

Case No. _____
30952 Petition for Writ of Mandamus

Wisconsin Voters Alliance
and its President Ron Heuer,
E3530 Townline Road
Kewaunee, Wisconsin 54216

H.O.T. Government
and its President Harry Wait
4353 Shianne Street
Union Grove, WI 53182

Janel Brandtjen
Office of Rep. Janel Brandtjen
22nd Assembly District,
Room 12 West
PO Box 8952
Madison, WI 53708-8952

Plaintiffs,

v.

City of Racine
730 Washington Ave
Racine, WI 53403

Hon. Cory Mason
Mayor
City of Racine
730 Washington Ave
Racine, WI 53403

Tara Coolidge
City Clerk
730 Washington Ave
Room 103
Racine, WI 53403

Defendants.

VERIFIED PETITION

This is an action seeking to enforce the right to inspect public records pursuant to Wisconsin's Open Records Law, Wisconsin Statutes § 19.31 et seq. Plaintiffs are Wisconsin entities, Wisconsin electors, and a Wisconsin State Representative who have requested public records from Respondents who are City of Racine, Wisconsin employees with the authority and an obligation to produce governmental records. The requested public records are relevant to five actions the Complainants have filed before the Wisconsin Elections Commission ("WEC") to bring about an investigation into whether the City of Racine, four other cities recruited by the City of Racine, and the Wisconsin Election Commission Administrator complied with election laws.

The five actions are against the "famous" Wisconsin-5 cities—the five largest cities in Wisconsin. The "Wisconsin-5 cities" are Milwaukee, Madison, Green Bay, Racine and Kenosha. The Center for Tech and Civic Life ("CTCL"), an out of state private corporation targeted get-out-the-vote strategies for handpicked areas of the Wisconsin-5 cities, and designated nearly \$9 million of grants to assist with those get-out-the-vote efforts, and the administration of the elections in those cities in November 2020.

Complainants' public records requests have not been fully answered or have been denied without cause. These records are subject to timely production under the Wisconsin Open Records Law, and Defendants continue to stall in their production or to outright withhold the requested public records without lawful justification. This Court's intervention and the sanction of an award of attorney fees are therefore required.

PARTIES

1. Plaintiffs are Wisconsin entities, Wisconsin electors, and a Wisconsin State Assembly Member. They are “requesters” as defined in Wisconsin Statutes § 19.32(3) and used in Wisconsin Statutes § 19.31 et seq.
2. Defendants are the City of Racine and two employees of the City of Racine, the mayor and City Clerk, who are “authorities” under Wisconsin Statutes § 19.32.

JURISDICTION & VENUE

3. Jurisdiction and venue are proper under Wisconsin Statutes §§ 801.50(2)(a) and 801.50(3).

FACTUAL ALLEGATIONS

4. In March of 2021, pursuant to the Wisconsin Open Records Law, Wisconsin Statutes § 19.31 et seq., the Plaintiffs made requests for documents to the Defendants.
5. Some documents were produced, upon information and belief, which demonstrated that Defendants illegally gave up administrative control over the election to un-elected and unaccountable private corporations and representatives from outside of Wisconsin.
6. Some of the produced documents, upon information and belief, demonstrate that the Wisconsin-5 cities agreed to the corporate conditions imposed by the private corporations; and that the Wisconsin-5 cities failed to comply with state and federal law relating to federal elections.

7. The documents obtained, upon information and belief, revealed to the Complainants that Racine officials responsible for the election processes and procedures, adopted and implemented the private corporate conditions dictated by CTCL, one of the out-of-state private corporations, including direct corporate and corporate employee engagement in the administration of the general election.
8. However, Plaintiffs have requested additional public records from Defendants to further prove their allegations and claims, but Defendants have not produced documents in response to those requests.
9. The obtained documents demonstrate that CTCL actively recruited Defendant Vicky Selkove, the Manager of Strategic Initiatives & Community Partnerships for the City of Racine, and then Vicky Selkove actively recruited representatives of the other four largest cities in Wisconsin (the other “Wisconsin-5 cities”) to join in hers and CTCL’s election plans.
10. CTCL partnered with Vicky Selkove, whose interest in the 2020 election has been demonstrated in her Twitter account postings, including:
 - “I’m a public interest attorney and policy advocate in SE WI and I’m all in for Warren ...” Feb 12, 2020.
 - “who would best be able to completely demolish Trump?” Feb. 19, 2020.
 - “This is such a huge win for Madison and for Democrats statewide. Congratulations.” Aug. 11, 2020

- “#VoteHim[Trump]Out.” Sept. 24, 2020.
- “#BidenHarrisToSaveAmerica” Sept. 18, 2020.
- “Wow. Just wow. Dane County brought it for Biden big time.” Nov. 4, 2020.
- “I waited 4 years to vote against Trump, and I got a little emotional as I filled out that oval for @JoeBiden&KamalaHarris.” Oct. 24, 2020.
- “Don’t mind me, I’m just gonna be over here maxing out my credit cards to donate to win the Presidency and the Senate.” Sept. 18, 2020, #FlipTheSenateBlue#BidenHarrisToSaveAmerica”
- #StopTrump; #JoeBidenForPresident; #VoteBlueToEndTheNightmare; #VoteBlue; #FliptheVote:

Ex. 1, a printout of a sampling of Ms. Selkove’s Twitter posts.

11. CTCL’s founder Tiana Epps-Johnson is ideologically the same as Ms. Selkove in her support of Democrats and their positions.
12. These Tweets and other documents make the other requested public records, including the requested text messages, emails and other communications of Ms. Selkove, the CTCL representatives, “partners,” and other Wisconsin-5 representatives crucially important and relevant. These embarrassing and pejorative

Tweets may also explain why Defendants are refusing to produce the records—i.e., because they will likely prove Plaintiffs’ claims in the five Complaints even more clearly.

13. Upon information and belief, once CTCL joined with Ms. Selkowe, she recruited the four other largest cities in Wisconsin to join with Racine in becoming the “Wisconsin-5” in adopting and implementing CTCL’s corporate conditions, and arranging for the Wisconsin-5 cities to cede administration of the election to CTCL, a private corporation and its out of state contractors and representatives.
14. Based on the information previously obtained, Wisconsin electors brought administrative election complaints against each of the five Wisconsin cities, i.e. the Wisconsin-5.
15. Plaintiffs have also made additional follow up requests for public records to further demonstrate the illegalities that are adequately set out in the five complaints, but Plaintiffs have not received documents pursuant to the follow up requests, or have gotten a small subset of what has been requested, have been told the Defendants will not produce additional records, or been told that they are working on the production, even though the original Public Records requests were made five months ago.
16. Vicky Selkowe, the Manager, Strategic Initiatives & Community Partnerships Office of the Defendant Mayor Cory Mason of Racine, Wisconsin, working with the CTCL, a non-profit organization headquartered in Chicago, Illinois providing federal election grants to local governments, agreed to organize the five largest cities in Wisconsin,

and to arrange an immediate grant of \$100,000.00 to be split up among the Wisconsin-5 cities, and then follow up grants totaling \$6,324,527.00 (later increased to about \$8,800,000) to the Wisconsin-5.

17. Although the purpose of the CTCL grants was ostensibly to provide for a Covid-19 safe election, the grants' purposes were actually to get out the vote, but only as to certain demographic groups, stated as to "encourage and increase ... in-person" voting and "dramatically expand strategic voter education & outreach efforts"— "particularly to historically disenfranchised residents" —and only within certain parts of the Wisconsin-5 cities, not in Wisconsin statewide.
18. The conditional grants CTCL made to the Wisconsin-5 specifically provided that "**CTCL may discontinue, modify, withhold part of, or ask for the return** of all or part **of the grant funds if it determines, in its sole judgment, that (a) any of the above conditions have not been met, ...". (emphasis added) These "claw back" provisions therefore required the Wisconsin-5 cities to conduct the election as CTCL, "in its sole judgment" required, or the Wisconsin-5 cities would be responsible for the return all the grant money. Ex. 2, one of the contracts between CTCL and the Wisconsin-5 cities, par. 7, 8.**
19. The March 2021 Public Record Requests resulted in the production of some data, and the follow up requests which are the subject of this action were designed to obtain many more documents, including additional texts, social media posts, and emails.

20. Plaintiffs made the following requests which either have resulted in no response, or a very limited response:

- Representative Janel Brandtjen request March 15, 2021 [**PR2021-053**] (Ex. 3).
- H.O.T. Government requests March 17, 2021 [Vicky Selkove] [**PR2021-055**] (Ex. 4); March 17, 2021 [Tara Coolidge] [**PR2021-056**] (Ex. 5); and June 14, 2021 [Tara Coolidge] (Ex. 6); and,
- Wisconsin Voters Alliance request April 29, 2021 [Erick Kaardal to Tara Coolidge] [**PR2021-084**] (Ex. 7).

21. The City of Racine failed to respond to the above Public Records requests and so on July 13, 2021, attorney Erick Kaardal, on behalf of the Wisconsin Voters Alliance, H.O.T. Government, and Wisconsin State Representative Janel Brandtjen, sent a letter to Mr. Scott Letteney, City Attorney for the City of Racine demanding full responses and production. (Ex. 8). Plaintiffs also informed Respondents that the lack of production was “unacceptable,” and that “time is of the essence because of pending matters in the Wisconsin Elections Commission,” including the July 28, 2021 deadline for Plaintiffs’ reply, the purpose of which was to demonstrate Defendants’ illegalities and to defeat Defendant’s motion to dismiss.

22. Defendants responded through the City of Racine City Attorney’s Office on July 15, 2021 (Ex. 9, four months after the date of the Public Records request) regarding **PR2021-055** (H.O.T. request of March 17, 2021 to Vicky Selkove), as amended by

Mr. Wait, informing H.O.T.'s representative that the "City will proceed to process your request as revised and respond thereto as soon as practicable and without delay." Thus to date, five months after the Public Records request, though some documents have been produced, most responsive documents have not been produced on the basis that the number of responsive documents would create an "unreasonable burden."

23. The City of Racine responded to Erick Kaardal's April 29, 2021 request [**PR2021-084**] on July 23, 2021 (Ex. 10), nearly three months later, through the response of Racine City Attorney Marisa L. Roubik. Some documents have been produced, but Requests 1 and 2 which seek the social media posts and text messages "made on funded cell phones by city officials that relate to or reference the following topics" have not been produced:

- "CTCL, Tiana-Epps Johnson, Josh Goldman, Whitney May, NVAHI, Hillary Hall, Michael Spitzer-Rubenstein, Idae42, Center for Civic Design, US Digital Response, The Elections Group, Quick Base, voter registration, ballot counting, ballot transport, reconstruction, election, voter outreach, absentee ballots, cure, curing, grant, claw-back, grant conditions, grant requirements, grant rules."

24. Defendants responded to Representative Brantjen's March 15, 2021 request (**PR2021-053**) on July 16, 2021 (Ex. 11), more than four months after it was served. The City of Racine has only made a partial production under this request.

25. Defendants responded to Mr. Wait's H.O.T. request (**PR2-21-056**) on July 16, 2021 (Ex. 12) stating that there were over 41,000 emails that were responsive, but the City of Racine has not produced them. Thus, now five months after the Public Records request, many responsive documents have not been produced.
26. Defendants responded on August 6, 2021 (Ex. 13) to Harry Wait's request dated April 8, 2021, responding to 3 of the requests stating the City needed "additional time." These Public Records requests specifically asked for documents directly related to the five actions, and Defendants have apparently stonewalled the production of those records.
- Mr. Wait's requests included: "All communications containing CTCL, National Vote at Home Institute Center for Tech and Civic Life, Wisconsin Safe voting plan, Ideas42, Michelle Nelson, Tiana Epps Johnson, John McLaughlin, Kris Teske, John Antaramian, Maribeth Witzel-Behl, S. Claire Woodall-Vogg, Kathleen Fischer, Whitney May, Hillary Hall, Michael Spitzer-Rubenstein, Tara Coolidge, Vicky Selkove, Regi Bachochin, Fabi Maldonado, Jody Spencer, Nick Demske, Melissa Kaprelian-Becker, Robin Vos, Van Wanggaard, Robert Wittke, Cory Mason, Scott Letteney, Marisa Roubik.
27. Defendants produced a blank version of a document entitled "Wisconsin Municipal Election Data & Needs" form, and only upon several follow up requests did completed forms get produced. However, the texts, emails and social media posts pertaining to those, the creation of the Wisconsin Safe Voting Plan, and numerous

other responsive documents have not been produced, pursuant to the original requests months ago, or pursuant to Mr. Kaardal's numerous request letters.

28. Upon information and belief, the Defendants are refusing to produce the responsive documents in order to run out the clock on the Wisconsin Elections Commission case, and to withhold documents that are clearly relevant and which likely will provide support for Plaintiffs' claims

**Claim: Violation of Wisconsin Public Records Act Law,
Wisconsin Statutes § 19.31 et seq.**

29. Plaintiffs incorporate herein all allegations set forth in the preceding paragraphs.
30. The Wisconsin Open Records Law declares a strong public interest in favor of disclosure: "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" Wis. Stat. § 19.31. The law "shall be construed in every instance with a presumption of complete public access" Id.
31. Under Wis. Stat. § 19.35, "any requester has a right to inspect any record" and "to make or receive a copy of a record."
32. Once it has received a request, an authority must respond "as soon as practicable and without delay" pursuant to Wis. Stat. § 19.35(4)(a).
33. Case law makes clear that the public records law is designed to make existing records available to the public unless withholding such documents is specifically authorized

- by law. *Journal Times v. Police & Fire Com'rs Bd.*, 866 N.W.2d 563, 362 Wis.2d 577 (2015).
34. Absent a clear statutory exception, a limitation under the common law, or an overriding public interest in keeping a public record confidential, the Open Records Law shall be construed in every instance with a presumption of complete public access. *Hagen v. Board of Regents of University of Wisconsin System*, 916 N.W.2d 198, 200, 383 Wis.2d 567 (Wis. Ct. App. 2018).
35. The Open Records Law serves one of the basic tenets of state's democratic system by providing an opportunity for public oversight of the workings of government. *Voces De La Frontera, Inc. v. Clarke*, 891 N.W.2d 803, 808, 373 Wis.2d 348 (2017).
36. The court interprets the text of the Open Records Law in light of the Declaration of Policy, which is to foster transparent government, *Milwaukee Journal Sentinel v. City of Milwaukee*, 815 N.W.2d 367, 375, 341 Wis.2d 607 (2012), and to enable the citizenry to monitor and evaluate the performance of public officials and employees. *Journal/Sentinel, Inc. v. School Bd. of School Dist. of Shorewood*, 521 N.W.2d 165, 172, 186 Wis.2d 443 (Wis. Ct. App. 1994), review denied 525 N.W.2d 733.
37. Even if there is an objection to part of a record requested, the non-objectionable part must be produced: “any portion of that record which contains public information is open to public inspection as provided in sub. (6).” Wis. Stat. § 19.36(1).

38. Denial of public access to public records is contrary to public interest and is to be allowed only in exceptional case and exceptions to general rule of disclosure must be narrowly construed. *Oshkosh Northwestern Co. v. Oshkosh Library Bd.*, 373 N.W.2d 459, 461, 125 Wis.2d 480 (Wis. Ct. App. 1985).
39. Requests for records under the open records law does not require a request to contain any “magic words.” *WIREData, Inc. v. Village of Sussex*, 729 N.W.2d 757, 764, 298 Wis.2d 743 (Wis. Ct. App. 2007), *review granted* 737 N.W.2d 431, 302 Wis.2d 104, *affirmed in part, reversed in part* 751 N.W.2d 736, 310 Wis.2d 397 (2008).
40. As set forth in the Facts section, Plaintiffs made Public Records requests to the Defendants which either have resulted in no response, or a very limited response.
41. No response was made, which resulted in counsel for the Plaintiffs making a letter request on July 13, 2021 for full responses and production. Plaintiffs also informed Respondents that the lack of production was “unacceptable,” and that “time is of the essence because of pending matters in the Wisconsin Elections Commission,” including the July 28, 2021 deadline for Plaintiffs’ reply, the purpose of which was to demonstrate Defendants’ illegalities and to defeat Defendant’s motion to dismiss.
42. Defendants finally responded to Plaintiff’s request of April 29, 2021 through a letter from the Racine City Attorney Marisa L. Roubik’s response on July 23, 2021.

43. Upon information and belief, Defendants are refusing to produce the responsive documents in order to run out the clock on the case, and to withhold documents that are clearly relevant and which likely will provide support for Plaintiffs' claims.
44. Defendants' response through the City of Racine City Attorney's Office on July 15, 2021 informing Plaintiffs that the "City will proceed to process your request as revised and respond thereto as soon as practicable and without delay," has still not resulted in the production of any documents.
45. Under *Oshkosh Northwestern Co. v. Oshkosh Library Bd.*, 125 Wis. 2d 480 (Wis. Ct. App. 1985), an authority that denies a request must offer specific public policy reasons for the denial. Defendants have violated the Wisconsin Open Records Law because it delayed granting access to the requested records without a valid reason.
46. Under *Milwaukee Journal Sentinel v. City of Milwaukee*, 341 Wis.2d 607 (2012), authorities cannot charge for redaction or separation fees. Wis. Stat. § 19.35(3) allows charges for only: "reproduction and transcription," "photographing and photographic processing," "locating," and "mailing or shipping." Defendants may exceed the scope of the statute by attempting to charge for redaction and separation.
47. The Defendants' actions have caused and will continue to cause injury to Plaintiffs; its actions also continue to deprive the public of its rights under the Wisconsin Open Records Law.

RELIEF REQUESTED

WHEREFORE, Plaintiffs request a writ of mandamus pursuant to Wis. Stat. § 19.31 et seq.:

1. Compelling Defendants to produce the requested records for the Plaintiffs without further delay, pursuant to Wis. Stat. § 19.37(1)(a);
2. Awarding Plaintiffs their reasonable attorney's fees, actual costs and damages of not less than \$100, pursuant to Wis. Stat. § 19.37(2);
3. Finding Defendants acted arbitrarily and capriciously in denying the request and failing to respond to the request and awards Plaintiffs punitive damages, pursuant to Wis. Stat. § 19.37(3); and
4. Awarding such other relief as the Court deems just and equitable.

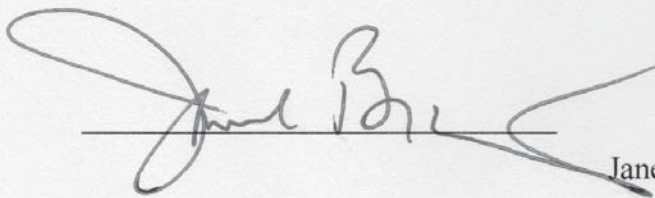
DATED this 25th day of August, 2021.

Respectfully submitted,



Erick G. Kaardal, No. 1035141
Mohrman, Kaardal & Erickson, P.A.
Special Counsel for Thomas More Society
150 South Fifth Street, Suite 3100
Minneapolis, MN 55402
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Facsimile: (612) 341-1076
Email: kaardal@mklaw.com
Attorneys for the Complainants

I, Janel Brandtjen, being first duly sworn on oath state that I personally read the above petition, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.



Janel Brandtjen



STATE OF WISCONSIN)
) ss.
County of Waushara)
(county of notarization)

Sworn to before me this 25th day of August, 2021



(Signature of person authorized to administer oaths)

My commission expires 2/9, or is permanent

Notary Public or _____ (official title if not notary)

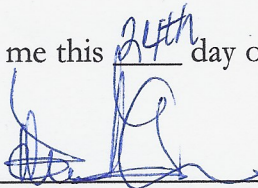
I, Harry Wait, individually and as President of H.O.T. Government, being first duly sworn on oath state that I personally read the above petition, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

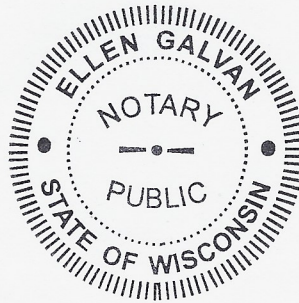


Harry Wait

STATE OF WISCONSIN)
County of Bay) ss.
(county of notarization)

Sworn to before me this 24th day of August, 2021





(Signature of person authorized to administer oaths)
My commission expires 10-31-2023 or is permanent
Notary Public or _____ (official title if not notary)