

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

FREEDOM FROM RELIGION )  
FOUNDATION, INC., ANNE NICOL )  
GAYLOR, ANNIE LAURIE GAYLOR, )  
PAUL GAYLOR, DAN BARKER, )  
PHYLLIS ROSE, and JILL DEAN, )

Plaintiffs, )

v. )

PRESIDENT BARACK OBAMA, )  
WHITE HOUSE PRESS SECRETARY )  
ROBERT GIBBS, WISCONSIN )  
GOVERNOR JIM DOYLE, and SHIRLEY )  
DOBSON, CHAIRMAN OF THE )  
NATIONAL DAY OF PRAYER TASK )  
FORCE, )

Defendants. )

Case No. 08-CV-588

**DEFENDANT SHIRLEY DOBSON’S MOTION TO DISMISS AMENDED  
COMPLAINT, OR IN THE ALTERNATIVE, MOTION FOR A MORE DEFINITIVE  
STATEMENT**

Defendant Shirley Dobson, pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 12(e), hereby moves to dismiss the Amended Complaint for lack of subject matter jurisdiction, failure to state a claim, or in the alternative, for a more definitive statement. In support, Mrs. Dobson states as follows:

1. Plaintiffs filed an Amended Complaint, naming “Shirley Dobson, Chairman of the National Day of Prayer Task Force” (“NDP Task Force”) as a defendant.

2. In the Amended Complaint, Plaintiffs refer throughout to both Shirley Dobson and the NDP Task Force. Plaintiffs’ Amended Complaint is vague and ambiguous and Mrs. Dobson cannot ascertain whether Plaintiffs are pursuing this matter against her individually, the

NDP Task Force, or both.<sup>1</sup> Thus, Plaintiffs' pleadings are unclear as to who is the object of their suit.

3. This information is not necessary in order for this Court to dismiss this case under Rule 12(b)(1) as Plaintiffs lack standing regardless of whether Plaintiffs sued Mrs. Dobson or the NDP Task Force.

4. In addition, this information is not necessary in order for this Court to dismiss this case under Rule 12(b)(6) as Plaintiffs have failed to state a claim regardless of whether Plaintiffs sued Mrs. Dobson or the NDP Task Force. Plaintiffs claim that Public Law 100-307, President Bush's 2008 Prayer Proclamation, and Governor Doyle's 2008 Prayer Proclamation are unconstitutional. However, prayer proclamations are constitutional as they are in line with the history and traditions of this nation in observing days of prayer and thanksgiving.

5. Mrs. Dobson has filed contemporaneously a memorandum in support of her motion to dismiss, and she incorporates that memorandum here.

6. However, if this case is to go forward, the identity of the private defendant is absolutely necessary to enable Mrs. Dobson to properly understand the allegations leveled against her and respond accordingly.

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<sup>1</sup> While it is standard practice to sue the head of a state department or agency rather than the state itself in order to avoid 11<sup>th</sup> Amendment immunity issues, Shirley Dobson is a private person and the NDP Task Force is a private organization.

WHEREFORE, Mrs. Dobson requests that the Amended Complaint be dismissed, or in the alternative, for a more definitive statement.

Dated: March 9, 2009

Respectfully submitted,

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COUNSEL FOR DEFENDANT SHIRLEY DOBSON  
\*Motions pro hac vice to be submitted

#### **CERTIFICATE OF SERVICE**

I hereby certify that on March 9, 2009, I electronically filed a copy of the above using the ECF System for the Western District of Wisconsin, which will send notification of that filing to all counsel in this litigation who have entered an appearance, including counsel for plaintiffs.

/s/Joel Oster  
Joel Oster



**THE WHITE HOUSE**  
PRESIDENT GEORGE W. BUSH

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For Immediate Release  
Office of the Press Secretary  
April 22, 2008

**National Day of Prayer, 2008**

A Proclamation by the President of the United States of America

America trusts in the abiding power of prayer and asks for the wisdom to discern God's will in times of joy and of trial. As we observe this National Day of Prayer, we recognize our dependence on the Almighty, we thank Him for the many blessings He has bestowed upon us, and we put our country's future in His hands.

From our Nation's humble beginnings, prayer has guided our leaders and played a vital role in the life and history of the United States. Americans of many different faiths share the profound conviction that God listens to the voice of His children and pours His grace upon those who seek Him in prayer. By surrendering our lives to our loving Father, we learn to serve His eternal purposes, and we are strengthened, refreshed, and ready for all that may come.

On this National Day of Prayer, we ask God's continued blessings on our country. This year's theme, "Prayer! America's Strength and Shield," is taken from Psalm 28:7, "The Lord is my strength and my shield; my heart trusts in him, and I am helped." On this day, we pray for the safety of our brave men and women in uniform, for their families, and for the comfort and recovery of those who have been wounded.

The Congress, by Public Law 100-307, as amended, has called on our Nation to reaffirm the role of prayer in our society by recognizing each year a "National Day of Prayer."

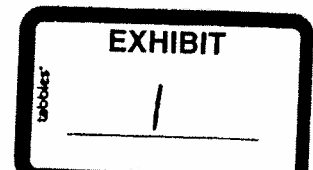
NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim May 1, 2008, as a National Day of Prayer. I ask the citizens of our Nation

to give thanks, each according to his or her own faith, for the freedoms and blessings we have received and for God's continued guidance, comfort, and protection. I invite all Americans to join in observing this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

GEORGE W. BUSH

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# The State of Wisconsin



## OFFICE OF THE GOVERNOR

### A PROCLAMATION

**WHEREAS**, the citizens of the State of Wisconsin are a diverse group of people of nearly every nationality and represented by a variety of religious traditions; and

**WHEREAS**, the history of our state is replete with leaders who voluntarily call upon their God, from the prayers sent heavenward during the Constitutional Convention to those murmured in the heat of the battle at Omaha Beach during World War II, to the intercessions offered in the aftermath of tragedies such as Columbine, September 11<sup>th</sup>, and the space shuttle break up, whether the need be great or small, Americans of faith have sought the Lord's help with life's challenges and adversities throughout our history; and

**WHEREAS**, the citizens of the State of Wisconsin have relied on prayer as a source of strength and guidance in war and peace and as our service men and women are currently defending the United States; and

**WHEREAS**, the theme for the upcoming observance is "America, Unite in Prayer"; and

**WHEREAS**, prayer is a comfort for many people, especially during times of trial and tribulation; and

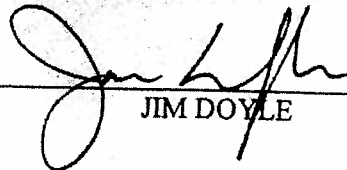
**WHEREAS**, the citizens of Wisconsin should gather together on this day in their homes, churches, meeting places and chosen places of worship to pray in their own way for unity of the hearts of all mankind, and for strong moral character in the lives of the people of all nations, as well as, peace and understanding throughout the world;

**NOW, THEREFORE, I, Jim Doyle, Governor of the State of Wisconsin, do hereby proclaim May 1, 2008**

### WISCONSIN DAY OF PRAYER

in the State of Wisconsin; and I commend this observance to all citizens.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol in the City of Madison this fourth day of April in the year two thousand eight.

  
JIM DOYLE



By the Governor:

EXHIBIT  
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