 18. *Id* at 8-12.

21. Because of one judicial candidate’s desire to respond substantively to the questions on the 2006 Questionnaire, he asked the Wisconsin Judicial Conduct Advisory Committee (“Advisory Committee”) whether judicial candidates could respond to the 2006 Questionnaire without fear of

discipline in light of the Supreme Court's decision in *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002). In correspondence dated March 24, 2006, the Advisory Committee responded that they were "not authorized to determine the constitutional validity of the Code of Judicial Conduct in SCR Chapter 60" and therefore refused to answer his question. *See* Ex. 6.

22. The deadline for candidates to enter the 2007 judicial election is January 1, 2007.

23. WRL intends to send out a 2007 Questionnaire to all Wisconsin judicial candidates before the primary election on February 20, 2007, and the general judicial election on April 3, 2007, with questions identical to the questions in its 2006 Questionnaire. WRL then intends to publish judicial candidates' replies to its 2007 Questionnaire along with statements indicating whether these replies agree or disagree with WRL's positions.

24. Plaintiff Mark Duwe is a resident and registered voter in the City of Oshkosh, Winnebago County. Plaintiffs Andrew Bourdo, and Mary Strosin are residents and registered voters in the City of Milwaukee, Milwaukee County. Plaintiff Amy Gehrke is a resident and registered voter in the City of Madison, Dane County. Plaintiffs James Dragani and Rita Dragani are resident and registered voters in the Village of Elm Grove, Waukesha County. Plaintiffs Mary Baxa and Michael Baxa are residents and registered voters in the City of Brookfield, Waukesha County. Each is eligible to vote for a judicial candidate in the 2007 judicial elections. Mark Duwe, Andrew Bourdo, Mary Strosin, James Dragani, Rita Dragani, Amy Gehrke, Mary Baxa and Michael Baxa all want to receive information from WRL regarding the views of judicial candidates for whom they are eligible to vote on February 20 and April 3, 2007, and in subsequent elections in order to make an informed voting decision.

25. However, SCR 60.04(4)(f) and 60.06(3)(b), both on their face and as applied to the 2006 and 2007 Questionnaires (collectively “WRL Questionnaires”), chill judicial candidates’ exercise of their speech and association rights. Judicial candidates are unable to make their views known so that the electorate may intelligently evaluate the candidates’ personal qualities and their positions on vital public issues before choosing among them on election day. By penalizing judicial candidates for exercising their freedom of speech on legal and political issues of concern to the voters, SCR 60.04(4)(f) and 60.06(3)(b) require judicial candidates to withhold essential or important information from the voters as they seek to educate themselves and participate fully in democracy.

26. As a result of SCR 60.04(4)(f) and 60.06(3)(b), although WRL wants to publish and distribute responses to the questions on the WRL Questionnaires, WRL is now unable to fully exercise its free speech and association rights to receive and publish political information, since the judicial candidates must refuse to answer the questions. If WRL publishes any substantive responses it has received or will receive, it fears it will subject the responsive judicial candidate to discipline.

27. In addition, Plaintiffs Mark Duwe, Andrew Bourdo, Mary Strosin, James Dragani, Rita Dragani, Amy Gehrke, Mary Baxa and Michael Baxa are unable to receive the information WRL would like to publish and distribute before the upcoming judicial elections in 2007 and in future elections, so as to educate themselves and meaningfully participate in the election, because judicial candidates must refuse to answer any questions on disputed legal or political issues. As such, their free speech and association rights are violated.

28. SCR 60.04(4), as applied to the questions on the WRL Questionnaires, violates judges’ free speech and association rights. Judges are inappropriately presumed to be partial on an issue because of a

previous statement about a particular side of the issue, when such statement need not, in fact, show partiality. *White*, 536 U.S. at 783. By requiring judges to recuse themselves because of statements made during the election process, the SCR 60.04(4), as applied to the questions on the WRL Questionnaires, chills judicial candidates from speaking on issues essential to voters' decision-making process during elections, and restricts WRL from publishing any answers it receives, thereby violating Plaintiffs' free speech and free association rights.

29. Plaintiffs have exhausted all extra-judicial means at their disposal to resolve this matter before proceeding to file this Complaint.

30. Plaintiffs have no adequate remedy at law.

COUNT I

SCR 60.06(3)(b) IS, ON ITS FACE, UNCONSTITUTIONALLY VAGUE AND OVERBROAD, PROHIBITING AND CHILLING PLAINTIFF'S FREEDOM OF SPEECH AND ASSOCIATION.

31. Plaintiffs reallege the preceding paragraphs.

32. SCR 60.06(3)(b) forbids judges, judicial candidates, and judges-elect from making "*pledges, promises, or commitments* that are inconsistent with the impartial performance of the adjudicative duties of office" (emphases added). The Comment following the Rule interprets this statement to mean that "a judge or judicial candidate may not, while a proceeding is pending or impending in the court to which selection is sought, make any public comment that *may reasonably be viewed as committing* the judge, judge-elect, or candidate to a particular case outcome" (emphases added).

33. A law is void for vagueness "if it fails to give fair warning of what is prohibited, if it fails to provide explicit standards for the persons responsible for enforcement and thus creates a risk of

discriminatory enforcement, and if its lack of clarity chills lawful behavior.” *Anderson v. Milwaukee County*, 433 F.3d 975 (7th Cir. 2006). Laws regulating First Amendment freedoms are closely examined to ensure they are precisely drafted. *Buckley v. Valeo*, 424 U.S. 1, 40-41 (1976).

34. SCR 60.06(3)(b) is unconstitutionally vague as it provides insufficient guidance to judicial candidates about what conduct is prohibited. Judicial candidates who wish to engage in constitutionally protected speech by announcing their views on disputed political and legal issues believe that these clauses prevent them from making such announcements. *See Judicial Candidates’ Responses*, attached as Ex. 5. Likewise, WRL fears that the judicial candidate who answered a portion of the 2006 Questionnaire will be subject to discipline for announcing his views and has refrained from publishing his responses as a consequence. As such, SCR 60.06(3)(b) chills speech and is a vague, unconstitutional regulation of protected political speech under the First and Fourteenth Amendments.

35. As a result, Plaintiffs Mark Duwe, Andrew Bourdo, Mary Strosin, James Dragani, Rita Dragani, Amy Gehrke, Mary Baxa and Michael Baxa are denied their right to receive information regarding judicial candidates’ personal and philosophical views on political and legal issues, in violation of their First and Fourteenth Amendment rights to free speech and association.

36. The overbreadth doctrine “permits the facial invalidation of laws that inhibit the exercise of First Amendment rights if the impermissible applications of the law are substantial when ‘judged in relation to the statute’s plainly legitimate sweep.’” *City of Chicago v. Morales*, 527 U.S. 41, 52 (1999) (*quoting Broadrick v. Oklahoma*, 413 U.S. 601, 615 (1973)). As such, the overbreadth doctrine prevents a law from having a chilling effect on protected speech. *Hodgkins ex rel. Hodgkins v. Peterson*, 355 F. 3d 1048, 1056 (7th Cir. 2004).

37. SCR 60.06(3)(b) sweeps constitutionally protected announcements of personal views on disputed legal and political issues within the sphere of prohibited speech under the Canon, chilling judicial candidates from announcing their views and restricting WRL from publishing any answers judicial candidates have given announcing their views. Thus, SCR 60.06(3)(b) is an overbroad, unconstitutional regulation of protected political speech under the First and Fourteenth Amendments. *See White*, 536 U.S. at 788.

38. Likewise, plaintiffs Mark Duwe, Andrew Bourdo, Mary Strosin, James Dragani, Rita Dragani, Amy Gehrke, Mary Baxa and Michael Baxa are denied their right to receive information regarding judicial candidates' personal and philosophical views on political and legal issues, in violation of their First and Fourteenth Amendment rights to free speech and association.

COUNT II

SCR 60.06(3)(B)'S COMMITMENTS CLAUSE, AS APPLIED TO THE QUESTIONS ON THE WRL QUESTIONNAIRES, UNCONSTITUTIONALLY PROHIBITS AND CHILLS PLAINTIFFS' FREEDOM OF SPEECH AND ASSOCIATION.

39. Plaintiffs reallege the preceding paragraphs.

40. SCR 60.06(3)(b) forbids judges, judicial candidates, and judges-elect from making “*pledges, promises, or commitments* that are inconsistent with the impartial performance of the adjudicative duties of office” (emphases added). The Comment following the Rule interprets this statement to mean that “a judge or judicial candidate may not, while a proceeding is pending or impending in the court to which selection is sought, make any public comment that *may reasonably be viewed as committing* the judge, judge-elect, or candidate to a particular case outcome” (emphases added).

41. WRL's 2006 Questionnaire asked judicial candidates to announce their views on disputed political and legal issues, and questionnaires WRL plans to distribute in 2007 and in future elections will ask judicial candidates to announce their views on the same issues. Such announcements are protected political speech under *White*, 536 U.S. at 788.

42. SCR 60.06(3)(b), as applied to the questions on the WRL Questionnaires, sweeps judicial candidates' announced personal views on disputed legal and political issues into the sphere of speech prohibited by the Wisconsin Supreme Court Rules, and thus constitutes an unconstitutionally overbroad application of rules governing judicial political campaign speech and association, *see Buckley*, 997 F.2d at 231, and are in direct violation of *White*, 536 U.S. at 788.

43. Further, judicial candidates believe that SCR 60.06(3)(b) prohibits them from responding to the WRL Questionnaires. *See Judicial Candidates' Responses*, attached as Ex. 5. Likewise, WRL fears that any judicial candidate who answers a question posed by the WRL Questionnaires may be exposed to disciplinary proceedings for violation of this rule, even though questionnaire will only ask judicial candidates to announce their views on disputed legal and political issues. As a consequence, SCR 60.06(3)(b), as applied to the WRL Questionnaires, constitutes unconstitutional regulation of protected political speech and association, in violation of the First and Fourteenth Amendments of the United States Constitution.

44. Likewise, plaintiffs Mark Duwe, Andrew Bourdo, Mary Strosin, James Dragani, Rita Dragani, Amy Gehrke, Mary Baxa and Michael Baxa are denied their right to receive information regarding judicial candidates' personal and philosophical views on political and legal issues, in violation of their First and Fourteenth Amendment rights to free speech and association.

COUNT III

SCR 60.04(4)(F)'S JUDICIAL RECUSAL REQUIREMENT IS, ON ITS FACE, UNCONSTITUTIONALLY VAGUE AND OVERBROAD, PROHIBITING AND CHILLING PLAINTIFFS' FREEDOM OF SPEECH AND ASSOCIATION.

45. Plaintiffs reallege the preceding paragraphs.

46. SCR 60.04(4)(f) requires that a judge recuse himself or herself from a proceeding when, as either a judge or a judicial candidate, he or she “has made a public statement that *commits, or appears to commit*, the judge with respect to . . . [a]n issue in the proceeding . . . [or] [t]he controversy in the proceeding” (emphases added). Judges who do not recuse in such cases risk being disciplined.

47. A law is void for vagueness “if it fails to give fair warning of what is prohibited, if it fails to provide explicit standards for the persons responsible for enforcement and thus creates a risk of discriminatory enforcement, and if its lack of clarity chills lawful behavior.” *Anderson*, 433 F.3d at 975. Laws regulating First Amendment freedoms are closely examined to ensure they are precisely drafted. *Buckley*, 424 U.S. at 40-41.

48. SCR 60.04(4)(f) is unconstitutionally vague, as it provides insufficient guidance to judicial candidates about what conduct is prohibited. Judicial candidates who wish to engage in constitutionally protected speech by announcing their views on disputed political and legal issues believe that this clause requires recusal if they make such announcements. *See Judicial Candidates' Responses*, attached as Ex. 5. Likewise, WRL fears that a judicial candidate who answers a portion of the questionnaire will be required to recuse himself from a proceeding concerning the matter, or be subject to discipline if he refuses to recuse himself. As such, SCR 60.04(4)(f) chills speech and is a vague, unconstitutional regulation of protected political speech under the First and Fourteenth Amendments.

49. The overbreadth doctrine “permits the facial invalidation of laws that inhibit the exercise of First Amendment rights if the impermissible applications of the law are substantial when ‘judged in relation to the statute’s plainly legitimate sweep.’” *Morales*, 527 U.S. at 52 (quoting *Broadrick*, 413 U.S. at 615). As such, the overbreadth doctrine prevents a law from having a chilling effect on protected speech. *Hodgkins*, 355 F. 3d at 1056.

50. SCR 60.04(4)(f) sweeps constitutionally protected announcements of personal views on disputed legal and political issues within the sphere of protected speech under the rule, deterring judicial candidates from announcing their views and deterring WRL from publishing any answers judicial candidates have given announcing their views. Thus, the rule is an overbroad, unconstitutional regulation of protected political speech under the First and Fourteenth Amendments. *See White*, 536 U.S. at 788.

COUNT IV

SCR 60.04(4) and 60.04(4)(f) ARE UNCONSTITUTIONAL AS APPLIED TO THE WRL QUESTIONNAIRES.

51. Plaintiffs reallege the preceding paragraphs.

52. SCR 60.04(4)(f) requires that a judge recuse himself or herself from a proceeding when, as either a judge or a judicial candidate, he or she “has made a public statement that *commits, or appears to commit*, the judge with respect to . . . [a]n issue in the proceeding . . . [or] [t]he controversy in the proceeding” (emphases added). In addition, SCR 60.04(4) requires that a judge recuse himself or herself when “reasonable, well informed persons knowledgeable about judicial ethics standards . . . and aware of the facts and circumstances . . . would *reasonably question the judge’s ability to be impartial*” (emphases added). Judges who do not recuse in such cases risk being disciplined.

53. SCR 60.04(4) and (4)(f), as applied to the questions on the WRL Questionnaires, have the effect of chilling speech, because judicial candidates will refrain from responding to any questions and will refrain from announcing their views on disputed legal and political issues raised in a judicial campaign for fear they must later recuse themselves from proceedings relating to such issues or because of the appearance of impartiality. Likewise, the rules chill the WRL's speech by discouraging publication of the views of candidates who do respond for fear of exposing such candidates to discipline. Such an effect is in violation of the First and Fourteenth Amendment rights of freedom of speech. Judicial candidates have the constitutional right to announce their views on legal and political issues. *White*, 536 U.S. at 788. Consequently, SCR 60.04(4) and 60.04(4)(f), as applied to the questions on the WRL Questionnaires, impose an unconstitutional penalty on judicial candidates who exercise their constitutional right to announce their views on disputed political and legal issues and chill WRL's speech.

54. In addition, plaintiffs Mark Duwe, Andrew Bourdo, Mary Strosin, James Dragani, Rita Dragani, Amy Gehrke, Mary Baxa and Michael Baxa are denied their right to receive information regarding judicial candidates' personal and philosophical views on political and legal issues, in violation of their First and Fourteenth Amendment rights to free speech and association.

Prayer for Relief

55. Plaintiffs reallege the previous paragraphs.

WHEREFORE, Plaintiffs request this Court to:

(1) Declare Wisconsin Supreme Court Rule 60.06(3)(b) unconstitutionally vague and overbroad in violation of the First and Fourteenth Amendments to the United States Constitution;

(2) Declare Wisconsin Supreme Court Rule 60.06(3)(b) unconstitutionally chilling and prohibiting Plaintiffs' rights to receive and publish speech under the First and Fourteenth Amendments to the United States Constitution;

(3) Declare Wisconsin Supreme Court Rule 60.06(3)(b) unconstitutional as applied to the WRL Questionnaires on the grounds that it chills and prohibits Plaintiffs' free speech rights under the First and Fourteenth Amendments to the United States Constitution.

(4) Declare Wisconsin Supreme Court Rule 60.04(4)(f) unconstitutionally vague and overbroad in violation of the First and Fourteenth Amendments to the United States Constitution.

(5) Declare Wisconsin Supreme Court Rules 60.04(4) and 60.04(4)(f) unconstitutional as applied to the questions on the WRL Questionnaires because they inhibit and prohibit WRL, Mark Duwe, Andrew Bourdo, Mary Strosin, James Dragani, Rita Dragani, Amy Gehrke, Mary Baxa and Michael Baxa from receiving judicial candidates' protected speech, in violation of Plaintiffs' free speech and freedom of association rights under the First and Fourteenth Amendments to the U.S. Constitution;

(6) Prohibit, by way of preliminary and permanent injunction, the Defendants, their agents, and successors from enforcing Wisconsin Supreme Court Rule 60.06(3)(b) and Wisconsin Supreme Court Rules 60.04(4) and 60.04(4)(f), and from filing, initiating, or considering complaints based on these Rules against judicial candidates who respond to the questions on the WRL Questionnaires.

(7) Grant Plaintiffs' costs and attorney's fees pursuant to 42 U.S.C. § 1988 and any other applicable authority; and

(8) Grant Plaintiffs such other relief as may be just and equitable.

Dated: December 27, 2006

Respectfully submitted,

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