



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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January 20, 2015

The Honorable Amy R. Smith  
Circuit Court Judge, Br. 4  
Dane County Courthouse  
215 South Hamilton Street, Room 8107  
Madison, WI 53703-3288

Re: *Freedom From Religion Foundation, Inc., et al. v.  
Wisconsin Office of the Commissioner of Insurance, et al.*  
Case No. 14-CV-3429

Dear Judge Smith:

Enclosed for filing is Defendants' Answer in this case. A copy is being mailed this date to opposing counsel.

Thank you.

Sincerely,

Daniel P. Lennington  
Assistant Attorney General  
State Bar #1088694

DPL:ajw

Enclosure

c: Christa Westerberg/Pamela R. McGillivray

RECEIVED  
JAN 22 2015

FREEDOM FROM RELIGION  
FOUNDATION, INC., and  
PATRICK ELLIOT,

Plaintiffs,

v.

Case No. 14-CV-3429

WISCONSIN OFFICE OF THE  
COMMISSIONER OF INSURANCE,  
and THEODORE NICKEL, in his  
official capacity as Commissioner  
of Insurance,

Defendants.

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ANSWER

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Defendants answer the Complaint as follows:

1. Defendants do not have information sufficient to either admit or deny the factual allegations in this paragraph. No response is required to the remaining legal conclusions.
2. Defendants do not have information sufficient to either admit or deny the factual allegations in this paragraph. No response is required to the remaining legal conclusions.

3. Defendants admit the factual allegations in this paragraph.  
No response is required to the remaining legal conclusions.

4. Defendants admit the factual allegations in this paragraph.  
No response is required to the remaining legal conclusions.

5. Defendants do not dispute venue in this case.

6. Defendants admit that the United States Supreme Court decided *Burwell v. Hobby Lobby Stores, Inc.* on or about June 30, 2014. No response is required to the remaining legal conclusions.

7. Defendants do not have information sufficient to either admit or deny the factual allegations in this paragraph.

8. Defendants do not have information sufficient to either admit or deny the factual allegations in this paragraph.

9. Defendants do not have information sufficient to either admit or deny the factual allegations in this paragraph.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Defendants admit that Mr. Elliot telephoned Ms. Zito on August 27, 2014, to clarify the denial. The remaining allegations in this paragraph are denied as untrue.

18. Defendants admit that they received a letter from Plaintiffs dated August 29, 2014, and the contents of that letter speak for themselves. Defendants deny any remaining factual allegations in this paragraph as untrue that are contrary to the text of the letter.

19. Admitted.

20. Defendants are without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

21. Defendants are without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

22. Defendants are without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

23. Defendants are without knowledge or information sufficient to admit or deny the factual allegations in this paragraph.

#### CAUSE OF ACTION

1. Defendants incorporate all previous answers.
2. This paragraph contains legal conclusions, to which no response is required.

3. This paragraph contains legal conclusions, to which no response is required.

4. Denied as untrue.

5. Denied as untrue.

6. Denied as untrue.

### **RELIEF REQUESTED**

Defendants deny that Plaintiffs are entitled to any relief, ask this Court to dismiss the Complaint with prejudice, and to enter any other appropriate relief.

### **AFFIRMATIVE DEFENSES**

1. Plaintiffs' Complaint does not state a claim.

2. Because records were released before the mandamus action was filed, Plaintiffs have no viable claim for mandamus and therefore no right to seek any other remedies.

3. Defendants have failed to mitigate any alleged damages.

4. Defendants' unreasonable delay in bringing this action constitutes laches.

Dated this 20<sup>th</sup> day of January, 2015.

Respectfully submitted,

BRAD D. SCHIMEL  
Attorney General



DANIEL P. LENNINGTON  
Assistant Attorney General  
State Bar #1088694

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