

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

**UNIVERSITY OF WISCONSIN-MADISON)
ROMAN CATHOLIC FOUNDATION,)
INC., a Wisconsin non-profit corporation,)
TIMOTHY J. KRUSE, ELIZABETH A.)
PLANTON, and JOHN B. KOCZELA,)**

Plaintiffs,

v.

The Regents of the University of Wisconsin)
System, **DAVID G. WALSH, MARK J.)
BRADLEY, JEFFREY BARTELL,)
ELIZABETH BURMASTER, EILEEN)
CONNOLLY-KEESLER, JUDITH V.)
CRAIN, MARY QUINETTE CUENE,)
DANAE DAVIS, THOMAS LOFTUS,)
MILTON McPIKE, CHARLES PRUITT,)
GERARD A. RANDALL, JR., PEGGY)
ROSENZWEIG, JESUS SALAS,)
CHRISTOPHER SEMENAS, BRENT)
SMITH, and MICHAEL J. SPECTOR, all in)
their individual and official capacities;)
KEVIN P. REILLY, individually and in his)
official capacity as President of the University)
of Wisconsin System; **JOHN D. WILEY**,)
individually and in his official capacity as)
Chancellor of the University of Wisconsin-)
Madison; **LORI M. BERQUAM**, individually)
and in her official capacity as Interim Dean of)
Students at the University of Wisconsin-)
Madison; **ELTON J. CRIM, JR.**, individually)
and in his official capacity as Interim)
Associate Dean of Students at the University)
of Wisconsin-Madison; and **YVONNE)
FANGMEYER**, individually and in her)
official capacity as Director of the Student)
Organization Office at the University of)
Wisconsin-Madison,)**

Case No.:

Defendants.

VERIFIED COMPLAINT

Plaintiffs University of Wisconsin-Madison Roman Catholic Foundation, Inc., Timothy Kruse, Elizabeth A. Planton, and John B. Koczela, by and through counsel, and for their Complaint against David G. Walsh, Mark J. Bradley, Jeffrey Bartell, Elizabeth Burmaster, Eileen Connolly-Keesler, Judith V. Crain, Mary Quinnette Cuene, Danae Davis, Thomas Loftus, Milton McPike, Charles Pruitt, Gerard A. Randall, Jr., Peggy Rosenzweig, Jesus Salas, Christopher Semenas, Brent Smith, and Michael J. Spector, members of the University of Wisconsin System Board of Regents; and Kevin P. Reilly, President of the University of Wisconsin System; John D. Wiley, Chancellor of the University of Wisconsin-Madison; Lori M. Berquam, Interim Dean of Students at the University of Wisconsin-Madison; Elton J. Crim, Jr., Interim Associate Dean of Students at the University of Wisconsin-Madison; and Yvonne Fangmeyer, Director of the Student Organization Office at the University of Wisconsin-Madison, hereby state as follows:

INTRODUCTION

1. The University of Wisconsin, once a bastion for free debate and thought, now selectively excludes religious students and their student organizations from meeting on campus and from receiving student activity fee funding for their expressive activities. The University requires Christian students and student organizations to abandon their rights to free speech, free association, and free exercise of religion as a condition of access to University benefits and does not impose this same requirement on non-religious students and student organizations. Defendants and University administrators have implemented unconstitutional and vague student organization registration policies, one of which is a “non-discrimination” policy that all student organizations are required to adopt and adhere to before the organizations are granted official recognition. This policy prevents religious organizations from using religious principles when making membership and student leadership decisions. Furthermore, and even more troubling,

Defendants and University administrators have campaigned for the past several years to limit the funding of Christian student organizations, specifically, Plaintiff University of Wisconsin-Madison Roman Catholic Foundation, Inc. Defendants have decided, by policy and practice, that the University will no longer fund religious expression through student activity fees. Instead of promoting free speech, free expression, and free association of all students, the University and Defendants have selectively imposed their orthodoxy on matters of religious belief against these Christian student organizations.

2. The First Amendment of the United States Constitution protects every individual's right to free association. This right is not curtailed for students on a university campus, especially when the university actively encourages students to form organizations in order to advocate their own ideas. Once a university opens its campus to student organizations, students have an associational right to form student organizations founded upon certain beliefs and ideas. The Constitution protects students' right to require each member and leader of the organization to agree with and abide by the organization's core beliefs. Further, once a university decides to fund student organizations in the forum (through a student activity fee), it cannot selectively discriminate based on religious viewpoint in apportioning the funds. The Constitution protects students and student organizations from such viewpoint discrimination.

3. The University of Wisconsin-Madison and Defendants refuse to grant "registered student organization" status to the University of Wisconsin-Madison Roman Catholic Foundation, Inc. ("UWRFCF"), an expressive student organization that has existed at the University since the 1880s. Defendants took this action because (1) UWRFCF allegedly discriminates on the basis of religious belief when selecting members and leaders of the organization, which Defendants claim violates the University's "non-discrimination" policy and

(2) because three of UWRCF's twelve board members are students, it allegedly does not have sufficient student representation on its board. Defendants have not required the same scrutiny of non-Christian organizations when enforcing these vague policies. Furthermore, the University and Defendants have announced that they will no longer permit student organizations to receive student activity fee funding for religious expression and activities, and they have singled out UWRCF as the one organization that will not receive funding next year due to this decision. By these policies and practices, Defendants and University officials violated UWRCF's rights to free speech and association, free exercise of religion, due process of law, and equal protection of law. By refusing to recognize UWRCF and fund its religious expression, the University has violated Plaintiffs' First and Fourteenth Amendment rights and caused irreparable injury to Plaintiffs. Defendants' unconstitutional actions must be stopped.

JURISDICTION AND VENUE

4. This civil rights action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments, and the Civil Rights Act of 1871, 42 U.S.C. § 1983.

5. This Court has original jurisdiction over these federal claims pursuant to 28 U.S.C. §§ 1331 and 1343. This Court has authority to award the requested damages pursuant to 28 U.S.C. § 1343; the requested declaratory relief pursuant to 28 U.S.C. § 2201-02; the requested injunctive relief pursuant to 28 U.S.C. § 1343 and Fed. R. Civ. P. 65; and costs and attorneys fees under 42 U.S.C. § 1988.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because the Defendants reside in this district and/or all of the acts described in this Complaint occurred in this district.

PLAINTIFFS

7. Plaintiff University of Wisconsin-Madison Roman Catholic Foundation, Inc. (“UWRCF”) is an expressive association, not a church, incorporated under Chapter 181 of the Wisconsin Statutes and recognized as a non-profit under § 501(c)(3) of the Internal Revenue Code. UWRCF has been an expressive student organization serving the University of Wisconsin-Madison community since the 1880s and was the first Catholic campus ministry at a public university in the United States.

8. Plaintiff Timothy Kruse is a student at the University of Wisconsin-Madison and a member of the University of Wisconsin-Madison Roman Catholic Foundation.

9. Plaintiff Elizabeth A. Planton is a student at the University of Wisconsin-Madison and a member of the University of Wisconsin-Madison Roman Catholic Foundation.

10. Plaintiff John B. Koczela is a student at the University of Wisconsin-Madison and a member of the University of Wisconsin-Madison Roman Catholic Foundation.

DEFENDANTS

11. Defendant David G. Walsh, the President of the University of Wisconsin System Board of Regents, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for overseeing the Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

12. Defendant Mark J. Bradley, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

13. Defendant Jeffrey Bartell, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

14. Defendant Elizabeth Burmaster, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in her individual and official capacities.

15. Defendant Eileen Connolly-Keesler, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in her individual and official capacities.

16. Defendant Judith V. Crain, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in her individual and official capacities.

17. Defendant Mary Quinnette Cuene, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in her individual and official capacities.

18. Defendant Danae Davis, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in her individual and official capacities.

19. Defendant Thomas Loftus, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

20. Defendant Milton McPike, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

21. Defendant Charles Pruitt, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

22. Defendant Gerard A. Randall, Jr., a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

23. Defendant Peggy Rosenzweig, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is

responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in her individual and official capacities.

24. Defendant Jesus Salas, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

25. Defendant Christopher Semenas, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

26. Defendant Brent Smith, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

27. Defendant Michael J. Spector, a Regent of the University of Wisconsin System, a public university system organized and existing under the laws of the State of Wisconsin, is responsible for Board of Regents administration and policy-making, including the policies and procedures contained herein, and is sued both in his individual and official capacities.

28. Defendant Kevin P. Reilly, the President of the University of Wisconsin System, a public university organized and existing under the laws of the State of Wisconsin, is responsible for overseeing campus administration including the policies and procedures contained herein, and is sued both in his official and individual capacities.

29. Defendant John D. Wiley is Chancellor of the University of Wisconsin-Madison, is responsible for overseeing campus administration including the policies and procedures contained herein, and is sued both in his official and individual capacities.

30. Defendant Lori M. Berquam is Interim Dean of Students at the University of Wisconsin-Madison, is responsible for overseeing campus administration including the policies and procedures contained herein, and is sued both in her official and individual capacities.

31. Defendant Elton J. Crim, Jr. is Interim Associate Dean of Students at the University of Wisconsin-Madison, is responsible for overseeing campus administration including the policies and procedures contained herein, and is sued both in his official and individual capacities.

32. Defendant Yvonne Fangmeyer is Director of the Student Organization Office for the Offices of the Dean of Students at the University of Wisconsin-Madison, is responsible for overseeing campus administration including the policies and procedures contained herein, and is sued both in her official and individual capacities.

FACTUAL BACKGROUND

33. The University of Wisconsin System (“UW System”) is a public university organized and existing under the laws of the State of Wisconsin, and receives funding from the State of Wisconsin in order to operate. Upon information and belief, the funds distributed to the UW System by the State of Wisconsin are raised, in part, by taxing state residents. In addition, most students pay tuition to attend one of the UW System’s branch campuses and receive a degree. The UW System uses student tuition, in part, to fund the departments, programs, research, salaries, and other activities in which each branch university engages. Students are also required to pay a student activity fee every semester they attend the University.

34. The UW System is composed of various branch campuses throughout the State of Wisconsin. The UW System Board of Regents issues policies and procedures that each branch campus must adopt.

35. The Board of Regents' "Racist and Other Discriminatory Conduct Policy" contains the following statement: "Effective policies and procedures are necessary to prevent racist and other discriminatory conduct. Accordingly, all UW System institutions are directed to develop implementing policies and procedures to protect students, faculty, academic staff and classified staff from harassment, and to ensure prompt corrective action whenever it may occur." A copy of the Board of Regents' "Racist and Other Discriminatory Conduct Policy" is attached as Exhibit A to this Complaint.

36. The UW System and Defendants have also issued a financial and administrative policy on student activity fees. Policy F20 "Segregated Fee Expenditures" states: "Only student organizations which meet the institutional qualifications for official recognition and are so recognized and University departments may receive SUF [Segregated University Fees] support."

37. Policy F20 also contains the following nondiscrimination statement: "As appropriate, all students must have the opportunity to join any SUF funded organization. Membership must be open to all eligible or qualified students. Exceptions must be approved in advance by the SUFAC [Segregated University Fee Allocations Committees] and the Chancellor or his/her designee." A copy of Policy F20 "Segregated Fee Expenditures" is attached as Exhibit B to this Complaint.

38. Defendant Reilly is charged with implementing Regent policies across the UW System. Defendants Wiley, Berquam, Crim, and Fangmeyer are charged with implementing Regent policy at the University of Wisconsin-Madison ("UW-Madison").

A. UW-Madison's Student Organization Policies

39. UW-Madison invites students to form student organizations and engage in expressive activities on campus. The Student Organization Office ("SOO") is dedicated to overseeing all aspects and policies pertaining to student organizations on campus. The SOO's website contains the following statement:

The mission of the Student Organization Office (SOO) is to promote student involvement as an integral part of a University education, register student organizations, and provide services, information, education, support, and advising to assist with the development and strengthening of students and student groups. Working with university and community partners, including student group advisors, alumni, and national organizations, and through education on university resources, policies, and procedures, SOO provides leadership development, organizational management, and skill development opportunities in an effort to empower students, to support quality learning experiences outside of the classroom, and to encourage active, thoughtful, involved community citizens.

A copy of the Student Organization Office's website is attached as Exhibit C to this Complaint.

40. SOO issues the Student Organization Handbook ("SOO Handbook"), which guides students in establishing and maintaining student organizations. The SOO Handbook contains policies and procedures governing the formation and operation of student organizations at UW-Madison.

41. The SOO Handbook distinguishes between registered and non-registered student organizations. Registered student organizations ("RSOs") receive many benefits from the University that non-registered student organizations do not receive. The SOO Handbook contains the following statement:

Benefits of Registered Student Organizations (RSOs)

Registered Student Organizations benefit by receiving access to university facilities and services not available to non-registered groups or to the general public. As a Registered Student Organization (RSO), your group:

- * May reserve and use university facilities in the Wisconsin Union, and elsewhere on campus, that are available for non-instructional use.
- * May take advantage of services, events and programs developed for RSOs by SOO [Student Organization Office] and other university offices, programs and departments.
- * Are eligible to apply for grants from the student government, Associated Students of Madison (ASM), the Multicultural Council (MCC), and other sources of funding specifically available to RSOs.
- * May receive free publicity by being placed on SOO's official list of RSOs on the web and in print.
- * Are eligible to participate in all membership recruitment opportunities offered through the SOO, including but not limited to, the Student Organization Fair, Get Connected SOAR Interest Inventory, and Kick Off Meetings Promotion. In addition, SOO promotes student organizations in a variety of ways including attendance at the many campus resource fairs, production of a Fall Fair Poster and Category Specific Promotional Brochures, presentations at the Transfer Student Involvement Session and other campus involvement/recruitment activities.
- * May use the name of the University of Wisconsin-Madison to identify the group's affiliation. Note that any form of the UW's name may not be placed as the beginning words in the name of the organization, but must follow at the end of the name, i.e., Checkers Club, UW-Madison.

Copies of the relevant portions of Defendants' 2005–06 (the 2005–06 Handbook is labeled as “2004–2005 Handbook”) and 2006–07 SOO Handbooks are attached as Exhibit D to this Complaint.

42. Non-registered student organizations do not have access to any of the benefits listed in the SOO Handbook.

43. As a condition of registration and recognition, the SOO Handbook requires all student organizations to abide by the University's “non-discrimination” policy in selecting members and leaders. The non-discrimination policy prohibits student organizations from selecting members and leaders based on the expressive beliefs of the organization.

44. The SOO Handbook contains the following non-discrimination policy:

Nondiscrimination in Membership and Programming

University policy, as well as Federal and State laws, prohibits discrimination by Registered Student Organizations (RSOs) on the basis of race, color, creed, religion, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status, or parental status. University-affiliated groups may not discriminate on these prohibited grounds in selecting or initiating new members, in selecting officers, or in providing any aid, benefit, or service. Most groups receiving funds, office space or other significant assistance from the university are also prohibited from discriminating on the basis of sex in choosing members or providing services. Each student organization is responsible for assuring that its membership procedures and service provision are nondiscriminatory.

See Ex. D.

45. In addition, UW-Madison requires all RSOs to abide by the Student Organization Code of Conduct. The Code of Conduct is located in the SOO Handbook. The Code of Conduct contains the following statement:

I. Student Organization Code of Conduct

Any violation of the following regulations by an RSO may result in disciplinary sanctions against the organization.

All Registered Student Organizations:

1. Must comply with the eligibility requirements and financial regulations published in the Student Organization Handbook;
2. Shall not discriminate on the basis of age, color, creed, disability, national origin, race, religion, sex or sexual orientation unless pursuant to an exception recognized by law (disciplinary procedures for handling allegations of discrimination are defined in Section III of this Policy);

Copies of the 2005–06 and 2006–07 Student Organization Codes of Conduct are attached as Exhibit E to this Complaint.

46. On information and belief, RSOs found out of compliance with UW-Madison's non-discrimination policy are un-registered by the University and prohibited from obtaining access to the University's forum for speech and expression and all the benefits described above.

47. New student organizations seeking RSO status that refuse to comply with and abide by UW-Madison's non-discrimination policy are not registered or recognized by the University and are prohibited from obtaining access to the University's forum for speech and expression and all the benefits described above.

48. One of the benefits of being an RSO is applying for and receiving segregated fee (student activity fee) funding for organizational activities and expenses. UW-Madison and Defendants follow UW System Policy F20, "Segregated Fee Expenditures," in creating policies and procedures for distributing segregated fees to student organizations. UW-Madison and Defendants charge the student government, Associated Students of Madison ("ASM"), with the responsibility, under Wisconsin law (Wisc. Stat. 36.09(5)), for apportioning segregated fees to student organizations.

49. The Student Services Finance Committee ("SSFC") is a branch of ASM that distributes funding to RSOs. SSFC is annually charged with making recommendations to ASM's Student Council on the allocation of the segregated fees. SSFC administers the General Student Service Fund ("GSSF"), which is the depository for student activity fees collected from each UW-Madison student. SSFC provides substantial operations funding to student and non-student-run organizations that provide non-classroom educational opportunities (e.g., tutoring, legal services, multicultural education groups, etc.) to a significant portion of the UW-Madison student body. SSFC, composed of seventeen (17) voting student members as well as a non-voting Chancellor's appointee, has the authority to recommend raising, freezing, or lowering the funding of existing GSSF organizations and to recommend accepting or denying new funding requests. Those recommendations go before ASM for approval, then to the UW-Madison Chancellor (Defendant Wiley), and finally to the UW System Board of Regents for final approval.

Information about SSFC can be accessed at http://apps.asm.wisc.edu/financial/ssfc_general.htm and at <http://apps.wisc.edu/financial/ssfc.html>.

50. On information and belief, ASM amended its bylaws in 2003 to enable funding of non-registered student organizations that supplied significant services to the student body.

51. Prior to applying for GSSF funding, SSFC requires each student organization, whether or not it is an RSO, to file a GSSF Eligibility Application. This Application contains certain eligibility criteria that a student organization must meet before SSFC will accept its funding request. Applications previous to the 2007–08 funding cycle, for example the 2006–07 GSSF Eligibility Application, did not make RSO status a criterion of eligibility. However, the 2007–08 Application states that a student organization must be an RSO in order to be eligible for GSSF funding. Copies of the 2006–07 and 2007–08 GSSF Eligibility Applications are attached as Exhibit F to this Complaint.

52. Further, as a condition of applying for GSSF funding, SSFC requires each organization to sign a statement of agreement, in which the organization agrees to abide by State, University, and ASM policies and procedures (including Defendants’ nondiscrimination policy). SSFC also issues eligibility and funding criteria that each organization must meet in order to receive funding. One eligibility criterion is that the organization must have “an advisory board consisting of at least three student members that deals with examination and approval of the organization/program’s budget.” Copies of the GSSF Statement of Agreement and of the SSFC Eligibility and Funding Criteria are attached as Exhibit G to this Complaint.

53. Once ASM approves an organization’s eligibility, the organization may file a GSSF Funding Request. Copies of the 2006–07 GSSF Funding Request and 2007–08 GSSF Funding Request forms are attached as Exhibit H to this Complaint.

54. The Finance Committee is responsible for ASM's internal fiscal budget, as well as providing operations grants, travel grants, and event grants to student organizations. Operations grants are used for the daily business of student organizations, including: funding for postage, printing, office supplies, membership dues, equipment rental, subscriptions, graphic and web design, and other expenses. Any RSO may apply for an operations grant. Travel grants are available for RSOs who want to travel to places and events that further the goals of the group. Event grants are available for RSOs that want to bring speakers to UW-Madison, put on festivals, and other such campus activities. Travel and events must be open to all UW-Madison students. Copies of the ASM Financial Policies & Procedures and the Finance Committee's websites explaining Operations, Travel, and Event Grants are attached as Exhibit I to this Complaint.

B. UW-Madison's Discriminatory Actions Against Plaintiffs—Funding.

55. UWRCF has been an expressive student organization serving the UW-Madison community since the 1880s, and was the first Catholic campus ministry at a public university in the United States. UWRCF owns the properties at 723 State Street in Madison, Wisconsin. These properties are not owned by any church.

56. Over the course of its ministry, UWRCF has been a home away from home for over fifty thousand (50,000) students. Many of its alumni serve society with great distinction and approximately four hundred (400) alumni currently serve the University as staff and faculty. UWRCF was created to promote the religious, charitable, and educational interests of Roman Catholic and non-Roman Catholic students, faculty, and staff at UW-Madison. Copies of UWRCF's Articles of Incorporation and Bylaws are attached as Exhibit J to this Complaint.

57. UWRCF allows any person who supports its mission to become a member of the organization. Each year thousands of Catholic, as well as non-Catholic, students take advantage of UWRCF's many programs and services. At any time, any student wanting to join UWRCF may do so by simply supplying their name and e-mail contact information online at UWRCF's website (<http://www.stpaulscc.org/registration/foundationreg.html>). Nothing beyond this basic contact information is requested of those students wanting to join.

58. ASM amended its bylaws in 2003 to enable funding of non-registered student organizations that supplied significant services to the student body. UWRCF applied for eligibility after UW-Madison student leaders encouraged it to do so because it is one of the largest student organizations on campus, providing programs and services to thousands of students each week. After submitting its application, UWRCF received eligibility to apply for and receive SSFC funding in the fall of 2003, even though it was not an RSO at that time.

59. UWRCF then applied to SSFC for segregated fee funding. During hearings before the SSFC on UWRCF's budget request, SSFC members repeatedly singled out the religious identity and activities of UWRCF as problematic and undeserving of funding. SSFC members questioned whether UW-Madison could fund a "religious organization" and expressed concern over UWRCF's Catholic beliefs. SSFC further questioned why it should fund a group that was able, up to this point, to fund itself. After much harassment over its religious viewpoint and how it ought to continue funding itself as it had in the past, SSFC funded only seven percent (7%) of UWRCF's budget. On information and belief, other GSSF groups (all non-religious) received virtually one hundred percent (100%) of their budget.

60. During the 2003 GSSF application cycle and subsequent funding cycles, Defendants and UW-Madison administrators singled out UWRCF for excessive scrutiny because

of its religious identity and expressive message. Non-religious organizations have historically received virtually one hundred percent (100%) of their student programming needs from GSSF and UW-Madison, but UWRCF is presently funded at just seventeen percent (17%) of its overall budget even though over ninety percent (90%) of its programming is for UW-Madison students. Relative to its overall budget, UWRCF remains the lowest funded GSSF organization on the UW-Madison campus.

61. In the fall of 2004, UWRCF again applied for funding, but SSFC and Defendants subjected UWRCF to further discrimination. In October 2004, UW-Madison officials distributed two (2) memoranda to SSFC instructing it that religious student organizations could not receive segregated fees.

62. On or about October 11, 2004, Dean Luoluo Hong sent a memorandum to the SSFC with the following statement:

University/State funds cannot be used to directly support the operating costs of a church or strictly church-related activity (e.g., worship service) if the funds being transferred could be characterized as a donation to the church or as being in lieu of other contributions to the church normally used to cover similar costs.

A copy of the October 11, 2004, memorandum from Dean Luoluo Hong to the SSFC is attached as Exhibit K to this Complaint.

63. On or about October 15, 2004, the UW System General Counsel sent a memorandum to the Chief Student Affairs Officers (CSAO) with the following statement:

Segregated fees may not be used to provide gifts, donations or contributions to political or religious organization, campaigns or candidates. [University Financial Policy] F20 prohibits the funding of gifts, donations and contribution in general, and applies to all such distribution, including those that are directed to political and religious groups. . . .

. . . .

. . . . The allocable portion of segregated fees is not available for such expenses, and should not be used to support improvements, maintenance or overhead expenses in facilities that are not owned, leased or otherwise controlled by the university.

A copy of the October 15, 2004, memorandum from UW System General Counsel to the CSAOs is attached as Exhibit L to this Complaint.

64. These and other such communiqués from UW-Madison officials and Defendants resulted in UWRCF being subjected by the SSFC to a steady barrage of discriminatory remarks and inquiries into the nature of their activities over the next two years. After the 2004 budget process, SSFC funded only fourteen percent (14%) of UWRCF's budget.

65. During the 2005 funding cycle, the UW System General Counsel's memorandum concerning utilities was distributed to SSFC again after UWRCF made its budget request. UWRCF wrote to Vice Chancellor Bill Richner on November 23, 2005, to complain that the memorandum was being used as pretext for discrimination and it was being applied to UWRCF in a manner not applied to other student organizations. On November 30, 2005, UWRCF expressed these and other discrimination concerns in a letter to Defendant Reilly. A copy of the November 23, 2005, e-mail from UWRCF to Vice Chancellor Bill Richner is attached as Exhibit M to this Complaint. A copy of the November 20, 2005, letter from UWRCF to Defendant Reilly is attached as Exhibit N to this Complaint.

66. In September 2005, UWRCF applied for funding from the SSFC for the 2006–07 academic year. Initially the SSFC, at the counsel of Defendants, denied UWRCF eligibility to apply for funding. Defendants took this action because they allege that UWRCF discriminates on the basis of religious belief when selecting members and leaders of the organization. Defendants claimed UWRCF violated UW-Madison's nondiscrimination policy.

67. Defendant Crim, in particular, responded to a request for assistance from Rachelle Stone, Chair of the SSFC, on September 21, 2005. He stated that UWRCF's bylaws discriminate on the basis of religion and, therefore, UWRCF should not be eligible for funding. A copy of Defendant Crim's September 21, 2005, e-mail is attached as Exhibit O to this Complaint.

68. The denial of UWRCF's eligibility meant UWRCF's budget request would not be heard by SSFC. UWRCF appealed SSFC's decision to UW-Madison's Student Judiciary. The Student Judiciary, after holding a hearing, reversed SSFC's denial of eligibility, citing due process and free association violations. The Student Judiciary's opinion concluded by suggesting that while the UWRCF, as a non-RSO GSSF funded group, was presently exempted from the University's non-discrimination policies, the University could alter the situation by requiring all GSSF groups to become RSO's:

While not the case before the Court here, the SSFC should be mindful that claims of this nature arising from private organizations may appear in the future. I do not think that such claims can be made by Registered Student Organizations (RSO) on campus; one of the requirements for organizing as a RSO is that the organization be open to all students. The RSO voluntarily chose to organize in this fashion and is consequently bound by the regulations promulgated to associate in that manner.

A copy of the Student Judiciary's October 19, 2005, Judgment is attached as Exhibit P to this Complaint.

69. Having won the right to eligibility, the SSFC then heard UWRCF's budget request. Before the budget hearing, on November 8, 2005, Defendant Berquam sent a memorandum to the members of SSFC stating that the University cannot apportion segregated fees to support religious expression. A copy of Defendant Berquam's November 8, 2005, memorandum to SSFC members is attached as Exhibit Q to this Complaint.

70. The evening of the UWRCF budget hearing began with UWRCF addressing the committee with a plea for fairness. Immediately following UWRCF's comments, Defendant Crim, as the Chancellor's representative at the SSFC meeting, expressed his objections to organizations like UWRCF being funded with segregated fees. Defendant Crim argued that such organizations should not get their funding from the SSFC, but from non-SSFC sources. Defendant Crim strongly warned the committee to beware that it was being preyed upon by such organizations. After Defendant Crim's remarks, the SSFC debated UWRCF's budget. A copy of the November 18, 2005, *Badger Herald* news article reviewing Defendant Crim's comments is attached as Exhibit R to this Complaint.

71. During the budget hearing, the SSFC cut those aspects of UWRCF's budget that the SSFC and Defendant Wiley's office perceived to be religious in nature as well as the organization's request for funding of utilities. When the meeting concluded, the SSFC had reduced UWRCF's budget to \$94,000.

72. In the days following the SSFC budget hearing, several SSFC members submitted e-mails to UWRCF, Plaintiff Kruse, and other SSFC members indicating that UWRCF's budget hearing was riddled with discriminatory treatment. On information and belief, one SSFC member, Representative Knox, was so outraged at the administration's attempts to get the SSFC to discriminate against UWRCF that she addressed the committee at a special meeting the following day on November 18, 2006. Copies of the e-mails submitted by SSFC members are attached as Exhibit S to this Complaint.

73. The week following the SSFC budget hearing, UWRCF appealed the budget cuts to UW-Madison's Student Judiciary. A copy of UWRCF's complaint against SSFC is attached as Exhibit T to this Complaint.

74. On December 17, 2005, the Student Judiciary, citing numerous viewpoint neutrality violations on the part of SSFC, overturned the budget cuts and then forwarded the budget onto the ASM Student Council for reconsideration. A copy of the Student Judiciary's Judgment is attached as Exhibit U to this Complaint.

75. On February 15, 2006, after debate and against the protest of Defendant Berquam, the ASM Student Council approved a UWRCF budget of \$145,000 and forwarded it along with all other budgets to Defendant Wiley for approval.

76. During this time, counsel for Plaintiffs sent a letter on behalf of UWRCF advising Defendant Wiley to approve all of UWRCF's requested budget. A copy of the March 1, 2006, letter from counsel for Plaintiffs to Defendant Wiley is attached as Exhibit V to this Complaint.

77. On April 4, 2006, Defendant Wiley sent a letter to Mr. Eric Varney, Chair of ASM, and Rachelle Stone, Chair of SSFC, objecting to UWRCF's budget request because of the religious activities and message of the organization.

78. Defendant Wiley stated that because "segregated fees represent a component of state monies . . . numerous aspects of the funding approved for [UWRCF] potentially violate" the "Establishment Clause of the First Amendment to the U.S. Constitution." Defendant Wiley noted several "items of concern" in UWRCF's budget, including: religious activities of the organization, personnel who may support the "on-going operations of a religious organization," and printing fees for "weekly bulletins . . . and student-authored Lenten Booklets."

79. Defendant Wiley also announced that beginning in the fall of 2006, all recipients of segregated fee funding must be RSOs under Regent Policy F20 (Segregated Fee Expenditures). Defendant Wiley noted that ASM unilaterally eliminated that requirement in 2003, violating UW System policy. Defendant Wiley stated that in the 2006–07 budget,

UWRCF was the only non-registered student organization that received funding. Defendant Wiley granted a one-year, one-time exemption to UWRCF, but stated that beginning with applications submitted for the 2007–08 academic year (applications for 2007–08 are submitted during the 2006–07 academic year), he would not permit non-registered student organizations to receive segregated fee funding.

80. Defendant Wiley continued by stating that student organizations cannot use segregated fee monies for overhead expenses in non-University owned facilities. He noted that UWRCF received approval for expenses related to electricity, gas, and water.

81. Defendant Wiley asked ASM and SSFC to address these issues and respond with their final determinations. A copy of the April 4, 2006, letter from Defendant Wiley to Eric Varney and Rachelle Stone is attached as Exhibit W to this Complaint.

82. Despite Defendant Wiley’s requests for closer scrutiny, ASM and SSFC approved UWRCF’s 2006–07 budget. They did not make any deductions from the budget as Defendant Wiley suggested.

83. On April 28, 2006, Defendant Wiley issued another letter to Eric Varney, Chair of ASM, and Rachelle Stone, Chair of SSFC. In addressing his previous concern over providing segregated fees for religious expression and activity, Defendant Wiley said the following:

I find it very uncomfortable to be placed in a position of recommending approval of funding for activities and/or personnel I do not know enough about to determine whether their proposed content/application are violative of constitutional requirements. . . .

. . . . I am provisionally recommending approval of the UWRCF budget. I will express my view, however, that it may be necessary to elicit from the UWRCF additional information before funding that may be provisionally approved can actually be released. I also caution that, **in future budgets, I will be very reluctant to recommend approval for any budget that has not been submitted with sufficient information to allow for a thorough examination of**

constitutional requirements regarding use of state funds by religious organizations.

(Emphasis added.)

84. Defendant Wiley's statement makes clear that UWRCF and other religious organizations will not receive segregated fee funding in future SSFC budgets.

85. Defendant Wiley also stated that because UWRCF applied for segregated fee funding in reliance on ASM's bylaws (which allowed for non-registered student organizations to receive funding), he would exempt UWRCF from the registration requirement this year, but that he does "not contemplate any future exemptions to the mandate of [Policy F20] regarding RSO status."

86. Finally, Defendant Wiley also stated that he would provide a one-year exemption to UWRCF and other affected organizations that requested SSFC budgets for overhead expenses. Defendant Wiley commented: "I do insist, however, that ASM/SSFC communicate to all organizations seeking funding for 2007–08 and beyond that they should not expect to receive support for improvements, maintenance or overhead expenses (including rent) for any facilities not directly controlled by the university. . . ."

87. Defendant Wiley forwarded the ASM/SSFC budget to the UW System Board of Regents, with these comments noted, for final approval. A copy of Defendant Wiley's April 28, 2006, letter to Eric Varney and Rachelle Stone is attached as Exhibit X to this Complaint.

88. On May 3, 2006, in an interview with the *Badger Herald*, Defendant Wiley expressed frustration over UWRCF's budget being approved despite the administration's wishes to the contrary. Defendant Wiley stated: "We're not allowed to use public funds to fund direct religious observation." A copy of the May 3, 2006, *Badger Herald* article entitled "Wiley hands UWRCF decision to Regents" is attached as Exhibit Y to this Complaint.

89. Based upon UWRCF's and Plaintiffs' concern that Defendants would not approve UWRCF's 2006–07 budget and fund religious expression in future budgets, on May 12, 2006, counsel for Plaintiffs sent a letter to Defendants Walsh and Reilly regarding Defendant Wiley's recommendations for the 2006–07 academic year and cautioned against reversal of the submitted budget. Counsel for Plaintiffs outlined the applicable law regarding student activity fee funding and requested that the UW System and Defendants consider the legal principles when finalizing the 2006–07 ASM/SSFC budget and all future budgets. A copy of the May 12, 2006, letter from counsel for Plaintiffs to Defendants Walsh and Reilly is attached as Exhibit Z to this Complaint.

90. During the summer of 2006, ASM's segregated fee budget, of which UWRCF was now a part, was given final approval by the Board of Regents.

C. UW-Madison's Discriminatory Actions Against Plaintiffs—Recognition

91. As a result of Defendant Wiley's statement that future ASM/SSFC budgets may not fund non-registered student organizations, on June 26, 2006, UWRCF applied for RSO status for the 2006–07 academic year. On information and belief, UWRCF submitted its application two (2) months before most groups applied.

92. When Mr. Kruse made UWRCF's application for RSO status on June 26, 2006, the Student Organization Office 2005–06 Handbook indicated that application for RSO status may take up to one (1) week for processing.

93. Immediately upon submitting the online RSO application, Mr. Kruse initiated contact with the Student Organization Office and made repeated requests to receive a registration decision from Defendant Fangmeyer. Nearly a month after Mr. Kruse submitted UWRCF's application, and after many phone calls inquiring as to the status of the application, Mr. Kruse sent Defendant Fangmeyer an email on July 17, 2006, asking about the status of UWRCF's

application. A copy of the July 17, 2006, e-mail from Mr. Kruse to Defendant Fangmeyer is attached as Exhibit AA to this Complaint.

94. Defendant Fangmeyer responded to Mr. Kruse's July 17, 2006, e-mail by stating, "You've been on my 'to do' list for way too long now." Defendant Fangmeyer indicated that UWRCF's application was in the "further information requested" stage. A copy of the July 17, 2006, e-mail from Defendant Fangmeyer to Mr. Kruse is attached as Exhibit BB to this Complaint.

95. It should be noted that after Mr. Kruse objected to Defendants' delay in making a registration determination for UWRCF, the SOO Handbook was updated to state that applications may take one (1) to two (2) weeks to be processed and approved, and three (3) to four (4) weeks during the early fall semester. *See* Ex. D.

96. On July 18, 2006, Defendant Fangmeyer sent Mr. Kruse an e-mail asking several questions about UWRCF's governance, ministries, membership requirements, advisor's information, and name usage. Kruse answered all of Defendant Fangmeyer's questions in a reply e-mail he sent July 19, 2006. Copies of Defendant Fangmeyer's July 18, 2006, e-mails and Timothy Kruse's July 19, 2006, e-mails are attached as Exhibit CC to this Complaint.

97. In early August 2006, Defendant Fangmeyer informed Mr. Kruse that he could not be a student representative on UWRCF's application for RSO status. Mr. Kruse is registered at UW-Madison as an "active" special student in the continuing education office. Defendant Fangmeyer stated that his status as a special student was insufficient to be a contact for UWRCF's RSO application. Copies of the e-mails exchanged between Defendant Fangmeyer and Mr. Kruse are attached as Exhibit DD to this Complaint.

98. On August 4, 2006, counsel for Plaintiffs sent Defendants Reilly and Wiley, *inter alios*, a letter protesting the UW System's actions in derecognizing two other Christian student organizations: Knights of Columbus (at UW-Madison) and InterVarsity Christian Fellowship (at University of Wisconsin-Superior). Counsel for Plaintiffs anticipated the same fate for UWRCF and demanded that the UW System and UW-Madison correct their unconstitutional student organization recognition policies. A copy of the August 4, 2006, letter from counsel for Plaintiffs to Defendants Reilly and Wiley and Patricia Brady, Esq. is attached as Exhibit EE to this Complaint.

99. On August 15, 2006, Patricia Brady, General Counsel for the UW System responded to Plaintiffs' letter. Ms. Brady refused to repeal Defendants' nondiscrimination policy. A copy of the August 15, 2006, letter from Ms. Brady to counsel for Plaintiffs is attached as Exhibit FF to this Complaint.

100. Student and UWRCF member James C. Van Hoven was then forced to resubmit UWRCF's application for RSO status. After submission, Defendant Fangmeyer posed the same questions about UWRCF's governance, ministries, membership requirements, and name usage. In Defendant Fangmeyer's August 30, 2006, e-mail to Mr. Van Hoven, she states:

Does your membership and officer/Board selection for both student members and non-students [sic] members meet [Defendants'] non-discriminatory requirements "in selecting or initiating new members, in selecting officers, or in providing any aid, benefit, or service"? **For example, if I were a practicing lesbian or a non-Christian, would I be able to be a member, as well as, an officer/board member?**

(Emphasis added.) A copy of Defendant Fangmeyer's August 30, 2006, e-mail to Mr. Van Hoven is attached as Exhibit GG to this Complaint.

101. On August 31, 2006, Mr. Van Hoven replied to Defendant Fangmeyer's e-mail and, specifically, her membership question with the following statement:

As indicated in our application and in Tim's correspondence with you, we don't ask the sort of questions of anyone; anyone can join by simply indicating a desire to do so; we ask nothing in regard to religious, sexual or other about such things. Our feelings about these matters are outlined in our hiring policy which reads:

The UWMRCF is an equal opportunity employer. No information that could potentially be used as a basis of discrimination (gender, religious preference, ethnicity, sexual orientation, etc.) is requested on job applications.

In point of fact, though we do not ask, we have had lesbians, gays, and non-Christians all as members and/or board officials.

A copy of the August 31, 2006, e-mail from Mr. Van Hoven to Defendant Fangmeyer is attached as Exhibit HH to this Complaint.

102. On September 7, 2006, Mr. Kruse sent Defendant Fangmeyer an e-mail asking her to make a decision on UWRCF's RSO application. Mr. Kruse stated that Defendant Fangmeyer had unnecessarily and unfairly delayed a final determination on UWRCF's application and that a decision was necessary by September 8, 2006, in order for UWRCF to be able to apply for GSSF funding. A copy of the September 7, 2006, e-mail from Mr. Kruse to Defendant Fangmeyer is attached as Exhibit II to this Complaint.

103. On September 21, 2006, Defendant Fangmeyer, Director of the Student Organization Office, sent Mr. Kruse an e-mail regarding UWRCF's application for RSO status. Defendant Fangmeyer delayed her decision on UWRCF's application for RSO status until after the GSSF application due date of September 8, 2006. The delay by Defendant Fangmeyer prohibited UWRCF and Plaintiffs from making their GSSF budget request under any new RSO and thus effectively denied UWRCF of any chance to receive funding for the 2007-08 academic year.

104. In her September 21, 2006, e-mail, Defendant Fangmeyer refused to grant UWRCF RSO status. Defendant Fangmeyer stated that UWRCF did not meet the RSO

eligibility criteria because it is not “. . . controlled and directed by UW-Madison students.” Defendant Fangmeyer also asked Mr. Kruse to send her a copy of UWRCF’s constitution and bylaws in order to determine if it complies with UW-Madison’s nondiscrimination policy for RSOs. A copy of the September 21, 2006, e-mail from Defendant Fangmeyer to Mr. Kruse is attached as Exhibit JJ to this Complaint.

105. On September 21, 2006, Mr. Kruse sent Defendant Fangmeyer a reply e-mail. In the e-mail Kruse questioned why UWRCF was being singled out for such scrutiny by UW-Madison and Defendants. Nevertheless, Mr. Kruse attached UWRCF’s bylaws and articles of incorporation as Defendant Fangmeyer requested. A copy of the September 21, 2006, e-mail from Mr. Kruse to Defendant Fangmeyer is attached as Exhibit KK to this Complaint.

106. UWRCF and Plaintiffs received word from Defendant Fangmeyer on or about September 26, 2006, that UW-Madison and Defendants would not recognize UWRCF as an RSO for the 2006–07 academic year due to its membership and leadership requirements. Defendants claimed that UWRCF did not comply with Defendants nondiscrimination policy.

107. Defendant Fangmeyer’s September 26, 2006, e-mail to Kruse confirmed her prior determination that UW-Madison would not register UWRCF as a student organization. Defendant Fangmeyer stated that UWRCF could not be an RSO because (1) it “fails to meet the criterion of being directed and controlled by UWMadison students,” and (2)

[s]tudent membership in UWRCF is limited to Roman Catholics. These membership requirements do not meet the registered student organization criterion of “Abide by Federal, State, City, & University nondiscrimination laws & policies.” Per the Nondiscrimination in Membership and Programming statement, which your group agreed to when filing the application, membership of registered student organizations cannot be limited based on any of the protected classes, including religion. . . .

. . . .Accordingly, your application for RSO status for 06–07 still falls short of two of the criteria of registered student organization status.

A copy of the September 26, 2006, e-mail from Defendant Fangmeyer to Mr. Kruse is attached as Exhibit LL to this Complaint.

108. On September 27, 2006, Mr. Kruse replied to Defendant Fangmeyer's September 26th e-mail. In it, he made two clarifications. First, he directed Defendant Fangmeyer to UWRCF's articles of incorporation, which states that anyone can join UWRCF. Second, he demonstrated that the RSO policies do not define what "controlled and directed by students" means. Mr. Kruse referred Defendant Fangmeyer to the SSFC policies which state that RSOs must have at least three (3) students on the board of directors or advisory council of the organization who will review and approve the organization's proposed budgets. UWRCF is operating with three (3) student leaders on its board of directors. Mr. Kruse asked Defendant Fangmeyer to reconsider her determination as to the membership issue and also asked if UWRCF would cure the alleged student leadership problem by creating a separate student organization totally responsible for the GSSF budget. A copy of the September 27, 2006, e-mail from Mr. Kruse to Defendant Fangmeyer is attached as Exhibit MM to this Complaint.

109. On October 4, 2006, Defendant Fangmeyer sent Mr. Kruse an e-mail with her final determinations regarding UWRCF's application for RSO status. Defendant Fangmeyer alleged that UWRCF limits its membership to Roman Catholics, and therefore, does not meet the nondiscrimination requirement for RSO status. Defendant Fangmeyer also stated: "To obtain RSO status, a group has to demonstrate that UW-Madison students control and direct the group." Accordingly, after reviewing UWRCF's articles of incorporation, Defendant Fangmeyer determined that having three (3) of twelve (12) board of directors members as students "does not demonstrate student control and direction." A copy of the October 4, 2006, e-mail from Defendant Fangmeyer to Mr. Kruse is attached as Exhibit NN to this Complaint.

110. UWRCF has been prevented from becoming an RSO and has lost all benefits afforded to RSOs, including the ability to receive segregated fees for the 2007–08 academic year.

FIRST CAUSE OF ACTION

Violation of Plaintiffs' First Amendment Right to Freedom of Association **(42 U.S.C. § 1983)**

111. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint.

112. By conditioning student organization registration and University benefits on student and organizational acceptance of Defendants' non-discrimination policy, by requiring all student organizations to include the non-discrimination policy in their respective constitutions and bylaws, and by preventing Plaintiffs from meeting on campus, among other things, Defendants by policy and practice have facially and/or as-applied deprived Plaintiffs of their ability to freely express their ideas on issues of religious concern at UW-Madison and associate with those of likeminded concern.

113. Defendants, acting under color of state law, and by policy and practice, have explicitly and implicitly discriminated on the basis of viewpoint and deprived Plaintiffs of their clearly established rights to freedom of association secured by the First Amendment to the United States Constitution.

114. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They, therefore, are entitled to an award of monetary damages, including punitive damages, and equitable relief.

115. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to an award of monetary damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

SECOND CAUSE OF ACTION

Violation of Plaintiffs' First Amendment Right to Freedom of Speech **(42 U.S.C. § 1983)**

116. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint.

117. By conditioning student organization registration and University benefits on student and organizational acceptance of Defendants' non-discrimination policy, by requiring all student organizations to include the non-discrimination policy in their respective constitutions and bylaws, by refusing to fund religious expression and activities of student organizations, by refusing to fund certain budget requests of religious student organizations that are funded for other student organizations, among other things, Defendants by policy and practice have facially and/or as-applied discriminated on the basis of viewpoint and deprived Plaintiffs of their ability to express their ideas freely on issues of religious concern at UW-Madison and associate with those of likeminded concern.

118. Defendants, acting under color of state law, and by policy and practice, have explicitly and implicitly discriminated on the basis of viewpoint and deprived Plaintiffs of their clearly established rights to freedom of expression secured by the First Amendment to the United States Constitution.

119. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They, therefore, are entitled to an award of monetary damages, including punitive damages, and equitable relief.

120. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to an award of monetary damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

THIRD CAUSE OF ACTION

Violation of Plaintiffs' First Amendment Right to Freedom of Speech Compelled Speech (42 U.S.C. § 1983)

121. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint.

122. By conditioning student organization registration and University benefits on student and organizational acceptance of Defendants' non-discrimination policy, by requiring all student organizations to include the non-discrimination policy in their respective constitutions and bylaws, and by preventing Plaintiffs from meeting on campus unless they abide by the nondiscrimination policy, among other things, Defendants by policy and practice have facially and/or as-applied compelled Plaintiffs to speak in favor of subjects with which they disagree, thereby depriving Plaintiffs of their ability to express freely their ideas on issues of religious concern at UW-Madison and associate with those of likeminded concern.

123. Defendants, acting under color of state law, and by policy and practice, have explicitly and implicitly discriminated on the basis of viewpoint, compelled Plaintiffs to speak in support of disfavored subjects, and deprived Plaintiffs of their clearly established rights to freedom of association secured by the First Amendment to the United States Constitution.

124. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They, therefore, are entitled to an award of monetary damages, including punitive damages, and equitable relief.

125. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to an award of monetary damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

FOURTH CAUSE OF ACTION

Violation of Plaintiffs' First Amendment Right to Free Exercise of Religion **(42 U.S.C. § 1983)**

126. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint.

127. By refusing to register Plaintiffs' student organization because of their religious beliefs and tenets, by preventing Plaintiffs from meeting on campus as an association of Christian students, by selectively discriminating against Plaintiffs' religious student organization, by preventing Plaintiffs from meeting on campus to express a religious message, by refusing to fund certain budget requests of religious student organizations that are funded for other student organizations, and by enforcing a University policy that is not neutral and not generally applicable to all student organizations, among other things, Defendants by policy and practice have deprived Plaintiffs and members and officers of their student organization from freely exercising their religious beliefs and tenets at UW-Madison.

128. Defendants, acting under color of state law, and by policy and practice, have explicitly and implicitly discriminated on the basis of viewpoint and deprived Plaintiffs of their clearly established right to free exercise of religion secured by the First Amendment to the United States Constitution.

129. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They, therefore, are entitled to an award of monetary damages, including punitive damages, and equitable relief.

130. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to an award of monetary damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

FIFTH CAUSE OF ACTION

Violation of Plaintiffs' Fourteenth Amendment Right to Equal Protection of the Law **(42 U.S.C. § 1983)**

131. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint.

132. By conditioning student organization registration and University benefits on student and organizational acceptance of the Defendants' non-discrimination policy, treating Christian students and student organizations differently than similarly situated students and student organizations, and refusing to fund certain budget requests of religious student organizations that are funded for other student organizations, among other things, Defendants by policy and practice have facially and/or as-applied deprived Plaintiffs of their ability to express freely their ideas on issues of religious concern at UW-Madison and associate with those of likeminded concern.

133. Defendants, acting under color of state law, and by policy and practice, have explicitly and implicitly discriminated on the basis of viewpoint and deprived Plaintiffs of their clearly established right to equal protection of the law secured by the Fourteenth Amendment to the United States Constitution.

134. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They, therefore, are entitled to an award of monetary damages, including punitive damages, and equitable relief.

135. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to an award of monetary damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees.

SIXTH CAUSE OF ACTION

Violation of Plaintiffs' Fourteenth Amendment Right to Procedural Due Process of Law **(42 U.S.C. § 1983)**

136. Plaintiffs repeat and reallege each of the foregoing allegations in this Complaint.

137. By conditioning student organization registration and University benefits on student and organizational acceptance of the Defendants' non-discrimination policy, by failing to define the student leadership requirements in the registered student organization guidelines, by failing to make a determination on Plaintiffs' application for RSO status until after the segregated fee application deadline, by refusing to allow Mr. Kruse to file an RSO application, by subjecting Plaintiffs to greater scrutiny than other student organizations, and by treating Christian students and student organizations differently than similarly situated students and student organizations, among other things, Defendants by policy and practice have facially and/or as-applied deprived Plaintiffs of their ability to freely express their ideas on issues of religious concern at UW-Madison and associate with those of likeminded concern.

138. Defendants, acting under color of state law, and by policy and practice, have explicitly and implicitly discriminated on the basis of viewpoint and deprived Plaintiffs of their clearly established right to procedural due process secured by the Fourteenth Amendment to the United States Constitution.

139. Because of Defendants' actions, Plaintiffs have suffered, and continue to suffer, economic injury and irreparable harm. They, therefore, are entitled to an award of monetary damages, including punitive damages, and equitable relief.

140. Pursuant to 42 U.S.C. §§ 1983 and 1988, Plaintiffs are entitled to an award of monetary damages in an amount to be determined by the evidence and this Court and the reasonable costs of this lawsuit, including their reasonable attorneys' fees

WHEREFORE, Plaintiffs University of Wisconsin-Madison Roman Catholic Foundation, Inc., Timothy J. Kruse, Elizabeth A. Planton, and John B. Koczela respectfully request that the Court enter judgment against Defendants David G. Walsh, Mark J. Bradley, Jeffrey Bartell, Elizabeth Burmaster, Eileen Connolly-Keesler, Judith V. Crain, Mary Quinnette Cuene, Danae Davis, Thomas Loftus, Milton McPike, Charles Pruitt, Gerard A. Randall, Jr., Peggy Rosenzweig, Jesus Salas, Christopher Semenas, Brent Smith, Michael J. Spector, Kevin P. Reilly, John D. Wiley, Lori M. Berquam, Elton J. Crim, Jr., and Yvonne Fangmeyer, and provide Plaintiffs with the following relief:

- (A) A declaration stating that Defendants' violated Plaintiffs' right to free association;
- (B) A declaration stating that Defendants' non-discrimination policy is unconstitutional facially and as-applied to Plaintiffs;
- (C) A declaration stating that Defendants' application of the segregated fee policies to Plaintiffs discriminated on the basis of viewpoint and violated Plaintiffs' freedom of speech;
- (D) A declaration stating that Defendants' requirements of "student control and direction" are void for vagueness;
- (E) A preliminary and permanent injunction invalidating and restraining enforcement of the Defendants' unconstitutional "non-discrimination" policy contained in the Student Organization Office Handbook as well as any Board of Regents, University system, or individual University policy that purports to prohibit Plaintiffs from using religious criteria when selecting members and leaders;
- (F) A preliminary and permanent injunction invalidating and restraining enforcement of the Defendants' unconstitutional segregated fee funding policies contained in the Associated Students of Madison and Student Services Finance Committee policies, as well as any Board of

Regents, University system, or individual University policy that purports to prohibit Plaintiffs from applying to receive funding for religious expression;

(G) A declaration that Plaintiffs' student organization, UWRCF, be given immediate registered student organization status;

(H) Monetary damages (including punitive damages for Defendants actions in their individual capacities) for infringing Plaintiffs' exercise of their First and Fourteenth Amendment rights;

(I) Monetary damages for the illegal "non-discrimination" policy in an amount to be determined by the Court;

(J) Plaintiffs' reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and

(K) All other further relief to which Plaintiffs may be entitled.

Respectfully submitted this 9th day of November, 2006.

s/David A. French

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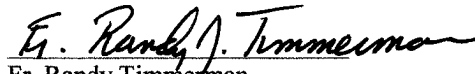
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ATTORNEYS FOR PLAINTIFFS

VERIFICATION OF COMPLAINT

I, Father Randy Timmerman, a citizen of the United States and resident of the State of Wisconsin, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 2nd day of November 2006 at Madison, Wisconsin.

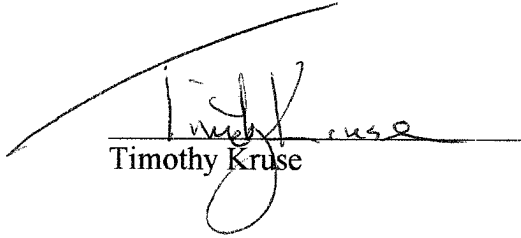


Fr. Randy Timmerman
Vice President of the Board of Directors
University of Wisconsin-Madison Roman Catholic Foundation, Inc.

VERIFICATION OF COMPLAINT

I, Timothy Kruse, a citizen of the United States and resident of the State of Wisconsin, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 2 day of November 2006 at Madison, Wisconsin.



Timothy Kruse

VERIFICATION OF COMPLAINT

I, Elizabeth A. Planton, a citizen of the United States and resident of the State of Wisconsin, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 2 day of November, 2006 at Madison, Wisconsin.


Elizabeth A. Planton

VERIFICATION OF COMPLAINT

I, John B. Koczela, a citizen of the United States and resident of the State of Wisconsin, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Verified Complaint and the factual allegations therein, and the facts as alleged are true and correct.

Executed this 7 day of November, 2006 at Madison, Wisconsin.



John B. Koczela