

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN K. MACIVER INSTITUTE FOR
PUBLIC POLICY and WILLIAM
OSMULSKI,

Plaintiffs,

v.

Case No. 19-CV-0649

TONY EVERS, in his official capacity as
Governor of the State of Wisconsin,

Defendant.

DEFENDANT'S ANSWER

INTRODUCTION

1. As to paragraph 1, the allegation consists of a legal conclusion to which no response is required. To the extent this paragraph misstates the law or contains factual allegations, Defendant denies.

2. As to paragraph 2, the allegation consists of a legal conclusion to which no response is required. To the extent this paragraph misstates the law or contains factual allegations, Defendant denies.

3. As to paragraph 3, Defendant lacks knowledge or information to form a belief about the allegation, and therefore denies.

4. As to paragraph 4, Defendant admits that Tony Evers is governor of Wisconsin and that he is sued in his official capacity. Defendant denies the remaining allegations in this paragraph.

5. As to paragraph 5, Defendant admits that Plaintiffs bring this suit under 42 U.S.C. § 1983, seeking declaratory and injunctive relief. Defendant denies that Plaintiffs are entitled the relief they seek.

PARTIES

6. As to paragraph 6, Defendant lacks knowledge or information to form a belief about the allegation, and therefore denies.

7. As to paragraph 7, Defendant lacks knowledge or information to form a belief about the allegation, and therefore denies.

8. As to paragraph 8, Defendant admits, but alleges that the zip code for the Governor's address is 53702.

JURISDICTION AND VENUE

9. As to paragraph 9, Defendant admits that 28 U.S.C. §§ 1331 and 1343 confer federal question jurisdiction in actions authorized by 42 U.S.C. § 1983.

10. As to paragraph 10, Defendant does not challenge venue in this District. The allegation otherwise consists of a legal conclusion to which no response is required.

FACTUAL ALLEGATIONS

11. As to paragraph 11, Defendant lacks knowledge or information to form a belief about the allegation, and therefore denies.

12. As to paragraph 12, Defendant lacks knowledge or information to form a belief about the allegation, and therefore denies.

13. As to paragraph 13, Defendant lacks knowledge or information to form a belief about the allegation, and therefore denies.

14. As to paragraph 14, Defendant admits that Osmulski and Kittle asked to be added to the media advisory list and that they were not added to the list. Defendant further admits that Governor Evers uses an electronic media advisory listserv to advise media outlets and others of event but denies that the list referenced in this paragraph is the current media advisory list.

15. As to paragraph 15, Defendant admits that the media advisory list is used to alert reporters to certain limited access press conferences. Defendant denies the remaining allegations in this paragraph.

16. As to paragraph 16, Defendant admits, but alleges that in addition to members of the Capitol Press Corps or their parent organizations, the Governor's Office also invited approximately three other major television news organizations to the February 28, 2019 press briefing.

17. As to paragraph 17, Defendant denies that Osmulski and Kittle are members of the Capitol Press Corps. Defendant admits the remaining allegations in this paragraph.

18. As to paragraph 18, Defendant lacks knowledge or information to form a belief about the allegation in the first sentence, and therefore denies. Defendant denies the remaining allegations in this paragraph.

COUNT I

19. No response required.

20. As to paragraph 20, the allegation consists of a legal conclusion to which no response is required. To the extent this paragraph misstates the law or contains factual allegations, Defendant denies.

21. As to paragraph 21, Defendant denies

22. As to paragraph 22, Defendant denies

23. As to paragraph 23, Defendant denies

COUNT II

24. No response required.

25. As to paragraph 25, the allegation consists of a legal conclusion to which no response is required. To the extent this paragraph misstates the law or contains factual allegations, Defendant denies.

26. As to paragraph 26, Defendant denies.

COUNT III

27. No response required.

28. As to paragraph 28, the allegation consists of a legal conclusion to which no response is required. To the extent this paragraph misstates the law or contains factual allegations, Defendant denies.

29. As to paragraph 29, Defendant denies.

PRAYER FOR RELIEF

Defendant denies that Plaintiffs are entitled to the relief they seek.

AFFIRMATIVE DEFENSES

1. Failure to state a claim upon which relief may be granted.

Dated this 11th day of October, 2019.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

s/ Gabe Johnson-Karp
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CERTIFICATE OF SERVICE

I certify that on October 11, 2019, I electronically filed the foregoing Defendant's Answer with the clerk of court using the CM/ECF system, which will accomplish electronic notice and service for all participants who are registered CM/ECF users.

Dated this 11th day of October, 2019.

s/ Gabe Johnson-Karp
GABE JOHNSON-KARP
Assistant Attorney General