

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

RUTHELLE FRANK, et al., on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

SCOTT WALKER, in his official capacity as  
Governor of the State of Wisconsin, et al.,

Defendants.

Civil Action No. 2:11-cv-01128 (LA)

**DECLARATION OF KARYN L. ROTKER**

I, Karyn L. Rotker, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am one of the attorneys for the Plaintiffs in the above-captioned action. I submit this Declaration in support of Plaintiffs' Civil L. R. 7(h) Expedited Non-Dispositive Motion to Exclude Defendants' Recently Disclosed Witnesses.

2. I make this Declaration based on my own personal knowledge and based on the sources described, true and correct copies of which are attached hereto.

3. On Tuesday, August 20, 2013, I attended a telephonic meet and confer session with counsel for Defendants, Clayton Kawski, Maria Lazar, Daniel Lennington, and Charlotte Gibson. Present for Plaintiffs were myself and attorneys Larry Dupuis, Dale Ho, Sean Young, and Neil Steiner. Present for Plaintiffs in *Jones v. Deininger*, No. 12-cv-185, was Carl Nadler.

4. During this session, Plaintiffs in good faith attempted to resolve the dispute. Plaintiffs informed Defendants that they would not object to inclusion of two recently disclosed witnesses, Janet Turja and Edgar Rosado, because Plaintiffs had taken depositions of those

witnesses. Plaintiffs informed Defendants that they objected to four witnesses whose identities Defendants had not previously disclosed: Michael Sandvick, Sue Ertmer, Jeanette Merten, and Bruce Landgraf. Plaintiffs asked, but Defendants were unable to provide, a reasonable justification for their failure to disclose these witnesses in compliance with Rule 26, either in their mandatory initial disclosures of witnesses, in the course of discovery, or in any timely supplemental disclosure. As Plaintiffs reminded Defendants, the information about which these witness could provide discoverable information – including the implementation of photo ID in Wisconsin and supposed allegations of voter fraud in the 2004 Presidential election – was reasonably available to Defendants long before their August 2013 disclosure.

5. Subsequent to this meet and confer session, counsel for Defendants, Clayton Kawski, sent counsel for Plaintiffs an email in which Defendants offered to let Plaintiffs take discovery on these four witnesses if we did not object to them testifying. I responded by email, reiterating our prior objections to the belated disclosures, and requesting that counsel for Defendants contact Plaintiffs' counsel by noon on Friday, August 23, 2013 if they would agree to withdraw those witnesses. Defendants did not contact Plaintiffs to follow up on this matter.

6. If Defendants had timely disclosed their intent to use these witnesses in their case in chief, Plaintiffs would have conducted document and deposition discovery of them more than a year ago when the discovery period was still open. Such discovery might have also led Plaintiffs to conduct additional fact discovery, and provided additional information for Plaintiffs' experts to consider and for Plaintiffs to question Defendants' experts on during depositions.

7. Attached as Attachment A hereto is a true and correct copy of Defendants' Supplemental Disclosures, dated August 12, 2013.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 23, 2013

s/ Karyn L. Rotker

Karyn L. Rotker

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