

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

STATE OF WISCONSIN ex rel.
JOSEPH A. RICE

Plaintiff,

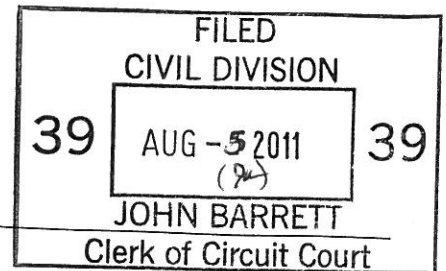
vs.

Case No. 11CV009399

MILWAUKEE COUNTY BOARD OF
SUPERVISORS and

LEE HOLLOWAY

Defendants.



ANSWER

The above named defendants, by the Office of the Milwaukee County Corporation Counsel, John Jorgensen, Principal Assistant Corporation Counsel, for an answer to the complaint, admit, deny and show to the court as follows:

1. Admit.
2. Admit.
3. Admit.
4. Admit.
5. Answering paragraph 5, admit that the April 21, 2011 meeting of the Milwaukee County Board of Supervisors (the Board) was subject to the statutory public notice provisions under Wis. Stat. s. 19.84, and deny that defendant Holloway was under any personal obligation with regard to those provisions.
6. Deny, and affirmatively allege that, although the words "decennial redistricting" did not appear in the notice, the notice did advise that the Board would take up reports and

resolutions from special committees, and it was widely known and reported that the Board would take up the report of the Special Committee on Redistricting under that item.

7. Admit.

8. Deny.

9 Deny.

10. Answering paragraph 10, admit that the Board adopted the tentative redistricting plan recommended by the Special Committee on Redistricting.

11. Answering paragraph 11, admit the relator Rice raised the issue of a potential violation of the Open Meetings Law, more than two hours after the addendum to the notice (Exhibit C to the complaint) was issued.

12. Answering paragraph 12, admit that the addendum to the notice (Exhibit C to the complaint) was issued as alleged in that paragraph, and deny that the meeting was improperly noticed.

13. Answering paragraph 13, admit that the paragraph accurately quotes portions of the cited statute.

14. Answering paragraph 14, deny that the addendum to the notice (Exhibit C to the complaint) was an "emergency notice", admit that it was not issued until after the meeting was commenced, affirmatively alleged that the addendum was not required to be issued more than two hours prior to the commencement of the meeting because the original notice (Exhibit A to the complaint) was published more than 24 hours prior to the commencement of the meeting and that notice provided detailed information, exceeding all applicable requirements of the Open Meetings Law, concerning every agenda item included in the notice, with the exception of reports and resolutions from special committees, and further affirmatively allege that the

addendum was issued more than two hours before the Board debated and acted on the report of the Special Committee on Redistricting, which is the only item included in the addendum.

15. Deny.

16. Deny.

17. Deny.

18. Deny.

19. Answering paragraph 19, admit that relator Rice forwarded a verified complaint to the Corporation Counsel, as alleged in that paragraph, and lack knowledge or information sufficient to form a belief as to what documents were filed with any other office.

20. Answering paragraph 20, admit that the Corporation Counsel informed relator Rice that he would not prosecute Rice's complaint, and lack knowledge or information sufficient to form a belief as to what information relator Rice received from the Attorney General.

21. Admit.

AFFIRMATIVE DEFENSES

22. The Milwaukee County Board of Supervisors lacks the capacity to sue or be sued.

23. Neither defendant Holloway nor any other individual member of the Board is liable for a forfeiture under Wis. Stat. s. 19.96 because they acted in good faith reliance on the advice of counsel.

24. The action of the Board in approving the tentative plan should not be voided under Wis. Stat. s. 19.97(3) because, under the facts of this case, the public interest in sustaining the validity of the action far outweighs any public interest that could be advanced by penalizing actions that did not constitute a material violation of the Public Records Law and did not deprive the public of information regarding the affairs of government.

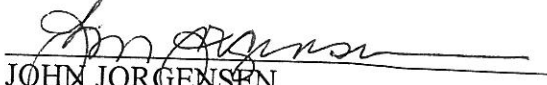
25. Any objection to the action of the Board in approving the tentative redistricting plan on April 21, 2011, has been rendered moot by the Board's subsequent adoption of a final redistricting plan under Wis. Stat. s. 59.10(2)(a) at the July 28, 2011 meeting of the Board, which final plan is materially different from the tentative plan and has the support of interest groups who expressed concerns about the tentative plan.

26. Relator Rice should be estopped from seeking relief that would have effect of invalidating the final redistricting plan adopted by the Board on July 28, 2011, because he actively participated in the debate concerning the merits of the final plan, introduced and argued in support of his own substitute amendment to the resolution that memorialized that plan, voted on the plan, and interposed no objection to the Board's action on the final plan under the Open Meetings Law.

WHEREFORE the defendants demand judgment dismissing the complaint on its merits and for costs as provided by law.

Dated at Milwaukee, Wisconsin this 5th day of August, 2011.

MILWAUKEE COUNTY CORPORATION COUNSEL


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State Bar No. 1017484

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