

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