

**STATE OF  
WISCONSIN**

**CIRCUIT  
COURT**

**MILWAUKEE  
COUNTY**

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ELIZABETH L. BURKE  
4229 S. Burrell St.  
Milwaukee, WI 53207

and

REPUBLICAN PARTY OF WISCONSIN  
148 E. Johnson Street  
Madison WI 53703,

Plaintiffs,

v.

THE CITY OF MILWAUKEE  
200 E. Wells Street, Room 201  
Milwaukee, WI 53202,

and

CAVALIER JOHNSON,  
In his official capacity as Mayor of  
The City of Milwaukee  
200 E. Wells Street, Room 201  
Milwaukee, WI 53202,

Defendants.

Case Codes: 30952, 30701  
Classification: Petition for Writ of  
Mandamus, Declaratory Judgment

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**SUMMONS**

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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 twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in Wis. Stat. Ch. 802, 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 901 N. 9th Street, Milwaukee, Wisconsin 53233

and to the Plaintiff's attorneys, Cramer, Multhauf & Hammes, LLP, whose address is 1601 East Racine Avenue, P.O. Box 558, Waukesha, Wisconsin 53187. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) 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 may be enforced as provided by law. 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.

Dated this 28th day of September, 2022.

CRAMER, MULTHAUF & HAMMES, LLP  
Attorneys for Plaintiffs,

By: /s/ Electronically signed by Matthew M. Fernholz  
Matthew M. Fernholz (SBN: 1065765)  
Ashley E. McNulty (SBN: 1107355)

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**COMPLAINT**

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NOW COME the above-named Plaintiffs, Elizabeth Burke and the Republican Party of Wisconsin, by their attorneys, Cramer, Multhauf & Hammes, LLP, who complain and allege against the above-named Defendants as follows:

**NATURE OF THIS ACTION**

1. Plaintiffs bring this action for declaratory and injunctive relief, or alternatively a writ of mandamus, as to the legality of the “Milwaukee Votes 2022” project undertaken by the Defendants.

## **JURISDICTION AND VENUE**

2. Jurisdiction is appropriate in the State of Wisconsin, as all parties reside within the State of Wisconsin and the legal dispute arose in the State of Wisconsin.

3. Venue is appropriate in Milwaukee County, as it is Defendants' County of residence and the claims in this suit arise from conduct occurring within Milwaukee County.

## **PARTIES**

4. Plaintiff, Elizabeth L. Burke, is an adult individual and citizen of the State of Wisconsin, who resides at 4229 S. Burrell St., Milwaukee, WI 53207. She regularly votes in elections in the City of Milwaukee.

5. Plaintiff, Republican Party of Wisconsin, is a political organization with its principal place of business located at 148 East Johnson Street, Madison, WI 53703.

6. Defendant, City of Milwaukee, is a municipal corporation within the State of Wisconsin, Milwaukee County, with powers granted by law as set forth in Wis. Stat. Ch. 62. Its principal address is located at 200 E. Wells Street, Room 201, Milwaukee, WI 53202.

7. Defendant, Cavalier Johnson, is the Mayor for the City of Milwaukee, an elected local office, and maintains an office located at 200 E. Wells Street, Room 201, Milwaukee, WI 53202.

## **BACKGROUND FACTS**

8. On or about September 12, 2022, Mayor Johnson publicly announced that he is “going to be embracing outreach and engagement through what we’re calling ‘Milwaukee Votes 2022.’ As part of that, you will soon see a new website widget on many Milwaukee.gov website pages.” (**Exhibit A**).

9. Mayor Johnson further explained on September 12 that “Milwaukee Votes 2022 will also have door-to-door canvassers that will be underway, funded by the private sector. Dozens

of canvassers will be face to face with eligible voters, encouraging them to exercise their right to vote for the November election.” *Id.*

10. Mayor Johnson and his Office also communicated that the door-to-door canvassing that will take place in the City of Milwaukee will be funded by a private grant. **(Exhibit B)**.

11. Upon information and belief, Mayor Johnson or his Office initially directed further questions to “Melissa Baldauff.”

12. According to media reports, a spokesman for Mayor Johnson has stated that GPS Impact is “‘one of several’ partners in the initiative.” **(Exhibit C)**

13. According to her LinkedIn profile, Melissa Baldauff appears to be a “principal” of an organization known as GPS Impact. **(Exhibit D)**

14. GPS Impact’s website states that it specializes in “providing customized targeted communications programs for all mediums” and advertises that “[a]s your partner we’ll work with you to craft integrated solutions for the modern media landscape.” **(Exhibit E)**.

15. GPS Impact’s home webpage, located at [www.gpsimpact.com](http://www.gpsimpact.com), touts its prior success partnering with Democrats:

Winning in tough territory is part of our DNA. We’ve helped Democrats, progressive organizations and initiatives, and elected officials win in red states, including Kansas, Michigan, Pennsylvania, Wisconsin, North Carolina, Louisiana and Ohio.

\* \* \*

We tell stories that persuade, mobilize and win.

**(Exhibit F)**.

16. GPS Impact’s Twitter page boasts that it was “proud to have worked with @Kansans4Freedom to defeat the anti-abortion constitutional amendment in Kansas. Voters showed up in historic numbers to protect access to safe, legal abortion.”



<https://twitter.com/gpsimpact/status/1554868275888152576?cxt=HHwWgICzja-dgJQrAAAA>

**(Exhibit G).**

17. GPS Impact also touts its successful work in helping to elect Democratic candidates to state and federal offices:



<https://twitter.com/gpsimpact/status/1534970375729205257?cxt=HHwWksCyoZLbp80qAAAA>

Congratulations to these GPS clients on advancing to Iowa's general election! We're proud to be on your teams! @LizMathis1 @BohannanIowa @Axne4Congress @DeidreDeJear



1:47 PM · Jun 9, 2022 · Gain Platform

<https://twitter.com/gpsimpact/status/1534970354606690316?cxt=HHwWmMCy8fTZp80qAAAA>

GPS is proud to work with several clients who were on the ballot in primary elections this week. Congratulations @JoshShapiroPA, @AustinDavisPA, @ValHoyle, and @DwightEvansPA on your successful primary wins. On to The General!



2:20 PM · May 18, 2022 · Gain Platform

<https://twitter.com/gpsimpact/status/1527006179741913088?cxt=HHwWgMC-lfaBgrEqAAAA>

(Exhibit H.)

18. Documents recently obtained from an Open Records Request to the City of Milwaukee appear to contradict the Mayor’s claims that this is a non-partisan effort. This includes e-mail correspondence between Jeff Fleming, the Mayor’s Director of Communications, Executive Director of the Milwaukee Elections Commission Claire Woodall-Vogg, and Melissa Baldauff (using an @gpsimpact.com e-mail address), strategizing responses to press inquiries about Milwaukee Votes 2022. (**Exhibit I.**)

19. The Open Records response also revealed text messages between Mayor Johnson, his chief of staff, and Sachin Chheda, in which Chheda stated,

Wanted to let you guys know we have been approved for a \$1 million grant from the Center for Secure & Modern Elections. The money is coming to the High Ground Institute to support the nonpartisan Milwaukee Votes 2022. Canvass as we discussed. We should set up a meeting next week to give you guys the full update.

(Id.)

20. Chheda is the former Chairman of the Milwaukee County Democratic Party.

21. In communications with Fleming, Chheda described “Melissa” as the “spokesperson for Milwaukee Votes 2022.”

22. Upon information and belief, Chheda was referring to Melissa Baldauff.

23. As a result of the foregoing, Plaintiffs have significant concerns as to whether the City of Milwaukee is or will be administering the upcoming November 8, 2022 election in accordance with Wisconsin law.

#### **APPLICABLE LAW**

24. The Milwaukee County Clerk was required to distribute absentee ballots to the City of Milwaukee Clerk’s Office by September 22, 2022. *See* Wis. Stat. § 7.15(1)(cm).

25. In-Person absentee voting commences in Milwaukee on October 25, 2022. *See* Wis. Stat. § 6.855.



26. Pursuant to Wis. Stat. § 69.02(8)(a), “[t]he mayor shall take care that . . . state laws are observed and enforced and that all city officers and employees discharge their duties.”

27. Further, “[n]o local public official may use his or her office or position in a way that produces or assists in the production or a substantial benefit, direct or indirect, for the official . . . or an organization with which the official is associated.” Wis. Stat. § 19.59(1)(c)2.

28. The City of Milwaukee’s Department of Employee Relations “Political Activity Policy” (revised February 14, 2022) prohibits the use of:

- a. City property, supplies, or equipment for the production of solicitation materials;
- b. Directing or requiring employees to perform political activity as part of their job duties;
- c. Using one’s authority, influence, title, or status within the City while engaging in political activity;
- d. Using one’s authority or influence to coerce any individual to participate in political activity; or
- e. Requesting, directing or suggesting that a subordinate officer or employee participate in political activity.

**(Exhibit J.)**

29. This policy defines political activity as “an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election.”

30. Wisconsin Statute § 946.12(2) makes it a Class I felony for any “public employee” to perform “an act which the officer or employee knows is in excess of the officer’s or employee’s lawful authority or which the officer or employee knows the officer or employee is forbidden by law to do in the officer’s or employee’s official capacity.”

31. Likewise, § 946.12(3) makes it a Class I felony for any “public employee,” “by act of commission or omission,” to “exercise[] a discretionary power in a manner inconsistent with

the duties of the officer's or employee's office or employment or the rights of others and with intent to obtain a dishonest advantage for the officer or employee or another.”

32. Section 946.12 has been interpreted as prohibiting public employees from utilizing public funds to achieve partisan objectives. *See State v. Chvala*, 2004 WI App 53, 271 Wis. 2d 115, 678 N.W.2d 880, *aff'd*, 2005 WI 30, 279 Wis. 2d 216, 693 N.W.2d 747.

### **COUNT I: DECLARATORY RELIEF**

33. Plaintiffs reincorporate the previously alleged paragraphs as if set forth herein.

34. There exists an actual and justiciable controversy between Plaintiffs and Defendants.

35. Specifically, the parties dispute whether Defendants' involvement with and promotion of Milwaukee Votes 2022 complies with Wisconsin law.

36. The interests of Plaintiffs and the Defendants are adverse.

37. The controversy is ripe for judicial determination as to whether the “Milwaukee Votes 2022” initiative, and Defendants' involvement in and promotion of this initiative, complies with Wisconsin law.

38. Such judicial determination will terminate the controversy between the parties.

### **COUNT II: INJUNCTIVE RELIEF**

39. Plaintiffs reincorporate the previously alleged paragraphs as if set forth herein.

40. In the “Milwaukee Votes 2022” initiative, the City of Milwaukee and the Mayor are accepting funds from an openly partisan organization that is affiliated with electing Democrats and committed to advancing progressive causes.

41. The City of Milwaukee and the Mayor intend to use such funds to assist with get out the vote efforts in the City of Milwaukee.

42. Upon information and belief, such efforts have been and will continue to be undertaken by employees of the City of Milwaukee.

43. Such efforts are designed to benefit Democratic or progressive candidates, as well as the local, state, and national Democratic Party.

44. The Milwaukee Votes 2022 initiative violates Wisconsin law, specifically Wis. Stat. § 19.59(1)(c)2 and Wis. Stat. § 946.12.

45. The Milwaukee Votes 2022 initiative also violates the City of Milwaukee's Department of Employee Relations "Political Activity Policy."

46. Plaintiff, Republican Party of Wisconsin, will suffer irreparable harm from the use of such funds in the November 2022 election and beyond.

47. Plaintiff Burke, as a voter in the City of Milwaukee, will have her vote devalued and undermined as a result of such efforts.

48. As Plaintiffs have no other adequate remedy at law, injunctive relief is appropriate.

**COUNT III: ALTERNATIVE RELIEF - WRIT OF MANDAMUS**

49. Plaintiffs reincorporate the previously alleged paragraphs as if set forth herein.

50. In the "Milwaukee Votes 2022" initiative, the City of Milwaukee and the Mayor are accepting funds from an openly partisan organization that is affiliated with electing Democrats and committed to advancing progressive causes.

51. The City of Milwaukee and the Mayor intend to use such funds to assist with get out the vote efforts in the City of Milwaukee.

52. Such efforts will be undertaken by employees of the City of Milwaukee.

53. Such efforts are designed to benefit Democratic or progressive candidates, as well as the local, state, and national Democratic Party.

54. The Milwaukee Votes 2022 initiative violates Wisconsin law, specifically Wis. Stat. § 19.59(1)(c)2 and Wis. Stat. § 946.12.

55. The Milwaukee Votes 2022 initiative also violates the City of Milwaukee's Department of Employee Relations "Political Activity Policy."

56. Plaintiffs have a clear legal right in the fair and lawful administration of future elections.

57. Public officials and public employees have a clear and unequivocal legal obligation to follow the law.

58. Plaintiff, Republican Party of Wisconsin, will suffer substantial harm in the November 2022 election and beyond if the Mayor, his Office, and the City of Milwaukee employees do not comply with their ethical duties, as prescribed by both statute and the City's policies.

59. Plaintiff Burke, as a voter in the City of Milwaukee, will have her vote devalued and undermined as a result of the Mayor, his Office, and the City of Milwaukee employees' failure to comply with their statutory duties and those set forth in City policy.

60. Plaintiffs have no other adequate remedy at law.

61. A writ of mandamus is needed to compel the Mayor, the City of Milwaukee, and all employees of the City of Milwaukee, to adhere to their duties as public local government officials, as well as their ethical obligations as City of Milwaukee employees.

### **RELIEF REQUESTED**

Plaintiffs Elizabeth L. Burke and the Republican Party of Wisconsin demand Judgment against the Defendants, as follows:

1. On Count I, an Order for Judgment and Judgment declaring that the Milwaukee Votes 2022 initiative, and any similar or related initiative, and Defendants' involvement in and promotion of such initiatives violates Wisconsin law.

2. On Count II, an Order for Judgment and Judgment permanently enjoining the Milwaukee Votes 2022 initiative, and any similar or related initiative.

3. On Count III, a Writ of Mandamus compelling the Mayor of Milwaukee, the City of Milwaukee, and any employees thereof to carry out their statutory duties as well as acting in compliance with the City of Milwaukee's policy on political activity.

4. An award of all statutory costs.

5. Judgment for such other and further relief as the Court may deem just and equitable.

Dated this 28th day of September, 2022.

CRAMER, MULTHAUF & HAMMES, LLP  
Attorneys for Plaintiffs,

By: /s/ Electronically signed by Matthew M. Fernholz  
Matthew M. Fernholz (SBN: 1065765)  
Ashley E. McNulty (SBN: 1107355)

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