

FILED
03-24-2023
CIRCUIT COURT
DANE COUNTY, WI
2023CV000737
Honorable Rhonda L.
Lanford
Branch 16

STATE OF WISCONSIN

CIRCUIT COURT

COUNTY OF DANE

TIMOTHY LEMONDS
3509 Spenser Lane
Madison, WI 53704

Plaintiff,

-vs-

Case No : _____
Case Code: 30704

MADISON METROPOLITAN
SCHOOL DISTRICT
545 West Dayton Street
Madison, WI 53703

Defendant.

SUMMONS

THE STATE OF WISCONSIN to each person named above as a defendant:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Dane County Clerk of Courts, 215 South Hamilton Street, Room 1000, Madison, Wisconsin 53703 and to Attorney Randall B. Gold, FOX & FOX, S.C., 124 West Broadway, Monona, Wisconsin 53716. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days the Court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment awarding money

may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

If you require the assistance of auxiliary aids or services because of a disability, call 608/266-4678 (TDD 608/266-9138) and ask for the court ADA coordinator.

Dated at Monona, Wisconsin this 24th day of March, 2023.

Respectfully submitted:

FOX & FOX, S.C.

s/Randall B. Gold

Randall B. Gold (State Bar #1034435)

Ann E. Glavan (State Bar #1129356)

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Plaintiff,

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Case No : _____

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MADISON METROPOLITAN
SCHOOL DISTRICT

Defendant.

COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiff, Timothy LeMonds (“Mr. LeMonds”) by his attorneys, FOX & FOX, S.C., complains of defendant, Madison Metropolitan School District (“MMSD”), as follows:

GENERAL NATURE OF CLAIM

1. Mr. LeMonds is MMSD’s Executive Director of Communications & Public Affairs in good standing. He seeks an order/injunctive relief preventing the MMSD from having to disclose only *two* - of approximately 100 documents - responsive to a December 19, 2022, public records request by a local Madison television station under the Wisconsin Public Records Law (the “Request”). MMSD has apparently released all but the two subject documents and Mr. LeMonds has made no objection.

2. However, as permitted by Wis. Stat. § 19.356(4), and as alleged below, Mr. LeMonds *does* object to MMSD’s release of the two subject documents (the “Subject Documents”) and, respectfully, seeks the Court’s *Order* – or, possibly, an *Agreed Order* if the parties can agree to resolve this case amicably as permitted by the Court.

3. Furthermore, precluding release of the Subject Documents is warranted here because, *inter alia*: (a) any benefit that the public might derive from releasing same is vastly outweighed by the harmful effect that such release would have on the MMSD’s ability to effectively function as a state

agency since Mr. LeMonds its designated spokesperson in good standing; and (b) releasing the Subject Documents would almost certainly subject Mr. LeMonds to unwarranted, unfair and irreversible public ridicule and gossip, negative public perception, and jeopardize his ability to credibly perform his duties as MMSD's chief public spokesperson – especially since all of the accusations in the complaint were found to be without merit by MMSD.

4. Specifically, the Subject Documents consist of: (a) a cover page e-mail; and (b) a 14-page complaint (the “complaint”) consisting of a slew of personal grievances and accusations against Mr. LeMonds by several current and former disgruntled MMSD employees who were recently affected by a department reorganization that Mr. LeMonds undertook at the direction of his superiors at MMSD. As alleged below, these grievances and accusations against Mr. LeMonds were found by MMSD to be without merit.

5. Further, in lieu of attaching Subject Documents as attachments to this (publicly filed) lawsuit, Mr. LeMonds respectfully requests that the Court review same *in camera* with the parties' respective counsel. Mr. LeMonds is informed and believes that the MMSD has no objection to this process, that it may likely help foment a mutually acceptable resolution, should the Court permit.

THE PARTIES

6. Mr. LeMonds is a resident of Madison, Wisconsin, and has diligently served as MMSD's Executive Director of Communications & Public Affairs since December of 2019. In his role, Mr. LeMonds is the designated spokesperson for all MMSD related dealings and most interactions with the local and national press, news organizations, and the general public.

7. MMSD is the second largest public school district in the State of Wisconsin, serving the communities of Madison, Fitchburg, Maple Bluff, Shorewood Hills, Blooming Grove, and Burke.

JURISDICTION AND VENUE

8. Jurisdiction and venue are proper in this Court as plaintiff seeks injunctive relief under Wis. Stat. § 19.356(4), and as the subject events occurred in Dane County, Wisconsin.

9. Mr. LeMonds has no adequate remedy at law here because, *inter alia*, release of the subject documents would almost certainly cause irreparable harm to him, his reputation, the public's perception of him, his standing in the community, and within MMSD itself.

10. Such harm cannot be remedied by an award of monetary damages. Given the merits of the claims at issue, there is a likelihood of ultimate success on the merits, and there is minimal, *if any*, harm whatsoever to the public if the Subject Documents are not released, especially since the grievances and accusations were investigated and found to be baseless.

SALIENT FACTS

11. Mr. LeMonds has an exemplary work history at MMSD, and has never been the subject of any disciplinary action - either at MMSD, or previously as a Wisconsin state employee performing these same or similar duties for over 20 years.

12. In late October of 2022, certain disgruntled current and former MMSD employees submitted a 14-page complaint (the "Complaint") of their perceived personal grievances against Mr. LeMonds stemming from an internal reorganization of its Communications Department that Mr. LeMonds was responsible for effecting as directed by his MMSD superiors.

13. The complaint was promptly and thoroughly investigated by MMSD's legal and human resources departments. The investigation included: at least eleven (11) separate interviews, *i.e.* Mr. LeMonds, the complainants, various staff members, and a review of documents and recordings.

14. In December of 2022, the MMSD issued a formal written report finding the accusations against Mr. LeMonds to be without merit (the "Findings"). Mr. LeMonds was also notified of the Findings and told that he would not be subject to any discipline and the investigation was closed.

15. On or about December 19, 2022, however, the MMSD received a public records request (the “Request”) from a local television station for all emails sent and received by any MMSD employee containing its name or that of one of its news reporters in the timeframe of December 19, 2021 – December 19 2022. Mr. LeMonds is informed that MMSD is willing to provide a copy of the Request for the Court’s *in camera* consideration in connection with this action, and he has no objection.

16. However, since the Subject Documents briefly *mention* the name of the TV news reporter, they technically fall within the category of documents responsive to the Request – albeit the (unfounded) accusations against Mr. LeMonds are *not, themselves*, the subject of the Request.

17. In view of the foregoing, on or about March 7, 2023, MMSD provided Mr. LeMonds with the requisite legal notice, per Wis. Stat. § 19.356(2) informing him that it was going to release the Subject Documents, given the broad parameters of the Request, unless he provides written notice of his intent to seek a court order restraining MMSD from providing access to the subject complaint, as permitted by Wis. Stat. § 19.356(3).

18. On March 12, 2023, timely notice was given to MMSD on behalf of Mr. LeMonds of his intention to file this complaint and seek an injunction preventing the release of the records, and this action has been timely commenced per Wis. Stat. § 19.356(4) within 10 business days thereof.

19. Mr. LeMonds further submits that if release of the Subject Documents is not specifically banned by statute or common law, then Wisconsin law requires a determination of whether withholding the Subject Documents records would result in harm to the public interest that outweighs the benefit the public would receive if such records were released.

REQUEST FOR RELIEF

WHEREFORE, plaintiff, Tim LeMonds, respectfully seeks entry of an Order:

1. Permitting an expedited *in camera* inspection of the Subject Documents with counsel for the respective parties, and for purposes of reaching an amicable resolution if appropriate under the circumstances; or
2. Enjoining defendant, Madison Metropolitan School District from releasing the Subject Documents after an *in camera* inspection of same with counsel for the parties; or
3. Ordering defendant, Madison Metropolitan School District, to make appropriate redactions to the Subject Documents so as to prevent harm to either Mr. LeMonds or the Madison Metropolitan School District, after an *in camera* inspection of same with counsel for the parties;
4. Awarding plaintiff his costs incurred in this action; and/or
5. Granting any other further relief that the Court deems fair and appropriate.

Dated at Monona, Wisconsin this 24th day of March, 2023.

Respectfully submitted,

FOX & FOX, S.C.

Counsel for Plaintiff - Timothy LeMonds

s/ Randall B. Gold

Randall B. Gold (State Bar #1034435)

Ann E. Glavan (State Bar #1129356)

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aglavan@foxquick.com

VERIFICATION

Tim LeMonds, Plaintiff herein, on oath, deposes and states that the foregoing allegations of the *Verified Complaint* are true and correct to the best of my knowledge and belief.

Tim LeMonds

Tim LeMonds

3/23/23

Dated: _____