

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

RUTHELLE FRANK, et al.,

Plaintiffs,

v.

Case No. 11-CV-1128

GOVERNOR SCOTT WALKER, et al.,

Defendants.

THIRD DECLARATION OF CLAYTON P. KAWSKI

I, Clayton P. Kowski, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am one of Defendants' attorneys in the above-captioned matter. I make this Third Declaration based on my own personal knowledge and based upon the sources described.

2. I make this Third Declaration in support of Defendants' Memorandum In Opposition To Plaintiffs' Expedited Non-Dispositive Motion Under Local Rule 7(h) To Increase Number Of Depositions That May Be Taken By Plaintiffs.

3. Attached hereto as Exhibit A is a true and correct copy of Plaintiffs' First Request for the Production of Documents. This set of 51 document requests was served on Defendants' counsel via e-mail at 6:22 p.m. on Friday, March 9, 2012, by Plaintiffs' counsel, Jon Sherman.

4. Defendants have produced more than 165,000 pages of documents to Plaintiffs in response to the requests set forth in Exhibit A. The responsive documents produced include e-mails and documents from GAB staff Diane Lowe, Shane Falk, and Allison Coakley and thousands of pages of e-mails and documents from Knupp & Watson & Wallman (KW2).

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

Dated this 13th day of July, 2012.

s/Clayton P. Kawski
CLAYTON P. KAWSKI

Frank v. Walker,
Case No. 11-CV-1128 (E.D. Wis.)

Exhibit A

Third Declaration of Clayton P. Kowski

**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)

PLAINTIFFS' FIRST REQUEST FOR THE PRODUCTION OF DOCUMENTS

Please take notice that, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs Ruthelle Frank, Shirley Brown, Nancy Lea Wilde, Eddie Lee Holloway, Jr., Mariannis Ginorio, Frank Ybarra, Sam Bulmer, Pamela Dukes, Carl Ellis, Rickie Lamont Harmon, Dartric Davis, Barbara Oden, DeWayne Smith, Sandra Jashinski, Justin Luft, Anna Shea, Matthew Dearing, Max Kligman, Samantha Meszaros, Steve Kvasnicka, Sarah Lahti, Domonique Whitehurst, Edward Hogan, Anthony Judd, and Anthony Sharp (collectively, "Plaintiffs"), by their undersigned counsel, request that Defendants Scott Walker, Governor of the State of Wisconsin; Judge David G. Deininger, Chair of the Wisconsin Government Accountability Board ("GAB"); Judge Michael Brennan, Vice Chair of the GAB; Judge Thomas Barland, a member of the GAB; Judge Thomas Cane, a member of the GAB; Judge Gerald C. Nichol, a member of the GAB; Kevin J. Kennedy, Director and General Counsel of the GAB; Nathaniel E. Robinson, Administrator of the Elections Division of the GAB; Defendant Mark Gottlieb,

Secretary of the Wisconsin Department of Transportation (“DOT”); Defendant Lynne Judd, the Administrator of the Division of Motor Vehicles at DOT (“DMV”); Defendant Kristina Boardman, the Director of the Bureau of Field Services at the DMV; Defendant Donald D. Reincke, Region Manager of the DMV Bureau of Field Services office for the Southwest Region; Defendant Tracy Jo Howard, Region Operational Manager of the DMV Bureau of Field Services office for the Southwest Region; Defendant Sandra M. Brisco, Region Manager of the DMV Bureau of Field Services office for the Southeast Region; Defendant Barney L. Hall, Region Operational Manager of the DMV Bureau of Field Services office for the Southeast Region; Defendant Donald J. Genin, Region Manager of the DMV Bureau of Field Services office for the Northeast Region; Defendant Jill Louise Geoffroy in her official capacity as Region Manager of the DMV Bureau of Field Services office for the North Central Region; and Defendant Patricia A. Nelson in her official capacity as Region Manager of the DMV Bureau of Field Services office for the Northwest Region (collectively, “Defendants”), produce at the offices of their attorneys at the ACLU of Wisconsin, 207 E. Buffalo St., Suite 325, Milwaukee, WI 53202-5774, by April 9, 2012, the documents requested below that are in Defendants’ possession, custody or control, in accordance with the instructions and definitions set forth below.

INSTRUCTIONS

1. This request shall be deemed continuing so as to require further and supplemental production by Defendants, their successors, and their or their successors’ agents, representatives or employees in the event any of them obtains or discovers additional documents between the time of initial production and the time of hearing or

trial. All documents are to be produced as they are kept in the usual course of business with any identifying labels, file markings or similar identifying features, or shall be organized and labeled to correspond to the appropriate request herein.

2. If there are no documents responsive to any particular category, please so state in writing.

3. If any documents or parts of documents called for by this document request are withheld under a claim of privilege, please produce the non-privileged portions of such documents and furnish a list identifying, for each document or portion thereof so withheld, its author, all recipients including but not limited to those carbon copied, its subject matter, the privilege claimed and the grounds therefore.

4. If any documents or parts of documents called for by this document request have been lost, discarded or destroyed, identify such documents as completely as possible on a list, including, without limitation, the following information: date of disposal, manner of disposal, reason for disposal, person authorizing the disposal and person disposing of the document.

5. With respect to each request to produce documents, identify and produce all documents that are known to Defendants, their offices, or their employees that can be located or discovered by reasonably diligent efforts, including, without limitation, all such documents requested to be produced that are in Defendants files, or in those of their current or former employees, employers, attorneys, accountants, agents or representatives. This includes, without limitation, all electronic communications sent to or from Defendants, directly or indirectly, using any email address, screen name or alias

owned by, controlled by, belonging to or accessed by Defendants or any of their current or former employees, employers, attorneys, accountants, agents or representatives.

DEFINITIONS

1. “Communication” shall mean the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

2. “Document” shall be synonymous in meaning and equal in scope to the usage of this term in Federal Rule of Civil Procedure 34(a), including, without limitation, electronic or computerized data compilations or other electronically stored information. A draft or non-identical copy is a separate document with the meaning of this term. This term includes but is not limited to letters, electronic mail, memoranda, and video and voice records.

3. “Person” is defined as any natural person or any business, legal or governmental entity or association.

4. “Concerning” means relating to, referring to, describing, evidencing or constituting.

5. “Plaintiffs” shall mean Ruthelle Frank, Shirley Brown, Nancy Lea Wilde, Eddie Lee Holloway, Jr., Mariannis Ginorio, Frank Ybarra, Sam Bulmer, Pamela Dukes, Carl Ellis, Rickie Lamont Harmon, Dartric Davis, Barbara Oden, DeWayne Smith, Sandra Jashinski, Justin Luft, Anna Shea, Matthew Dearing, Max Kligman, Samantha Meszaros, Steve Kvasnicka, Sarah Lahti, Domonique Whitehurst, Edward Hogan, Anthony Judd, and Anthony Sharp, or any of them.

6. “Act 23” shall mean 2011 Wisconsin Act 23.

7. “Defendants” shall mean defendants Scott Walker, Governor of the State of Wisconsin; Judge David G. Deininger, Chair of the Wisconsin Government Accountability Board (“GAB”); Judge Michael Brennan, Vice Chair of the GAB; Judge Thomas Barland, a member of the GAB; Judge Thomas Cane, a member of the GAB; Judge Gerald C. Nichol, a member of the GAB; Kevin J. Kennedy, Director and General Counsel of the GAB; Nathaniel E. Robinson, Administrator of the Elections Division of the GAB; Defendant Mark Gottlieb, Secretary of the Wisconsin Department of Transportation (“DOT”); Defendant Lynne Judd, the Administrator of the Division of Motor Vehicles at DOT (“DMV”); Defendant Kristina Boardman, the Director of the Bureau of Field Services at the DMV; Defendant Donald D. Reincke, Region Manager of the DMV Bureau of Field Services office for the Southwest Region; Defendant Tracy Jo Howard, Region Operational Manager of the DMV Bureau of Field Services office for the Southwest Region; Defendant Sandra M. Brisco, Region Manager of the DMV Bureau of Field Services office for the Southeast Region; Defendant Barney L. Hall, Region Operational Manager of the DMV Bureau of Field Services office for the Southeast Region; Defendant Donald J. Genin, Region Manager of the DMV Bureau of Field Services office for the Northeast Region; Defendant Jill Louise Geoffroy in her official capacity as Region Manager of the DMV Bureau of Field Services office for the North Central Region; and Defendant Patricia A. Nelson in her official capacity as Region Manager of the DMV Bureau of Field Services office for the Northwest Region, their predecessors and successors in their official capacities as Governor of the State of Wisconsin and members of the Wisconsin Government Accountability Board, including

the current and former attorneys, agents, trustees, investigators, representatives, employees, officers, contractors and consultants of any of the them.

8. “GAB” shall mean the Wisconsin Government Accountability Board, including the current and former attorneys, agents, trustees, investigators, representatives, employees, officers, contractors (including, without limitation, KW2) and consultants of any of them.

9. “DMV” shall mean the Wisconsin Department of Transportation Division of Motor Vehicles, including the current and former attorneys, agents, trustees, investigators, representatives, employees, officers, contractors and consultants of any of them.

10. “DOT” shall mean the Wisconsin Department of Transportation, including the current and former attorneys, agents, trustees, investigators, representatives, employees, officers, contractors and consultants of any of them. “DOT” expressly includes, but is not limited to, DMV.

11. “KW2” shall mean Knupp & Watson & Wallman Creative Communications Company, including the current and former attorneys, agents, trustees, investigators, representatives, employees, officers, contractors (including, without limitation, Jump the Sun) and consultants of any of them.

12. “Accepted photo ID” means any documents defined as “proof of identification” in Wis. Stat. § 5.02(16c).

13. “ID card,” “photo ID card,” or “photo identification card” means a Wisconsin photo identification card as defined by Wis. Stat. § 343.50.

14. The terms “all” and “each” shall be construed as all and each.

15. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

16. The use of the singular form of any word includes the plural and vice versa.

17. Except where otherwise specified, the time period for this request shall be January 1, 2004 until the present.

DOCUMENTS REQUESTED

1. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning Plaintiffs.

2. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) any Defendant intends to use to support or oppose any claim or defense in this case.

3. Documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) sufficient to identify all persons registered to vote in the state of Wisconsin who have not been issued a Wisconsin driver’s license or a Wisconsin photo identification card.

4. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) evidencing the race, national origin, limited English proficiency status, income, age and/or gender of applicants for and holders of Wisconsin driver’s licenses and/or Wisconsin photo identification cards, from Jan. 1, 2007 to the present.

5. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) sent to, from, between or among DOT concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards from Jan. 1, 2010 to the present.

6. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) sent to, from, between or among GAB concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards.

7. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) sent to, from, between or among KW2 concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards from Jan. 1, 2011 to the present.

8. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning communications sent to, from, between or among GAB concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards.

9. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning communications sent to, from, between or among KW2 concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards.

10. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning DOT rules, policies, or procedures, including all final copies and drafts thereof, concerning name mismatches, name

misspellings, name transpositions, or any other errors, defects, or discrepancies on documents submitted in fulfillment of a requirement for a Wisconsin state ID card or Wisconsin driver's license application.

11. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning any exception process, alternative procedure, extraordinary proof, or other means of obtaining a Wisconsin driver's license or Wisconsin photo identification card, including, without limitation, by use of Form MV3002, from Jan. 1, 2006 to the present.

12. All communications concerning any exception process, alternative procedure, extraordinary proof or other means of obtaining a Wisconsin driver's license or Wisconsin photo identification card, including, without limitation, by use of Form MV3002.

13. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning every Wisconsin driver's license or photo identification card issued as a result of any exception process, alternative procedure, extraordinary proof, or other means of obtaining a Wisconsin driver's license or Wisconsin photo identification card, including, without limitation, by use of Form MV3002, from Jan. 1, 2006 to the present.

14. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning the petition procedure set forth in Wis. Admin. Code Trans § 102.15(3)(b), from Jan. 1, 2006 to the present.

15. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) sent to, from, between or among DOT

concerning REAL ID requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards from Jan. 1, 2006 to the present.

16. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning DOT policies, procedures, forms, memoranda, pamphlets and informational materials, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards from Jan. 1, 2010 to the present.

17. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning DOT press releases, including all drafts and final copies thereof, concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards from Jan. 1, 2010 to the present.

18. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning DOT manuals, training materials, webinars, teleconference recordings and videos, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards from Jan. 1, 2010 to the present.

19. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning DOT meeting materials and minutes, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards from Jan. 1, 2010 to the present.

20. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning the number and business hours of DMV service facilities from Jan. 1, 2011 to the present, including, without limitation, increasing the number or business hours of DMV service facilities in connection with Act 23.

21. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning the accessibility by any form of public transportation, transportation for elderly and disabled persons, or any other form of shared-ride or group transportation, of any current DMV office.

22. All Voter Photo ID Speaker Request Forms, and all documents and communications concerning such Speaker Request Forms or any other documents evidencing such requests or fulfillment or non-fulfillment of such requests.

23. All GAB policies, procedures, forms, memoranda, pamphlets and informational materials, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards.

24. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning GAB policies, procedures, forms, memoranda, pamphlets and informational materials, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of any form of accepted photo ID or any other aspect of Act 23.

25. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning GAB press releases, including all

final copies and drafts thereof, concerning requirements for applications for or issuance of any form of accepted photo ID or any other aspect of Act 23.

26. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning GAB manuals, training materials, webinars, teleconference recordings and videos, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of any form of accepted photo ID or other aspects of Act 23.

27. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning GAB meeting materials and minutes, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of Wisconsin driver's licenses or Wisconsin photo identification cards.

28. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning GAB public notices and/or public service announcements, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of any form of accepted photo ID or other aspects of Act 23.

29. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning DOT public notices and/or public service announcements, including all final copies and drafts thereof, concerning the requirements for applications for or issuance of any form of accepted photo ID.

30. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning each person GAB assisted in obtaining any form of accepted photo ID.

31. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning efforts by GAB to assist individuals with obtaining any form of accepted photo ID.

32. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning all persons who have requested assistance from the GAB with obtaining any form of accepted photo ID.

33. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning each person GAB assisted in obtaining documents necessary to obtain any form of accepted photo ID.

34. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning efforts by GAB to assist individuals with obtaining documents necessary to obtain any form of accepted photo ID.

35. Documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) sufficient to identify all persons who have requested assistance from the GAB with obtaining documents necessary to obtain any form of accepted photo ID.

36. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning each person DMV assisted in obtaining documents necessary to obtain a Wisconsin driver's license or Wisconsin photo identification card, from January 1, 2006 to the present.

37. Documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) sufficient to identify all instances of actual or suspected voter identification fraud, actual or suspected voter impersonation fraud, and/or actual or suspected double voting in Wisconsin by the same person in the same election or actual or suspected voting by the same person in Wisconsin and another state in the same election, from 1980 to the present.

38. Documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) sufficient to identify all instances of any form of unlawful voting and/or unlawful voter registration not included in the preceding request, from 1980 to the present.

39. Documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning any assertion that Act 23 affects or does not affect voter confidence, or that a photo ID requirement for voting affects or does not affect voter confidence.

40. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning Act 23 and any of the provisions therein.

41. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning implementation of the provisional ballot procedures mandated by Act 23 and/or any actual or potential burdens or benefits thereof.

42. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning implementation, training, and/or public notice regarding free duplicate identification cards.

43. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) evidencing the number of free Wisconsin state ID cards issued by DOT from July 1, 2011 to present.

44. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning individual applicants for free Wisconsin state ID cards who were charged a fee, from January 1, 2012 to the present.

45. All communications concerning the use or the potential or proposed use of an affidavit of identity or similar alternative documentation for proof of citizenship, residency, or identity in order to obtain a Wisconsin driver's license or Wisconsin photo identification card.

46. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning the use or the potential or proposed use of an affidavit of identity or similar alternative documentation for proof of citizenship, residency or identity in order to obtain a Wisconsin driver's license or Wisconsin photo identification card.

47. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning the use or the potential or proposed use of an affidavit of identity or similar alternative documentation for voting purposes in lieu of the proof of identification requirements of Act 23.

48. All communications between GAB and Wisconsin county or municipal clerks concerning accepted photo ID, Act 23, and/or any of the requirements contained in Act 23, including, without limitation, communications concerning specific individuals' difficulties obtaining accepted photo ID.

49. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning communications between GAB and Wisconsin county or municipal clerks concerning accepted photo ID, Act 23, and/or any of the requirements contained in Act 23, including, without limitation, communications concerning specific individuals' difficulties obtaining accepted photo ID.

50. All communications between DOT and Wisconsin county or municipal clerks concerning accepted photo ID, Act 23, and/or any of the requirements contained in Act 23, including, without limitation, communications concerning specific individuals' difficulties obtaining accepted photo ID.

51. All documents (including but not limited to letters, electronic mail, memoranda, and video and voice records) concerning communications between DOT and Wisconsin county or municipal clerks concerning accepted photo ID, Act 23, and/or any of the requirements contained in Act 23, including, without limitation, communications concerning specific individuals' difficulties obtaining accepted photo ID.

Dated: March 9, 2012

/s/ Neil Steiner

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