
MADISON TEACHERS, INC., et al.,

Plaintiffs,

v.

Case No. 11-CV-3774

SCOTT WALKER, et al.,

Defendants.

DEFENDANTS' JOINT ANSWER AND DEFENSES

Defendants, by their attorneys, J.B. Van Hollen, Attorney General, and Steven C. Kilpatrick and David C. Rice, Assistant Attorneys General, and Michael Best & Friedrich, LLP, hereby answer Plaintiffs' Amended Complaint and assert the following defenses:

INTRODUCTION

1. Defendants admit that Plaintiffs have styled this action as being brought for declaratory and injunctive relief, pursuant to Wis. Stat. § 806.04 and ch. 813 and the equitable powers of the court, challenging the constitutionality of 2011 Wisconsin Act 10 as modified by 2011 Wisconsin Act 32. Defendants state that the allegation that Plaintiffs have brought a legally sufficient claim under Wis. Stat. § 806.04 and ch. 813 and the equitable powers of the court is a legal conclusion to which no response is required. The Defendants affirmatively state that Wis. Stat. § 111.70 *et seq.*, Wisconsin's Municipal Employment Relations Act ("MERA"), speaks for itself and is the best evidence of what MERA does or does not do. Defendants deny any allegations in Paragraph 1 that are inconsistent with the actual provisions of MERA.

2. Defendants deny the allegations of Paragraph 2.

3. Defendants deny the allegations of Paragraph 3.

4. The Defendants affirmatively state that the provisions of Act 10 and Act 32 speak for themselves and are the best evidence of what Act 10 and Act 32 do or do not do. Defendants deny any allegations in Paragraph 4 that are inconsistent with the actual provisions of Act 10 and Act 32.

5. Defendants deny the allegations of Paragraph 5.

6. Defendants deny the allegations of Paragraph 6.

7. Defendants deny the allegations of Paragraph 7.

8. Defendants deny the allegations of Paragraph 8.

PARTIES

9. Defendants state that the allegation of the first sentence of Paragraph 9 is a legal conclusion to which no response is required. To the extent this Court believes a response is required, Defendants admit. Defendants admit the allegations of the second sentence of Paragraph 9. Defendants admit that Plaintiff MTI, Inc. is the exclusive bargaining agent for over 4,000 public school teachers, educational assistants, substitute teachers, clerical/technical employees and security assistants employed by the Madison Metropolitan School District. Defendants state that the allegation that these employees are "general municipal employees" as defined by Act 10 and Act 32 is a legal conclusion to which no response is required. To the extent this Court believes a response is required, Defendants deny.

10. Defendants admit that Plaintiff MTI claims to sue on its own behalf and on behalf of its members. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegation of that MTI and its member are adversely affected by Act 10, as modified by Act 32, and therefore deny the same.

11. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of the first and second sentences of Paragraph 11 and therefore deny the same. Defendants state that the allegation of the third sentence of Paragraph 11 is a legal conclusion to which no response is required. To the extent this Court believes a response is required, Defendants deny.

12. Defendants state that the allegations that Local 61 is a labor organization within the meaning of MERA, Wis. Stat. § 111.70 (1)(h) within the first sentence of Paragraph 12 is a legal conclusion to which no response is required. To the extent this Court believes a response is required, Defendants admit. Defendants state that the allegation that the members of Local 61 are “general municipal employees” as defined by Act 32 is a legal conclusion to which no response is required. To the extent this Court believes a response is required, Defendants deny. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 12 and therefore deny the same.

13. Defendants admit that Plaintiff Local 61 claims to sue on its own behalf and on behalf of its members. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegation of that Local 61 and its member are adversely affected by Act 10, as modified by Act 32, and therefore deny the same.

14. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of the first and second sentences of Paragraph 14 and therefore deny the same. Defendants state that the allegation that Weigman is a “general municipal employee” as defined by Act 32 is a legal conclusion to which no response is required. To the extent this Court believes a response is required, Defendants deny.

15. Defendants admit that Scott Walker is the Governor of Wisconsin. Defendants admit that Plaintiffs have sued Governor Walker in his official capacity only and his address is 115 East State Capitol, Madison. Defendants admit that the Wisconsin Constitution describes the duties of the Governor and affirmatively state that the Wisconsin Constitution speaks for itself and is the best evidence of what the Wisconsin Constitution does or does not require of the Governor. Defendants admit that the Governor is responsible for enforcing Wisconsin law including Act 10 and Act 32. Defendants deny the remaining allegations of Paragraph 15 to the extent they are inconsistent with the Wisconsin Constitution.

16. Defendants admit the allegations of Paragraph 16.

17. Defendants admit that the Wisconsin Employment Relations Commission and its Commissioners are the executive agency and executive officials, respectively, responsible for administering MERA and other labor relations statutes, as modified by Act 10 and Act 32. Defendants deny the remaining allegations of Paragraph 17.

FACTS

18. Defendants admit that on January 3, 2011, Governor Scott Walker issued Executive Order # 1. Defendants affirmatively state that the text of Executive Order # 1 speaks for itself and is the best evidence of what Executive Order # 1 does or does not do. Defendants deny any allegations in Paragraph 18 that are inconsistent with the actual provisions of Executive Order # 1.

19. Defendants admit that on January 13, 2011, Governor Scott Walker issued Executive Order # 4. Defendants affirmatively state that the text of Executive Order # 4 speaks for itself and is the best evidence of what Executive Order # 4 does or does not do. Defendants

deny any allegations in Paragraph 19 that are inconsistent with the actual provisions of Executive Order # 4.

20. Defendants admit that on February 11, 2011, Governor Scott Walker issued Executive Order # 14. Defendants affirmatively state that the text of Executive Order # 14 speaks for itself and is the best evidence of what Executive Order # 14 does or does not do. Defendants deny any allegations in Paragraph 20 that are inconsistent with the actual provisions of Executive Order # 14.

21. Defendants affirmatively state that the text of January 2011 Special Session SB 11 speaks for itself and is the best evidence of what January 2011 Special Session SB 11 states. Defendants affirmatively state that the text of January 2011 Special Session AB 11 speaks for itself and is the best evidence of what January 2011 Special Session AB 11 states. Defendants affirmatively state that the Journals of the Wisconsin Senate and Assembly are the best evidence of the dates the aforementioned bills were introduced. Defendants deny any allegations in Paragraph 21 that are inconsistent with the actual provisions of the aforementioned bills. Furthermore, Defendants affirmatively state that the "Budget Repair Bill" as announced by Governor Walker in Executive Order # 14 was introduced as AB 11 and SB 11, and these aforementioned bills contained "relating to" clauses as described in Paragraph 21.

22. Defendants affirmatively state that the Journal of the Wisconsin Assembly is the best evidence of the date Special Session AB 11 was passed by the Assembly.

23. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 23 and therefore deny the same.

24. Defendants affirmatively state that the Journal of the Wisconsin Assembly is the best evidence whether a Joint Conference Committee was convened on January 2011 Special

Session AB 11 and approved Conference Substitute Amendment 1 to January 2011 Special Session Assembly Bill 11. Defendants deny any allegations in Paragraph 24 that are inconsistent with the Journal of the Wisconsin Assembly.

25. Defendants affirmatively state that the text of Conference Substitute Amendment to January 2011 Special Session Assembly Bill 11 speaks for itself and is the best evidence of what Conference Substitute Amendment to January 2011 Special Session Assembly Bill 11 does or does not do. Defendants deny any allegations in Paragraph 25 that are inconsistent with the aforementioned conference substitute amendment.

26. Defendants affirmatively state that the Journal of the Wisconsin Senate is the best evidence of the Senate's action concerning Conference Substitute Amendment to January 2011 Special Session Assembly Bill 11. Defendants deny any allegations in Paragraph 26 that are inconsistent with the Journal of the Wisconsin Senate.

27. Defendants affirmatively state that the Journal of the Wisconsin Assembly is the best evidence of the Assembly's action concerning Conference Substitute Amendment to January 2011 Special Session Assembly Bill 11. Defendants deny any allegations in Paragraph 27 that are inconsistent with the Journal of the Wisconsin Assembly.

28. Defendants admit the allegations of Paragraph 28.

29. Defendants admit the allegations of Paragraph 29.

30. Defendants state that the allegation of Paragraph 30 is a legal conclusion to which no response is required.

31. Defendants affirmatively state that the text of Act 10 speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 31 that are inconsistent with the actual provisions of Act 10.

32. Defendants admit the allegations of the first sentence of Paragraph 32. Defendants state that the allegation of the second sentence of Paragraph 32 is a legal conclusion to which no response is required.

33. Defendants affirmatively state that the text of Act 32 speaks for itself and is the best evidence of what Act 32 does or does not do. Defendants deny any allegations in Paragraph 33 that are inconsistent with the actual provisions of Act 32.

34. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 34 and therefore deny the same.

35. Defendants affirmatively state that the text of MERA, prior to the enactment of Act 10, speaks for itself and is the best evidence of what MERA did or did not do. Defendants deny any allegations in Paragraph 35 that are inconsistent with the actual provisions of MERA, prior to the enactment of Act 10.

36. Defendants affirmatively state that the text of Act 10, as modified by Act 32, speaks for itself and is the best evidence of what Act 10, as modified by Act 32, does or does not do. Defendants deny any allegations in Paragraph 36 that are inconsistent with the actual provisions of Act 10, as modified by Act 32.

37. Defendants affirmatively state that the text of Act 10, as modified by Act 32, speaks for itself and is the best evidence of what Act 10, as modified by Act 32, does or does not do. Defendants deny any allegations in Paragraph 37 that are inconsistent with the actual provisions of Act 10, as modified by Act 32.

38. Defendants affirmatively state that the text of Act 10 and Act 32 speaks for itself and is the best evidence of what Act 10 and Act 32 does or does not do. Defendants deny any allegations in Paragraph 38 that are inconsistent with the actual provisions of Act 10 and Act 32.

39. Defendants affirmatively state that the text of MERA, prior to the enactment of Act 10 and Act 32, speaks for itself and is the best evidence of what MERA did or did not do. Defendants deny any allegations in Paragraph 39 that are inconsistent with the actual provisions of MERA.

40. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 40 and therefore deny the same.

41. Defendants state that the allegations of Paragraph 41 are legal conclusions to which no response is required. To the extent this Court believes a response is required, Defendants deny. To the extent there are factual allegations in Paragraph 41, Defendants deny.

42. Defendants affirmatively state that the text of Act 10, as modified by Act 32, speaks for itself and is the best evidence of what Act 10, as modified by Act 32, does or does not do. Defendants deny any allegations in Paragraph 42 that are inconsistent with the actual provisions of Act 10, as modified by Act 32.

43. Defendants affirmatively state that the text of MERA, prior to the enactment of Act 10 and Act 32, speaks for itself and is the best evidence of what MERA did or did not do. Defendants deny any allegations in Paragraph 43 that are inconsistent with the actual provisions of MERA.

44. Defendants affirmatively state that the text of MERA, prior to the enactment of Act 10, speaks for itself and is the best evidence of what MERA did or did not do. Defendants deny any allegations in Paragraph 44 that are inconsistent with the actual provisions of MERA.

45. Defendants deny the allegations of Paragraph 45.

46. Defendants affirmatively state that the text of MERA, prior to the enactment of Act 10 and Act 32, speaks for itself and is the best evidence of what MERA did or did not do.

Defendants deny any allegations in Paragraph 46 that are inconsistent with the actual provisions of MERA.

47. Defendants affirmatively state that the text of Act 10, as modified by Act 32, speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 47 that are inconsistent with the actual provisions of Act 10, as modified by Act 32.

48. Defendants affirmatively state that the text of Act 10, as modified by Act 32, speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 48 that are inconsistent with the actual provisions of Act 10, as modified by Act 32.

49. Defendants state that the allegations of Paragraph 49 are legal conclusions to which no response is required. To the extent this Court believes a response is required, Defendants deny the allegations of Paragraph 49.

50. Defendants affirmatively state that the text of Wis. Stat. § 111.70(4)(d) (2009-2010) and Wis. Admin. Code § ERC 11.02(10) speaks for itself and is the best evidence of what this aforementioned law did or did not do. Defendants deny any allegations in Paragraph 50 that are inconsistent with the actual provisions of Wis. Stat. § 111.70(4)(d) (2009-2010) and Wis. Admin. Code § ERC 11.02(10).

51. Defendants affirmatively state that the text of Act 10, as modified by Act 32, speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 51 that are inconsistent with the actual provisions of Act 10, as modified by Act 32.

52. Defendants state that the allegations of Paragraph 52 are legal conclusions to which no response is required.

53. Defendants state that the allegations of Paragraph 53 are legal conclusions to which no response is required.

54. Defendants affirmatively state that the text of MERA, prior to the enactment of Act 10, speaks for itself and is the best evidence of what MERA did or did not do. Defendants deny any allegations in Paragraph 54 that are inconsistent with the actual provisions of MERA, prior to the enactment of Act 10.

55. Defendants affirmatively state that the text of Act 10 speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 55 that are inconsistent with the actual provisions of Act 10.

COUNT 1

56. Defendants reincorporate, as if set forth fully herein, each and every answer to the paragraphs above.

57. Defendants affirmatively state that the text of Act 10 speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 57 that are inconsistent with the actual provisions of Act 10.

58. Defendants deny the allegations of Paragraph 58.

59. Defendants deny the allegations of Paragraph 59.

60. Defendants deny the allegations of Paragraph 60.

COUNT 2

61. Defendants reincorporate, as if set forth fully herein, each and every answer to the paragraphs above.

62. Defendants affirmatively state that the text of MERA, prior to the enactment of Act 10, speaks for itself and is the best evidence of what MERA did or did not do. Defendants deny any allegations in Paragraph 62 that are inconsistent with the actual provisions of MERA.

63. Defendants affirmatively state that the text of Act 10, as modified by Act 32, speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 63 that are inconsistent with the actual provisions of Act 10, as modified by Act 32, and Defendants furthermore deny the allegation of the impairment of any legal rights.

64. Defendants deny the allegations of Paragraph 64.

65. Defendants deny the allegations of Paragraph 65, and Defendants furthermore deny the allegation of a violation of any rights under Art. I, §§ 3 & 4 of the Wisconsin Constitution.

COUNT 3

66. Defendants reincorporate, as if set forth fully herein, each and every answer to the paragraphs above.

67. Defendants affirmatively state that the text of Act 10, as modified by Act 32, speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 67 that are inconsistent with the actual provisions of Act 10, as modified by Act 32. Defendants furthermore deny that similarly-situated general municipal employees are treated differently.

68. Defendants deny the allegations of Paragraph 68.

69. Defendants deny the allegations of the first sentence of Paragraph 69. Defendants state that the allegation of the second sentence of Paragraph 69 is a legal conclusion to which no

response is required. To the extent this Court believes a response is required Defendants deny. Defendants further deny that Plaintiffs are entitled to any of the relief sought.

COUNT 4

70. Defendants reincorporate, as if set forth fully herein, each and every answer to the paragraphs above.

71. Defendants state that the allegations of Paragraph 71 are legal conclusions to which no response is required.

72. Defendants state that the allegations of Paragraph 72 are legal conclusions to which no response is required.

73. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 73 and therefore deny the same.

74. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 74 and therefore deny the same.

75. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 75 and therefore deny the same.

76. Defendants affirmatively state that the text of Act 10, Wis. Stat. § 62.623, speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 76 that are inconsistent with the actual provisions of Act 10, Wis. Stat. § 62.623. To the extent this Court believes a response is required, Defendants deny.

77. Defendants deny the allegations of Paragraph 77.

78. Defendants deny the allegations of Paragraph 78.

79. Defendants deny the allegations of Paragraph 79.

COUNT 5

80. Defendants reincorporate, as if set forth fully herein, each and every answer to the paragraphs above.

81. Defendants state that the allegations of Paragraph 81 are legal conclusions to which no response is required.

82. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of Paragraph 82 and therefore deny the same.

83. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the allegations of the first clause of Paragraph 83 and therefore deny the same. Defendants state that they are without information sufficient to form a belief as to the truth or falsity of the remaining allegations of Paragraph 83 and therefore deny the same.

84. Defendants affirmatively state that the text of Act 10, Wis. Stat. § 62.623, speaks for itself and is the best evidence of what Act 10 does or does not do. Defendants deny any allegations in Paragraph 84 that are inconsistent with the actual provisions of Act 10, Wis. Stat. § 62.623. To the extent this Court believes a response is required, Defendants deny.

85. Defendants deny the allegations of Paragraph 85.

COUNT 6

86. Defendants reincorporate, as if set forth fully herein, each and every answer to the paragraphs above.

87. Defendants deny the allegations of Paragraph 87.

88. Defendants deny the allegations of Paragraph 88.

RELIEF SOUGHT

89. Defendants deny that Plaintiffs are entitled to any of the relief sought.

DEFENSES

1. All or some of Plaintiffs' claims against all or some of the Defendants in their official capacities are barred by sovereign immunity.

2. All or some of Plaintiffs' claims are non-justiciable.

3. Plaintiffs' claims are barred in whole or in part by the existence of collective bargaining agreements between Plaintiffs and their respective employers.

4. Plaintiffs' claims are not ripe and should be dismissed because Act 10, in whole or in part, is not applicable to Plaintiffs or their members until such time as their current collective bargaining agreements expire.

5. All or some Plaintiffs lack standing as to all or some claims.

6. Plaintiffs have failed to state a claim upon which relief may be granted as a matter of law.

7. Plaintiffs have failed to join one or more parties under Wis. Stat. § 803.03.

8. Plaintiffs have impermissibly joined unrelated claims under Wis. Stat. § 803.02.

9. Plaintiffs have impermissibly joined unrelated parties under Wis. Stat. § 803.04(1).

10. This court lacks jurisdiction or competency over this entire action by Plaintiffs' failure to comply with the service requirement of Wis. Stat. § 806.04(11).

11. Plaintiffs' Complaint shall be stricken as to the separate claims of Plaintiffs Local 61 and Weigman for failure of the attorney of these Plaintiffs to sign as required by Wis. Stat. § 802.05(1).

WHEREFORE, Defendants respectfully requests that judgment be entered as follows:

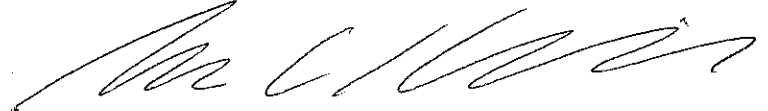
- A. dismissing the Plaintiffs' Complaint in its entirety;
- B. awarding Defendants their costs, disbursements and attorney fees incurred in defending this action; and

- C. granting any other further relief this Court deems just and equitable under the circumstances.

Dated at Madison, Wisconsin this 7th day of October, 2011.

Respectfully submitted,

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