

18



# City of West Allis

## Matter Summary

7525 W. Greenfield Ave.  
West Allis, WI 53214

File Number	Title	Status
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2002-0235

Claim

Claim Report

Summons and Verified Complaint of Civil Rights Violations Seeking Declaratory Decree with Injunctive and Monetary Relief and Jury Trial Demanded in the matter of Robert C. Braun v. City of West Allis, et al. with Notice of Motion and Motion to Consolidate Cases.

Introduced: 12/17/2002

Controlling Body: Administration & Finance  
Committee

### COMMITTEE RECOMMENDATION

POF

ACTION  
DATE:

FEB 15 2005

MOVER ☒ SECONDER

Barczak  
Czaplewski  
Dobrowski  
Kopplin  
Lajsic  
Narlock  
Reinke  
Sengstock  
Vitale  
Weigel

TOTAL

AYE	NO	PRESENT	EXCUSED
<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>			
			<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>			

4

1

### SIGNATURE OF COMMITTEE MEMBER

Chair

Vice-Chair

Member

### COMMON COUNCIL ACTION

PLACE ON FILE

ACTION  
DATE:

FEB 15 2005

MOVER ☒ SECONDER

Barczak  
Czaplewski  
Dobrowski  
Kopplin  
Lajsic  
Narlock  
Reinke  
Sengstock  
Vitale  
Weigel

TOTAL

AYE	NO	PRESENT	EXCUSED
			<input checked="" type="checkbox"/>

UNANIMOUS

1

**STANDING COMMITTEES OF THE  
CITY OF WEST ALLIS COMMON COUNCIL  
2004**

**ADMINISTRATION & FINANCE**

Chair: Michael J. Czaplewski  
Vice-Chair: Martin J. Weigel  
Gary T. Barczak  
Thomas G. Lajsic  
Rosalie L. Reinke

**PUBLIC WORKS**

Chair: Richard F. Narlock  
Vice-Chair: Linda A. Dobrowski  
Kurt E. Kopplin  
Vincent Vitale  
James W. Sengstock

**SAFETY & DEVELOPMENT**

Chair: Thomas G. Lajsic  
Vice-Chair: Vincent Vitale  
Gary T. Barczak  
Martin J. Weigel  
Rosalie L. Reinke

**LICENSE & HEALTH**

Chair: Kurt E. Kopplin  
Vice-Chair: James W. Sengstock  
Linda A. Dobrowski  
Richard F. Narlock  
Michael J. Czaplewski

**ADVISORY**

Chair: Rosalie L. Reinke  
Vice-Chair: Gary T. Barczak  
Linda A. Dobrowski  
Vincent Vitale  
Martin J. Weigel





# CITY OF WEST ALLIS

WISCONSIN



## OFFICE OF THE CITY ATTORNEY

February 2, 2005

Common Council  
City of West Allis

City Attorney  
Scott E. Post

Assistant City Attorneys  
Sheryl L. Kuhary  
Jeffrey J. Warchol  
Janilyn K. Knorr

Re: City Attorney's Report of Claim/Lawsuit

Dear Council Members:

The attached claim/lawsuit have been referred to this office in accordance with Section 3.05 (6)(a) of the Revised Municipal Code. This office has examined the facts of each claim/lawsuit and the applicable law. Our Opinion regarding liability is as follows:

**It is the recommendation of this office that the following claim/lawsuit be placed on file:**

**(Robert C. Braun v. City of West Allis, et al. – Case Nos. 02-CV-011238 & 03-C-0005;  
City of West Allis v. Robert C. Braun – Case Nos. 02-FO-000474 & 03-3315)**

This claim and lawsuit stems from Robert Braun's arrest on November 19<sup>th</sup>, 2001, outside of Hale High School. Mr. Braun was handing out leaflets on school property and was asked by school personnel, including the principal, to leave. When Mr. Braun refused to leave, West Allis Police Officers were called. They also asked Mr. Braun to leave and had the principal ask him to leave again. When Mr. Braun refused, he was arrested. The officer charged Mr. Braun with disorderly conduct. That charge was dismissed by me in Municipal Court and subsequently re-issued several weeks later for trespassing. Mr. Braun sued claiming the City and School District had violated his constitutional free speech rights and that the re-issuance of the trespassing charge was malicious prosecution. The City Attorney's Office and Counsel for the School District worked closely on this case and both sets of defendants filed Motions for Summary Judgment. By Order dated June 3<sup>rd</sup>, 2004, William E. Callahan, Jr., United States Magistrate Judge for the United States District Court, Eastern District of Wisconsin, dismissed all of Mr. Braun's claims against both the City and the School District. Mr. Braun did not appeal the decision.

No monies were paid to Mr. Braun in settlement of this matter. In fact, the court awarded the City a judgment of \$689.00 against Mr. Braun to cover the costs of this action.

Respectfully submitted,

Scott E. Post  
City Attorney

SEP:da





Note No. 16 \_\_\_\_\_

# CITY OF WEST ALLIS

File No. 107 \_\_\_\_\_

Referred to the \_\_\_\_\_

City Attorney

## COMMON COUNCIL

December 17, 2002

\_\_\_\_\_  
Committee

\_\_\_\_\_  
Date

To the Honorable, the Common Council:

The Committee on \_\_\_\_\_ to whom was on

Summons and Verified Complaint of Civil Rights Violations Seeking Declaratory

\_\_\_\_\_, referred the \_\_\_\_\_

Decree with Injunctive and Monetary Relief and Jury Trial Demanded in the matter of Robert C. Braun v. City of West

Allis, et al. with Notice of Motion and Motion to Consolidate Cases.

beg leave to report same back with \_\_\_\_\_ and recommended that the

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**STATE OF WISCONSIN**

**CIRCUIT COURT**

**MILWAUKEE COUNTY**

02CV011238

ROBERT C. BRAUN

2160 S. 86 Street  
West Allis, WI 53227

Plaintiff,

-vs-

**Case No. 02CV**

In conjunction with Case No. 02FO000474

THE CITY OF WEST ALLIS

a Municipal Corporation  
West Allis City Hall  
7535 W. Greenfield Ave.  
West Allis, WI 53227, and

**VERIFIED COMPLAINT OF CIVIL  
RIGHTS VIOLATIONS SEEKING  
DECLARATORY DECREE  
WITH INJUNCTIVE &  
MONETARY RELIEF.**

ANTHONY BALL, in his individual capacity,  
who is also a West Allis Police Sergeant  
West Allis Police Department  
11601 West Lincoln Avenue  
West Allis, WI 53227, and

**Case Code No. 30701**

(injuries greater than small claims limit)

JOHN and/or JANE DOE, West Allis Police Officers  
in their official capacity  
West Allis, Police Department, and

**JURY TRIAL DEMANDED**

SCOTT E. POST, in his individual capacity, and in his  
official capacity as the West Allis City Attorney  
West Allis City Hall, and



PHILIP SOBOCINSKI, in his official capacity as the  
Superintendent of Schools, in  
Wisconsin Public School District Number 1,  
WEST ALLIS, WEST MILWAUKEE SCHOOL DISTRICT  
9333 West Lincoln Avenue  
West Allis, WI 53227, and,

KATHLEEN MAC DONALD, in her individual capacity,  
who is the Principal at  
Nathan Hale High School  
11601 West Lincoln Avenue  
West Allis, WI 53227,

**RECEIVED**

DEC 2 2002

CITY OF WEST ALLIS  
CLERK/TREASURER

WEST ALLIS, WEST MILWAUKEE SCHOOL BOARD MEMBERS  
in their official capacity  
c/o PATRICIA KERHIN, School Board President  
Public Schools Administration Building,  
Defendants.





## PRELIMINARY STATEMENT

1. This is a verified Complaint in which the Plaintiff, Robert C. Braun (hereinafter referred to as **"Braun"**), seeks nominal, compensatory, and punitive damages against the City of West Allis and the West Allis, West Milwaukee Public School District #1 and their agents for arresting him without probable cause and conspiring to willfully infringe upon his protected right to peacefully assemble and criticize public policy.
2. A declaratory decree is needed to prevent future abuse of certain arbitrary statutes by overbearing law enforcers who could once again misconstrue and misapply Wis. Stat. 943.13 et seq.
3. Braun has remained a resident at his current address since 1972. He took early retirement from a truck driving job in 1983 due to an employment related injury. After a bitter experience with ambitious and abusive law enforcers he became an active evangelist and began demonstrating against those who disobey God's law, including popular politically correct pursuits that violate biblical caveats. Those who are the object of Braun's rebukes, including government officers, become upset over his outspoken censure and often attempt vindictive retaliation through vague and arbitrary laws such as "disorderly conduct," "trespassing," "picketing without permission." Two of those arbitrary laws are the focus of this Declaratory Decree action.
4. Braun organized a group of fellow Christians he named **"Defenders of Biblical Morality"** (hereinafter referred to as **"DBM"**), who are concerned with public high schools adaptation of a class that condones and normalizes non-Biblical sexual relations. DBM were successful in distributing pamphlets without repercussion prior to November 19, 2001 at one local high school (Central High) warning parents of the danger in promoting non Biblical morality.



5. On November 19<sup>th</sup>, 2001 Braun, with several other DBM, appeared at another local high school (Nathan Hale High) for a meeting that was announced by public broadcast. The meeting was in regard to optional class enrollment for the next semester. DBM appeared for this public meeting but were denied access to the meeting because of the content of their message. (See exhibit A)
6. The high school principal and a local police officer conspired to violate Wisconsin's Open Meetings Law, and to infringe upon Braun's protected freedom of expression guarantees by seizing and arresting him without probable cause when he challenged their authority.
7. For several hours after his unlawful seizure Braun (<sup>R.C.B.</sup>~~handcuffed~~ and kidnaped) was confined at the local jail. Braun was eventually released after being issued a citation for violating the local "Disorderly Conduct" ordinance.
8. At Braun's initial appearance on December 17<sup>th</sup>, 2001 in municipal court on the local ordinance violation charge of Disorderly Conduct, the city attorney asked the Municipal Court to dismiss that charge without prejudice and it was dismissed without an explanation on the record..
9. Because of Braun's reputation as a radical evangelist and his litigious propensity, the local city attorney was bigoted against Braun and, sometime after Dec. 17<sup>th</sup>, 2001, he used a local ordinance as a method of vindictive retaliation against Braun by ordering a police officer to summon him to court to answer the charge of trespassing at the high school on Nov. 19<sup>th</sup>, 2001.
10. So Braun was surprised on January 28<sup>th</sup>, 2002 when he received by U.S. Certified Mail a local ordinance violation citation alleging he had trespassed at the high school on Nov. 19<sup>th</sup>, 2001.
11. The citation issued alleging that Braun trespassed failed to state what ordinance was violated.
12. On May 16<sup>th</sup>, 2002 Braun spoke to the city attorney at his office regarding the missing ordinance number, and the city attorney announced that he choose to prosecute Braun under West Allis Ordinance 6.02, which adopts by reference section 943.13 Wis. Stat.

13. Braun's Municipal Court trial was held on May 21<sup>st</sup>, 2002. He appeared to object to his unlawful prosecution. All the named Defendant's herein (except school board members) appeared to conspire with the local municipal judge to maliciously prosecute Braun for allegedly violating Wisconsin Statute 943.13(1m)(b) [Trespassing].
14. Braun filed a timely request for trial de novo before a Milwaukee County Circuit Court Judge regarding the frivolous allegation that he had trespassed on Nov. 19<sup>th</sup>, 2001.
15. Braun made a claim to the local city Common Counsel regarding the frivolous charge and malicious prosecution that was being perpetrated against him, but the Common Counsel, on the advise of the accused city attorney, ignored Braun's request to cease and desist the malicious prosecution and to make him whole for the conspiratorial action of its city officers.
16. Braun filed a dispositive motion to dismiss the frivolous charge of trespassing, and that jurisdiction challenge motion in Case No. 02FO000474 was brought for consideration by Branch 47 Milwaukee County Circuit Court on November 6<sup>th</sup>, 2002.
17. On Nov. 6<sup>th</sup>, 2002, the Court ordered the parties to provide a copy of the wording of the West Allis Municipal Ordinance which was alleged to have been violated because the record before the court failed to indicate that crucial element. Braun's dispositive motion was postponed and is now scheduled to be brought on for hearing on December 6<sup>th</sup>, 2002., at 10:30 AM.
18. DCM exercise of political dissent continues to be chilled by West Allis Officials who persist to maliciously prosecute Braun on a frivolous charge.

#### **WHY A DECREE IS NECESSARY**

19. Plaintiff incorporates by reference the allegations in Paragraphs 1-18 above.



20. Even if Braun's evidence becomes persuasive, showing that the named defendants' conduct was deliberate in misapplying the trespassing statute, it will be difficult to establish the intent of these tyrants if they deny Braun's allegations. Therefore it becomes clear that a Declaratory Decree is necessary to keep future abusive enforcement of this statute from being used by ambitious law enforcement agents.

21. Questions the Court needs to address to protect political dissidents from misapplication of Wisconsin's Trespassing statute should be:

- a) Was it the intent of the legislators who passed the bill that created Wis. Stat. 943.13 et seq. to protect other than owners or occupants of private real property?
- b) Can any public servant claim to be the "owner" of public real property?
- c) What is the meaning of the term "occupant" as used within Wis. Stat. 943.13?
- d) Can the term "owner or occupant," as used throughout section 943.13 Wis. Stat., apply to public servants, such as the named defendants herein, who may be custodians of public property where an undesirable citizen demands access?
- e) Is it appropriate to accuse anyone of "trespassing" on public real property, i.e. is the word "trespasser" limited in application to declaration by the owner or occupant of privately owned real property?
- f) Should the agent who accuses an individual of "trespassing" in violation of some portion of Wis. Stat. 943.13 et seq. be required to provide for the alleged trespasser the accuser's delegation of authority to declare who is a "trespasser?"
- g) Can a person who misapplies the trespassing statute by making an oral false claim to be the designated delegate of the owner or occupant of real property be prosecuted under section 943.13(3) Wis. Stat.?
- h) What action can be taken against one who misrepresents authority by falsely claiming to be a designated delegate of the owner or occupant of real property and thereby falsely accuse an undesirable visitor of trespassing on public real property?

R.C.B.

## STATEMENT ON VENUE AND JURISDICTION

22. Plaintiff incorporates by reference the allegations in Paragraphs 1-21 above.
23. Each individual named as Defendant herein is employed by a government unit that serves residents within the City of West Allis, County of Milwaukee, State of Wisconsin.
24. The Court has power to provide a written decision recognizing that Defendant's Kathleen MacDonald and Anthony Ball conspired to seize and unlawfully arrest Plaintiff for Disorderly Conduct on Nov. 19<sup>th</sup>, 2001.
25. The Court has power to issue a Declaratory Decree addressing the questions asked by the Plaintiff in paragraph <sup>R.C.B.</sup> 19, a through <sup>R.C.B.</sup> g, idem, pursuant to section 806.27<sup>806.04(2)</sup> Wis. Stats., and Plaintiff so demands.
26. The Court has power to enjoin the named Defendants from conspiring to enforce the West Allis Ordinance 6.02 adaptation of Wis. Stat. 943.13 (1M)(b) absent a bona fide declaration of the owner or occupant of private real property that he/she/they consider a specified individual a trespasser on said private real property, unless the property is posted pursuant to 943.13(2)(a) or (b).
27. The Court has power to provide a written decision recognizing that Braun's seizure and unlawful arrest on November 19, 2001 deprived him of the exercise of his free speech right that is protected by Article I, Section 3 of the Wisconsin Constitution/<sup>1</sup> and Plaintiff so demands.

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<sup>1</sup> **Wisconsin Constitution, Article I, Section 3:** [in pertinent part]  
Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or of the press.

28. The Court has power to provide a written decision recognizing that Braun's seizure and unlawful arrest on November 19, 2001 deprived him of other organic rights, i.e. the exercise of ostensible protected free speech and religious expression rights./<sup>\*2</sup>
29. The Court has power to provide a written decision recognizing that the Plaintiff's seizure and unlawful arrest on November 19, 2001 chilled his proclivity to speak freely in the future and Plaintiff so demands.
30. The Court has power to provide a written decision recognizing that the Defendant Scott E. Post, in his official capacity, provided the appearance of propriety to the arrest of Plaintiff without probable cause by ordering that Plaintiff be issued a citation alleging that Wis. Stat section 943.13(1)(m)(b) was applicable to Plaintiff's conduct on Nov. 19<sup>th</sup>, 2001 and Plaintiff so demands.
31. The Court has power to provide a written decision recognizing that the Defendant Scott E. Post, in his individual capacity, embroiled himself in the ongoing conspiracy to deprive the Plaintiff of his protected free speech rights by ordering the bogus prosecution of the Plaintiff with the use of the West Allis Ordinance 6.02 adaptation of section 943.13(1m)(b) Wis. Stat., and Plaintiff so demands.
32. The Court has power to provide a written decision recognizing that the Defendant Scott E. Post, in his official capacity as the elected West Allis City Attorney, is responsible for the frivolous and persistent malicious prosecution of the Plaintiff who was acting within his protected right to criticize government policy on Nov. 19<sup>th</sup>, 2001, and Plaintiff so demands.

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<sup>2</sup> **U.S. Constitution, First Amendment - Religion and Expression :**  
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for redress of grievances.



### STATEMENT OF FACTS

33. PLAINTIFF incorporates by reference the allegations in Paragraphs 1-32 above.
34. Upon personal knowledge Plaintiff alleges the following:
35. Within one week prior to November 19, 2001, I noticed a local newspaper article announcing a meeting that was to be held for parents of students at Nathan Hale High School, 11801 W. Lincoln Ave., West Allis, Wisconsin on November 19, 2001 concerning choosing students' curriculum.
36. That I appeared at Nathan Hale High School on November 19<sup>th</sup>, 2001 at about 5:05 PM and began offering pamphlets to parents entering the meeting.
37. That the pamphlets I offered to parents entering the school concerned the optional nature of a particular course that I found objectionable. (See exhibit ~~MAP~~ R. C. B.)
38. At that time a man dressed in a business suit approached me and mentioned that he was with "security" at Nathan Hale High School. He said that the material I was passing out was not approved by the school board and that I should not distribute it.
39. After I told him that he was wrong he left and came back with a lady who did not identify herself but told me also that I should not pass out any pamphlets.
40. That I told the lady (later identified as the school principal, Kathleen MacDonald) that I thought she was wrong because I had already distributed pamphlets at the other West Allis High School without objection.
41. That this lady then told me that if I didn't leave the school property she would have me removed by the police.
42. That I then asked this unknown lady to please call the police.

43. That in about 10 minutes a one man police squad car arrived and the officer spoke to me
44. That I told the officer that I was not breaking any law and that there was no written rule extant that could interfere with my protected right to pass out pamphlets critical of school policy.
45. That this officer radioed for the assistance of an administrative officer.
46. At 6:13 PM West Allis Police Sergeant Anthony Ball arrived and as the officer approached me he said: *"You can not do this here! Mr. Braun you'll have to, and you know this, you'll have to go to the sidewalk."*
47. That when I tried to explain my position to Sgt Ball he interrupted me and said: *"No, but we are an authority from the United States. And the United States government says you have to do it outside of the property."*
48. That when I challenged the officers claim to be a representative of the United States government Sgt. Ball said: *"I think I am! And I'm also - I represent the City of West Allis."*
49. That my attempt to respond to Sgt. Ball's claims was again interrupted by the officers loud order, to wit: *"So sir, - no sir; you're going to have to go out or I'm going to have to arrest you for disorderly conduct."*
50. That my further attempt to reason with Sgt. Ball was met with the officer's demand to leave immediately, to wit: *"What is - what's disorderly? Right now you are in violation. All right? You're in vio.. Yes! Yeah, you're in violation of the law. And you can't - you can't be doing this on this property. O.K., you need to - you need to go out by the stop sign! And Mr. Brown, I'm not gonna, I'm not gonna play this game with you. O.K.? You - you can go home and take care of you're family. Maybe that's where you need to be."*
51. Sgt. Ball then summoned the school principal to come out and confirm that she asked me to leave, which she did.

52. Sgt. Ball then threatened to arrest the video tape recorder of this confrontation if he didn't leave the scene. The recorder heeded Sgt. Ball's warning and left at 6:18 PM (video tape available.)
53. Because I continued to question the school principal and Sgt. Ball's authority to infringe on my protected free speech right, Sgt. Ball placed me under arrest for Disorderly Conduct and had me transported to the West Allis Police Station.
54. That at no time prior to my arrest for Disorderly Conduct was I told that I was in violation of a trespassing law, by either the school principal or a police officer (or anyone)..
55. That after I was transported to the West Allis Police department and locked in jail, I was handed West Allis Municipal Ordinance Violation Citation No. M-68718, alleging that I had violated Municipal Ordinance 6.02(3)(a), adopting Stat. No. 947.01, Disorderly Conduct.
56. That on December 17<sup>th</sup>, 2001 I appeared at the West Allis Municipal Court as ordered and spoke to West Allis City Attorney Scott E. Post concerning the propriety of alleging that I had been in violation of the Disorderly Conduct ordinance on November 19<sup>th</sup>, 2001.
57. That Attorney Scott E. Post did in fact, on December 17<sup>th</sup>, 2001, ask the West Allis Municipal Court judge to dismiss the Disorderly Conduct charge without prejudice.
58. That this dismissal of the charge of "Disorderly Conduct" caused me to feel vindicated in my right of expression at Nathan Hale High School, until, on January 28<sup>h</sup>, 2002, I received by U.S. Mail, a Citation alleging that I was being charged with violating State Statute No. 943.13(1m)(b), at Nathan Hale High School on November 19<sup>th</sup>, 2001 The Citation designated the offense as: "CRIMINAL TRESPASS TO LAND," and described the violation as: "Δ REFUSED TO LEAVE PREMISES AFTER BEING TOLD TO AT NATHAN HALE 11601 W. LINCOLN AVE." (see Exhibit B)

59. That I was confused because this Citation, Number M-75072, did not show what West Allis Ordinance number applied to my alleged criminal trespass to land, and I knew that criminal statutes were not cognizable in municipal courts.
60. That on May 16<sup>th</sup>, 2002, I spoke to West Allis City Attorney Scott E. Post at his office regarding the impermissible prosecution of a criminal statute in municipal court and he told me that the trespassing statute had been adopted by reference as an ordinance by West Allis and that he would be the prosecuting attorney in municipal court.
61. That on May 21<sup>st</sup>, 2002 I appeared as directed to the West Allis Municipal Court, whereat West Allis City Attorney Scott E. Post acted in concert with Sgt. Anthony Ball and Principal Kathleen MacDonald to prosecute me for trespassing in violation of a West Allis ordinance which adopted by reference Wis. Stat. 943.13(1m)(b).
62. That although neither Sgt. Ball or Principal Kathleen McDonald informed me that I was “trespassing” on Nov. 19<sup>th</sup>, 2001, they both claimed that I had trespassed at the school during their testimony at the municipal court trial on May 21<sup>st</sup>, 2002.

#### **FIRST CAUSE OF ACTION**

63. Plaintiff incorporates by reference the allegations in Paragraphs 1-62 above.
64. Defendant Anthony Ball, under color of law, with the aid of several Defendant John Does, arrested Robert C. Braun without probable cause while disregarding his right to be free from unreasonable seizure, which violated the Fourth Amendment of the United States Constitution

#### **SECOND CAUSE OF ACTION**

65. Plaintiff incorporates by reference the allegations in Paragraphs 1-64 above.



66. All of the above captioned Defendants conspired to infringe upon Robert C. Braun's attempt to distribute literature, which conspiracy continues with the malicious prosecution of a bogus "Trespass" charge, Case No. 02FO000474, in violation of the First Amendment of the United States Constitution.

### **THIRD CAUSE OF ACTION**

67. Plaintiff incorporates by reference the allegations in Paragraphs 1-66 above.
68. Defendant Scott E. Post did willfully misapply the law by ordering the prosecution of Robert C. Braun on a bogus charge of trespassing in Violation of the First and Fifth Amendment of the United States Constitution

### **FOURTH CAUSE OF ACTION**

69. Plaintiff incorporates by reference the allegations in Paragraphs 1-68 above.
70. Scott E. Post, under color of law, through his office as West Allis City Attorney, continues to prosecute the frivolous charge of "Trespassing" against Robert C. Braun with malicious intent, in violation of the <sup>R.C.B.</sup>~~Fifth~~ Amendment Equal Protection clause of the United States Constitution.

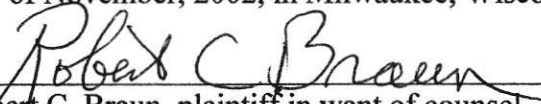
Fourteenth

### **REQUEST FOR RELIEF**

71. Plaintiff incorporates by reference the allegations in Paragraphs 1-70 above.
72. Plaintiff seeks a declaration by the Court that Wisconsin Statute section 943.13(1m)(b) is unconstitutional and/or unconstitutional as applied to Plaintiff and others similarly situated.
73. Plaintiff asks the Court to address each question propounded in paragraph 21 a through e, supra, in a written determination.

74. Plaintiff asks for injunctive relief by a Court Order enjoining West Allis government agents from infringing on Plaintiff's protected right to protest government policy while in attendance of an open meeting.
75. Plaintiff seeks nominal damages for the violation of his constitutional rights.
76. Plaintiff asks for punitive damages to be awarded against the defendants at an amount to be determined upon closure of evidence presented in this action.
77. Plaintiff asks for an award of compensation for costs and disbursements borne by the plaintiff in the prosecution of this action.
78. Plaintiff asks for an award of compensation for any and all attorney fees borne by plaintiff in the prosecution of this action.
79. Such other and further relief as the Court may deem just and proper.

Respectfully submitted on this 19 day of November, 2002, in Milwaukee, Wisconsin by,

  
Robert C. Braun, plaintiff in want of counsel.  
2160 S. 86 Street  
West Allis, WI 53227  
Telephone: (414) 543-3584

#### NOTARY VERIFICATION

Signed and affirmed before me, Notary Public for and in the State of Wisconsin, County of Milwaukee, on this 19 day of November, 2002.

  
Notary signature

11-19-02  
Date signed

2-5-06  
My commission expires

## Attention Parents and Students of the West Allis-West Milwaukee School District

During the next school year, the year 2002-2003, for the **first time** this school district will offer a **choice** for the required tenth grade health class. Sometime around January 2002, parents/teens will be able to choose between two health courses :

1.)The Sex Ed component of the Health class will offer one course with a comprehensive abstinence only curriculum (based on last year's school assembly by Pam Stenzel). This program will help students develop the **character** to set long-range goals, rather than indulging in immediate pleasure. This program will lay the **character foundation** for building a life long marriage and family by teaching the social, psychological, emotional, and health benefits of abstaining from sexual activity until marriage.

2.)The second choice will be the current Sex Ed curriculum in the tenth grade health which will teach what is called "abstinence based" or "abstinence plus" program, in which "A is for abstinence", and "B is for Birthcontrol- what you use if you decide to say yes" (per "ABC's of Abstinence"). The students learn how to select health services in obtaining birth control, testing for venereal disease, and testing for pregnancy based on state confidentiality laws; in other words, parents do not need to be informed (per Human Growth & Development Curriculum Guide Book).

References: West Allis Human Growth & Development Curriculum Guide book, West Allis Star Aug 23, Aug 30, Sept 13, Sept 27, and the Milwaukee Journal Neighbors section Aug 22, 2001 (note all newspaper publications can be seen in the library, and **Health textbook p. 477 instructs students in the use of the condom**)

Exhibit  
A



<b>M-75072</b>		<b>WEST ALLIS</b> <b>MUNICIPAL COURT CITATION</b>		DEPOSIT \$ <u>162.00</u>
STATE OF WISCONSIN MUNICIPAL COURT			CITY: <u>WEST ALLIS</u>	
The undersigned for and in behalf of the above municipality states on basis of personal knowledge (or upon information and belief) that said defendant did on <u>11-19</u> at <u>5:26 P.M.</u> violate Ord. No. <u>943.13 (MYB)</u> Adopting Stat. No. <u>943.13 (MYB)</u> To Wit:				
City of <u>WEST ALLIS</u> VS.	Name-First <u>ROBERT</u> Middle Initial <u>C</u> Last <u>BRAUN</u>	Post Office <u>WEST ALLIS</u> State <u>WI</u> Zip <u>53219</u>	Designation of Offense: <u>TRESPASS</u>	
Address (Residence) <u>2160 S. 86th</u>			TO LAND	
Birthdate <u>05-31-35</u> DL # <u>DLA B650-7633-519107</u>			Describe Violation and Location <u>A REFUSE TO LEAVE PREMISES</u>	
Sex <u>M</u> Race <u>W</u> Eyes <u>BRN</u> Hair <u>GRY</u> Ht. <u>600</u> Wt. <u>220</u>	Place of Employment <u>N/A</u>	AFTER BEING TOLD TO AT NATHAN		
Telephone No. <u>543-3584</u>		HALF 11601 W LINCOLN AVE.		
YOU ARE HEREBY NOTIFIED TO APPEAR IN THE ABOVE NAMED COURT		County <u>MILWAUKEE</u>	City <u>WEST ALLIS</u>	Date <u>1-24-02</u>
ON <u>12-25</u> 20 <u>02</u> AT <u>8:30</u>		Officer's Signature <u>J. Petrik</u> Date <u>1-24-02</u>		
LOCATED AT <u>11301 WEST LINCOLN AVENUE</u>		Sworn to Before Me _____ Title _____		

Exhibit B

Robert C. Braun  
2160 S. 86 Street  
West Allis, WI 53214

December 3, 2002

2

To: Linda Kotecki, Branch 47 Deputy Clerk of Court  
Milwaukee County Courthouse, Room 615  
901 N. 9th Street  
Milwaukee, WI 53233-1425

Re: Case No. 02FO000474  
City of West Allis v. Robert C. Braun

RECEIVED

DEC 2 2002

CITY OF WEST ALLIS  
CLERK/TREASURER

Dear Deputy Clerk Kotecki:

Please file the appended

**NOTICE OF MOTION**

and

**MOTION TO CONSOLIDATE CASES**

into the record for Case No. 02FO000474.

Please file stamp my duplicate copy and return it to me in the enclosed self addressed stamped envelope.

Branch 47 Judge John Seifert will hear this **MOTION TO CONSOLIDATE CASES** at 10:30 AM on Dec. 6<sup>th</sup>, 2002, at the scheduled hearing on another matter set for Dec. 6, 2002.

Branch 4 Judge Mel Flanagan has been notified and will likely receive the telephone conference call that Judge Siefert should initiate on Dec. 6<sup>th</sup>, 2002, to discuss the feasibility of consolidation of the newly filed Court Case No. 02CV011238 with the action now before Judge Siefert, Case No. 02FO000474.

If for any reason this conference call is not feasible please have Judge Seifert contact Judge Flanagan at 278-4474 to arrange a convenient time for this conference call.

Please contact me by telephone at 762-8414 regarding any discrepancy.

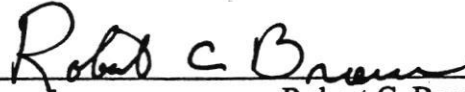
**CERTIFICATION OF SERVICE**

Robert C. Braun hereby certifies that a true and correct copy of the appended **NOTICE OF MOTION and MOTION TO CONSOLIDATE CASES** was served upon counsel for the Plaintiff in Milwaukee County Circuit Court Case Number 02FO000474 by ~~First Class U.S. Mail, postage prepaid,~~ addressed to:

*hand delivery*

✓ Scott E. Post, City Attorney  
West Allis City Attorney's Office  
West Allis City Hall  
7535 W. Greenfield Ave  
West Allis, WI 53214

Thank you for your attention, sincerely,



Robert C. Braun  
(414) 543-3584



STATE OF WISCONSIN

CIRCUIT COURT  
Branch 47 - Misdemeanor Division

MILWAUKEE COUNTY

CITY OF WEST ALLIS,

Plaintiff,

v.

ROBERT C. BRAUN,

Defendant.

Case No. 02FO000474

**NOTICE OF MOTION**

To: Scott E. Post, West Allis City Attorney  
City Attorney's Office  
West Allis City Hall  
7535 W. Greenfield Ave  
West Allis, WI 53214

**PLEASE TAKE NOTICE** that the above captioned Defendant, Robert C. Braun, will appear, in want of counsel, at the Milwaukee County Courthouse, 901 N. 9<sup>th</sup> Street, Milwaukee, Wisconsin, in Room 615, at 8:30 AM on September 6<sup>th</sup>, 2002, before the Honorable John Siefert, Branch 47 Judge, for the scheduled hearing on the appended **MOTION TO CONSOLIDATE CASES**, to seek transfer of Circuit Court Case No. 02CV011238 to Branch 47, Milwaukee County Circuit Court, on grounds proffered within the Motion.

Milwaukee County Circuit Court Branch 04 will participate via telephone conference call initiated by Branch 47, Circuit Court on December 6<sup>th</sup>, 2002, at 10:30 AM, or as soon thereafter as counsel may be heard via telephone hookup.



Robert C. Braun  
Defendant appearing pro per.

STATE OF WISCONSIN

CIRCUIT COURT  
Branch 47 - Misdemeanor Division

MILWAUKEE COUNTY

CITY OF WEST ALLIS,

Plaintiff,

v.

ROBERT C. BRAUN,

Defendant.

Case No. 02FO000474

**MOTION TO CONSOLIDATE CASES**

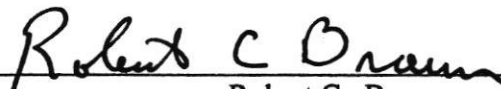
**COMES NOW** Defendant Robert C. Braun, in want of counsel, pursuant to sections 805.05(1)(b) and 803.04(1) Wis. Stats., seeking an order of consolidation “. . . *to allow the broadest possible scope of action consistent with fairness to the parties.*”

Circuit Court Case No.02CV011238 (see appended Complaint) involves “. . . *the claims of several parties arising out of the same litigable occurrence . . .*” that is under consideration in the above captioned case, with two parties identical in both cases. The questions of law and fact propounded by the Plaintiff in Case No. 02CV011238 are common to all parties.

Therefore, Movant has set up a telephone conference, pursuant to section 807.13(3) Wis. Stat., between Circuit Court Branch 47 Judge John Siefert (278-4764) and Circuit Court Branch 04 Judge Mel Flanagan (278-4474), which should be initiated during the Motion Hearing in Branch 47 for Case No. 02FO000474 set for December 6<sup>th</sup>, 2002 at 10:30 AM in Room 615.

Movant will show the Courts that the named Defendants in Case No. 02CV011238 are witnesses needed to establish their collaboration to bring the charge of “trespassing” against Robert C. Braun, the named Defendant in Case No. 02FO000474, which testimony is significant to the cause of Defendant Robert C. Braun.

Signed by,



Robert C. Braun,  
Defendant, Pro per.

**STATE OF WISCONSIN      Branch 4 CIRCUIT COURT      MILWAUKEE COUNTY**

ROBERT C. BRAUN  
2160 S. 86 Street  
West Allis, WI 53227  
Plaintiff,

-vs-

**Case No. 02CV011238**  
In conjunction with Case No. 02FO000474

THE CITY OF WEST ALLIS  
a Municipal Corporation  
West Allis City Hall  
7535 W. Greenfield Ave.  
West Allis, WI 53227, and

**VERIFIED COMPLAINT OF CIVIL  
RIGHTS VIOLATIONS SEEKING  
DECLARATORY DECREE  
WITH INJUNCTIVE &  
MONETARY RELIEF.**

ANTHONY BALL, in his individual capacity,  
who is also a West Allis Police Sergeant  
West Allis Police Department  
11301 West Lincoln Avenue  
West Allis, WI 53227, and

**Case Code No. 30701**  
(injuries greater than small claims limit)

JOHN and/or JANE DOE, West Allis Police Officers  
in their official capacity  
West Allis, Police Department, and

**JURY TRIAL DEMANDED**

SCOTT E. POST, in his individual capacity, and in his  
official capacity as the West Allis City Attorney  
West Allis City Hall, and

PHILIP SOBOCINSKI, in his official capacity as the  
Superintendent of Schools, in  
Wisconsin Public School District Number 1,  
WEST ALLIS, WEST MILWAUKEE SCHOOL DISTRICT  
9333 West Lincoln Avenue  
West Allis, WI 53227, and

KATHLEEN MAC DONALD, in her individual capacity,  
who is the Principal at  
Nathan Hale High School  
11601 West Lincoln Avenue  
West Allis, WI 53227,

WEST ALLIS, WEST MILWAUKEE SCHOOL BOARD MEMBERS  
in their official capacity  
c/o PATRICIA KERHIN, School Board President  
Public Schools Administration Building,  
Defendants.

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## PRELIMINARY STATEMENT

1. This is a verified Complaint in which the Plaintiff, Robert C. Braun (hereinafter referred to as **"Braun"**), seeks nominal, compensatory, and punitive damages against the City of West Allis and the West Allis, West Milwaukee Public School District #1 and their agents for arresting him without probable cause and conspiring to willfully infringe upon his protected right to peacefully assemble and criticize public policy.
2. A declaratory decree is needed to prevent future abuse of certain arbitrary statutes by overbearing law enforcers who could once again misconstrue and misapply Wis. Stat. 943.13 et seq.
3. Braun has remained a resident at his current address since 1972. He took early retirement from a truck driving job in 1983 due to an employment related injury. After a bitter experience with ambitious and abusive law enforcers he became an active evangelist and began demonstrating against those who disobey God's law, including popular politically correct pursuits that violate biblical caveats. Those who are the object of Braun's rebukes, including government officers, become upset over his outspoken censure and often attempt vindictive retaliation through vague and arbitrary laws such as "disorderly conduct," "trespassing," "picketing without permission." Two of those arbitrary laws are the focus of this Declaratory Decree action.
4. Braun organized a group of fellow Christians he named **"Defenders of Biblical Morality"** (hereinafter referred to as **"DBM"**), who are concerned with public high schools adaptation of a class that condones and normalizes non-Biblical sexual relations. DBM were successful in distributing pamphlets without repercussion prior to November 19, 2001 at one local high school (Central High) warning parents of the danger in promoting non Biblical morality.



5. On November 19<sup>th</sup>, 2001 Braun, with several other DBM, appeared at another local high school (Nathan Hale High) for a meeting that was announced by public broadcast. The meeting was in regard to optional class enrollment for the next semester. DBM appeared for this public meeting but were denied access to the meeting because of the contend of their message. (See exhibit A)
6. The high school principal and a local police officer conspired to violate Wisconsin's Open Meetings Law, and to infringe upon Braun's protected freedom of expression guarantees by seizing and arresting him without probable cause when he challenged their authority.
7. For several hours after his unlawful seizure Braun (handcuffed and kidnaped) was confined at the local jail. Braun was eventually released after being issued a citation for violating the local "Disorderly Conduct" ordinance.
8. At Braun's initial appearance on December 17<sup>th</sup>, 2001 in municipal court on the local ordinance violation charge of Disorderly Conduct, the city attorney asked the Municipal Court to dismiss that charge without prejudice and it was dismissed without an explanation on the record..
9. Because of Braun's reputation as a radical evangelist and his litigious propensity, the local city attorney was bigoted against Braun and, sometime after Dec. 17<sup>th</sup>, 2001, he used a local ordinance as a method of vindictive retaliation against Braun by ordering a police officer to summon him to court to answer the charge of trespassing at the high school on Nov. 19<sup>th</sup>, 2001.
10. So Braun was surprised on January 28<sup>th</sup>, 2002 when he received by U.S. Certified Mail a local ordinance violation citation alleging he had trespassed at the high school on Nov. 19<sup>th</sup>, 2001.
11. The citation issued alleging that Braun trespassed failed to state what ordinance was violated.
12. On May 16<sup>th</sup> 2002 Braun spoke to the city attorney at his office regarding the missing ordinance number, and the city attorney announced that he choose to prosecute Braun under West Allis Ordinance 6.02, which adopts by reference section 943.13 Wis. Stat.

13. Braun's Municipal Court trial was held on May 21<sup>st</sup>, 2002. He appeared to object to his unlawful prosecution. All the named Defendant's herein (except school board members) appeared to conspire with the local municipal judge to maliciously prosecute Braun for allegedly violating Wisconsin Statute 943.13(1m)(b) [Trespassing].
14. Braun filed a timely request for trial de novo before a Milwaukee County Circuit Court Judge regarding the frivolous allegation that he had trespassed on Nov. 19<sup>th</sup>, 2001.
15. Braun made a claim to the local city Common Counsel regarding the frivolous charge and malicious prosecution that was being perpetrated against him, but the Common Counsel, on the advise of the accused city attorney, ignored Braun's request to cease and desist the malicious prosecution and to make him whole for the conspiratorial action of its city officers.
16. Braun filed a dispositive motion to dismiss the frivolous charge of trespassing, and that jurisdiction challenge motion in Case No. 02FO000474 was brought for consideration by Branch 47 Milwaukee County Circuit Court on November 6<sup>th</sup>, 2002.
17. On Nov. 6<sup>th</sup>, 2002, the Court ordered the parties to provide a copy of the wording of the West Allis Municipal Ordinance which was alleged to have been violated because the record before the court failed to indicate that crucial element. Braun's dispositive motion was postponed and is now scheduled to be brought on for hearing on December 6<sup>th</sup>, 2002., at 10:30 AM.
18. DCM exercise of political dissent continues to be chilled by West Allis Officials who persist to maliciously prosecute Braun on a frivolous charge.

#### **WHY A DECREE IS NECESSARY**

19. Plaintiff incorporates by reference the allegations in Paragraphs 1-18 above.

20. Even if Braun's evidence becomes persuasive, showing that the named defendants' conduct was deliberate in misapplying the trespassing statute, it will be difficult to establish the intent of these tyrants if they deny Braun's allegations. Therefore it becomes clear that a Declaratory Decree is necessary to keep future abusive enforcement of this statute from being used by ambitious law enforcement agents.

21. Questions the Court needs to address to protect political dissidents from misapplication of Wisconsin's Trespassing statute should be:

- a) Was it the intent of the legislators who passed the bill that created Wis. Stat. 943.13 et seq. to protect other than owners or occupants of private real property?
- b) Can any public servant claim to be the "owner" of public real property?
- c) What is the meaning of the term "occupant" as used within Wis. Stat. 943.13?
- d) Can the term "owner or occupant," as used throughout section 943.13 Wis. Stat., apply to public servants, such as the named defendants herein, who may be custodians of public property where an undesirable citizen demands access?
- e) Is it appropriate to accuse anyone of "trespassing" on public real property, i.e. is the word "trespasser" limited in application to declaration by the owner or occupant of privately owned real property?
- f) Should the agent who accuses an individual of "trespassing" in violation of some portion of Wis. Stat. 943.13 et seq. be required to provide for the alleged trespasser the accuser's delegation of authority to declare who is a "trespasser?"
- g) Can a person who misapplies the trespassing statute by making an oral false claim to be the designated delegate of the owner or occupant of real property be prosecuted under section 943.13(3) Wis. Stat.?
- h) What action can be taken against one who misrepresents authority by falsely claiming to be a designated delegate of the owner or occupant of real property and thereby falsely accuse an undesirable visitor of trespassing on public real property?

## STATEMENT ON VENUE AND JURISDICTION

22. Plaintiff incorporates by reference the allegations in Paragraphs 1-21 above.
23. Each individual named as Defendant herein is employed by a government unit that serves residents within the City of West Allis, County of Milwaukee, State of Wisconsin.
24. The Court has power to provide a written decision recognizing that Defendants Kathleen MacDonald and Anthony Ball conspired to seize and unlawfully arrest Plaintiff for Disorderly Conduct on Nov. 19<sup>th</sup>, 2001.
25. The Court has power to issue a Declaratory Decree addressing the questions asked by the Plaintiff in paragraph 21, a) through h), idem, pursuant to section 806.04(2) Wis. Stats., and Plaintiff so demands.
26. The Court has power to enjoin the named Defendants from conspiring to enforce the West Allis Ordinance 6.02 adaptation of Wis. Stat. 943.13 (1M)(b) absent a bona fide declaration of the owner or occupant of private real property that he/she/they consider a specified individual a trespasser on said private real property, unless the property is posted pursuant to 943.13(2)(a) or (b).
27. The Court has power to provide a written decision recognizing that Braun's seizure and unlawful arrest on November 19, 2001 deprived him of the exercise of his free speech right that is protected by Article I, Section 3 of the Wisconsin Constitution/<sup>1</sup> and Plaintiff so demands.

---

<sup>1</sup> **Wisconsin Constitution, Article I, Section 3:** [in pertinent part]  
Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or of the press.

28. The Court has power to provide a written decision recognizing that Braun's seizure and unlawful arrest on November 19, 2001 deprived him of other organic rights, i.e. the exercise of ostensible protected free speech and religious expression rights./<sup>\*2</sup>
29. The Court has power to provide a written decision recognizing that the Plaintiff's seizure and unlawful arrest on November 19, 2001 chilled his proclivity to speak freely in the future and Plaintiff so demands.
30. The Court has power to provide a written decision recognizing that the Defendant Scott E. Post, in his official capacity, provided the appearance of propriety to the arrest of Plaintiff without probable cause by ordering that Plaintiff be issued a citation alleging that Wis. Stat section 943.13(1)(m)(b) was applicable to Plaintiff's conduct on Nov. 19<sup>th</sup>, 2001 and Plaintiff so demands.
31. The Court has power to provide a written decision recognizing that the Defendant Scott E. Post, in his individual capacity, embroiled himself in the ongoing conspiracy to deprive the Plaintiff of his protected free speech rights by ordering the bogus prosecution of the Plaintiff with the use of the West Allis Ordinance 6.02 adaptation of section 943.13(1m)(b) Wis. Stat., and Plaintiff so demands.
32. The Court has power to provide a written decision recognizing that the Defendant Scott E. Post, in his official capacity as the elected West Allis City Attorney, is responsible for the frivolous and persistent malicious prosecution of the Plaintiff who was acting within his protected right to criticize government policy on Nov. 19<sup>th</sup>, 2001, and Plaintiff so demands.

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<sup>2</sup> **U.S. Constitution, First Amendment - Religion and Expression :**  
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for redress of grievances.



### STATEMENT OF FACTS

33. Plaintiff incorporates by reference the allegations in Paragraphs 1-32 above.
34. Upon personal knowledge Plaintiff alleges the following:
35. Within one week prior to November 19, 2001, I noticed a local newspaper article announcing a meeting that was to be held for parents of students at Nathan Hale High School, 11801 W. Lincoln Ave., West Allis, Wisconsin on November 19, 2001 concerning choosing students' curriculum.
36. That I appeared at Nathan Hale High School on November 19<sup>th</sup>, 2001 at about 5:05 PM and began offering pamphlets to parents entering the meeting.
37. That the pamphlets I offered to parents entering the school concerned the optional nature of a particular course that I found objectionable. (See exhibit A)
38. At that time a man dressed in a business suit approached me and mentioned that he was with "security" at Nathan Hale High School. He said that the material I was passing out was not approved by the school board and that I should not distribute it.
39. After I told him that he was wrong he left and came back with a lady who did not identify herself but told me also that I should not pass out any pamphlets.
40. That I told the lady (later identified as the school principal, Kathleen MacDonald) that I thought she was wrong because I had already distributed pamphlets at the other West Allis High School without objection.
41. That this lady then told me that if I didn't leave the school property she would have me removed by the police.
42. That I then asked this unknown lady to please call the police.

43. That in about 10 minutes a one man police squad car arrived and the officer spoke to me
44. That I told the officer that I was not breaking any law and that there was no written rule extant that could interfere with my protected right to pass out pamphlets critical of school policy.
45. That this officer radioed for the assistance of an administrative officer.
46. At 6:13 PM West Allis Police Sergeant Anthony Ball arrived and as the officer approached me he said: *"You can not do this here! Mr. Braun you'll have to, and you know this, you'll have to go to the sidewalk."*
47. That when I tried to explain my position to Sgt Ball he interrupted me and said: *"No, but we are an authority from the United States. And the United States government says you have to do it outside of the property."*
48. That when I challenged the officers claim to be a representative of the United States government Sgt. Ball said: *"I think I am! And I'm also - I represent the City of West Allis."*
49. That my attempt to respond to Sgt. Ball's claims was again interrupted by the officers loud order, to wit: *"So sir, - no sir; you're going to have to go out or I'm going to have to arrest you for disorderly conduct."*
50. That my further attempt to reason with Sgt. Ball was met with the officer's demand to leave immediately, to wit: *"What is - what's disorderly? Right now you are in violation. All right? You're in vio.. Yes! Yeah, you're in violation of the law. And you can't - you can't be doing this on this property. O.K., you need to - you need to go out by the stop sign! And Mr. Brown, I'm not gonna, I'm not gonna play this game with you. O.K.? You - you can go home and take care of you're family. Maybe that's where you need to be."*
51. Sgt. Ball then summoned the school principal to come out and confirm that she asked me to leave, which she did.

52. Sgt. Ball then threatened to arrest the video tape recorder of this confrontation if he didn't leave the scene. The recorder heeded Sgt. Ball's warning and left at 6:18 PM (video tape available.)
53. Because I continued to question the school principal and Sgt. Ball's authority to infringe on my protected free speech right, Sgt. Ball placed me under arrest for Disorderly Conduct and had me transported to the West Allis Police Station.
54. That at no time prior to my arrest for Disorderly Conduct was I told that I was in violation of a trespassing law, by either the school principal or a police officer (or anyone).
55. That after I was transported to the West Allis Police department and locked in jail, I was handed West Allis Municipal Ordinance Violation Citation No. M-68718, alleging that I had violated Municipal Ordinance 6.02(3)(a), adopting Stat. No. 947.01, Disorderly Conduct.
56. That on December 17<sup>th</sup>, 2001 I appeared at the West Allis Municipal Court as ordered and spoke to West Allis City Attorney Scott E. Post concerning the propriety of alleging that I had been in violation of the Disorderly Conduct ordinance on November 19<sup>th</sup>, 2001.
57. That Attorney Scott E. Post did in fact, on December 17<sup>th</sup>, 2001, ask the West Allis Municipal Court judge to dismiss the Disorderly Conduct charge without prejudice.
58. That this dismissal of the charge of "Disorderly Conduct" caused me to feel vindicated in my right of expression at Nathan Hale High School, until, on January 28<sup>h</sup>, 2002, I received by U.S. Mail, a Citation alleging that I was being charged with violating State Statute No. 943.13(1m)(b) at Nathan Hale High School on November 19<sup>th</sup>, 2001 The Citation designated the offense as: "CRIMINAL TRESPASS TO LAND," and described the violation as: "△ REFUSED TO LEAVE PREMISES AFTER BEING TOLD TO AT NATHAN HALE 11601 W. LINCOLN AVE." (See Exhibit B)

59. That I was confused because this Citation, Number M-75072, did not show what West Allis Ordinance number applied to my alleged criminal trespass to land, and I knew that criminal statutes were not cognizable in municipal courts.
60. That on May 16<sup>th</sup>, 2002, I spoke to West Allis City Attorney Scott E. Post at his office regarding the impermissible prosecution of a criminal statute in municipal court and he told me that the trespassing statute had been adopted by reference as an ordinance by West Allis and that he would be the prosecuting attorney in municipal court.
61. That on May 21<sup>st</sup>, 2002 I appeared as directed to the West Allis Municipal Court, whereat West Allis City Attorney Scott E. Post acted in concert with Sgt. Anthony Ball and Principal Kathleen MacDonald to prosecute me for trespassing in violation of a West Allis ordinance which adopted by reference Wis. Stat. 943.13(1m)(b).
62. That although neither Sgt. Ball or Principal Kathleen McDonald informed me that I was "trespassing" on Nov. 19<sup>th</sup>, 2001, they both claimed that I had trespassed at the school during their testimony at the municipal court trial on May 21<sup>st</sup>, 2002.

#### **FIRST CAUSE OF ACTION**

63. Plaintiff incorporates by reference the allegations in Paragraphs 1-62 above.
64. Defendant Anthony Ball, under color of law, with the aid of several Defendant John Does, arrested Robert C. Braun without probable cause while disregarding his right to be free from unreasonable seizure, which violated the Fourth Amendment of the United States Constitution

#### **SECOND CAUSE OF ACTION**

65. Plaintiff incorporates by reference the allegations in Paragraphs 1-64 above.

66. All of the above captioned Defendants conspired to infringe upon Robert C. Braun's attempt to distribute literature, which conspiracy continues with the malicious prosecution of a bogus "Trespass" charge, Case No. 02FO000474, in violation of the First Amendment of the United States Constitution.

### **THIRD CAUSE OF ACTION**

67. Plaintiff incorporates by reference the allegations in Paragraphs 1-66 above.
68. Defendant Scott E. Post did willfully misapply the law by ordering the prosecution of Robert C. Braun on a bogus charge of trespassing in Violation of the First and Fifth Amendment of the United States Constitution

### **FOURTH CAUSE OF ACTION**

69. Plaintiff incorporates by reference the allegations in Paragraphs 1-68 above.
70. Scott E. Post, under color of law, through his office as West Allis City Attorney, continues to prosecute the frivolous charge of "Trespassing" against Robert C. Braun with malicious intent, in violation of the Fourteenth Amendment Equal Protection clause of the United States Constitution.

### **REQUEST FOR RELIEF**

71. Plaintiff incorporates by reference the allegations in Paragraphs 1-70 above.
72. Plaintiff seeks a declaration by the Court that Wisconsin Statute section 943.13(1m)(b) is unconstitutional and/or unconstitutional as applied to Plaintiff and others similarly situated.
73. Plaintiff asks the Court to address each question propounded in paragraph 21 a through e, supra, in a written determination.



74. Plaintiff asks for injunctive relief by a Court Order enjoining West Allis government agents from infringing on Plaintiff's protected right to protest government policy while in attendance of an open meeting.
75. Plaintiff seeks nominal damages for the violation of his constitutional rights.
76. Plaintiff asks for punitive damages to be awarded against the defendants at an amount to be determined upon closure of evidence presented in this action.
77. Plaintiff asks for an award of compensation for costs and disbursements borne by the plaintiff in the prosecution of this action.
78. Plaintiff asks for an award of compensation for any and all attorney fees borne by plaintiff in the prosecution of this action.
79. Such other and further relief as the Court may deem just and proper.

Respectfully submitted on this 19 day of November, 2002, in Milwaukee, Wisconsin by,

/S/  
Robert C. Braun, plaintiff in want of counsel.  
2160 S. 86 Street  
West Allis, WI 53227  
Telephone: (414) 543-3584

#### NOTARY VERIFICATION

Signed and affirmed before me, Notary Public for and in the State of Wisconsin, County of Milwaukee, on this 19<sup>th</sup> day of November, 2002.

Monica Schultz  
Notary signature

11 - 19 - 02  
Date signed

2 - 5 - 06  
My commission expires

## Attention Parents and Students of the West Allis-West Milwaukee School District

During the next school year, the year 2002-2003, for the **first time** this school district will offer a **choice** for the required tenth grade health class. Sometime around January 2002, parents/teens will be able to choose between two health courses :

1.)The Sex Ed component of the Health class will offer one course with a comprehensive abstinence only curriculum (based on last year's school assembly by Pam Stenzel). This program will help students develop the **character** to set long-range goals, rather than indulging in immediate pleasure. This program will lay the **character foundation** for building a life long marriage and family by teaching the social, psychological, emotional, and health benefits of abstaining from sexual activity until marriage.

2.)The second choice will be the current Sex Ed curriculum in the tenth grade health which will teach what is called "abstinence based" or "abstinence plus" program, in which "A is for abstinence", and "B is for Birthcontrol- what you use if you decide to say yes" (per "ABC's of Abstinence"). The students learn how to select health services in obtaining birth control, testing for venereal disease, and testing for pregnancy based on state confidentiality laws; in other words, parents do not need to be informed (per Human Growth & Development Curriculum Guide Book).

References: West Allis Human Growth & Development Curriculum Guide book, West Allis Star Aug 23, Aug 30, Sept 13, Sept 27, and the Milwaukee Journal Neighbors section Aug 22, 2001 (note all newspaper publications can be seen in the library, and **Health textbook p. 477 instructs students in the use of the condom**)

Exhibit  
A

M-75072

WEST ALLIS  
MUNICIPAL COURT CITATION

DEPOSIT \$

162<sup>00</sup>

STATE OF WISCONSIN MUNICIPAL COURT

CITY

OF

WEST ALLIS

The undersigned for and in behalf of the above municipality states on basis of personal knowledge (or upon information and belief) that said defendant did on 1-1-19 20 01 at 5:26 A.M. violate Ord. No. 943.13 (IMyb) Adopting Stat. No. 943.13 (IMyb) To Wit:

City of WEST ALLIS	Name-First ROBERT	Middle Initial C	Last BRAUN	Designation of Offense: TRESPASS
Address (Residence) 2160 S. 86 <sup>ST</sup>	Post Office WEST ALLIS	State WI	Zip 53219	TO LAND
Birthdate 05-31-35	Other Identification DL # B650-7633-519107	Describe Violation and Location A REFUSE TO LEAVE PREMISES		
Description Sex M Race W Eyes BRO Hair GRAY HL 600 WL 220	AFTER BEING TOLD TO AT NATHAN			
Telephone No. 543-3584	Place of Employment N/A	HALE 11601 W LINCOLN AVE.		

YOU ARE HEREBY NOTIFIED TO APPEAR IN THE ABOVE NAMED COURT

ON 12-25 20 02 AT 8:30 A.M.	County MILWAUKEE	City WEST ALLIS
	Officer's Signature J Petril	Date 1-24-02
LOCATED AT 11301 WEST LINCOLN AVENUE	Sworn to Before Me	Date
	Title	

Exhibit B

Robert C. Braun  
2160 S. 86 Street  
West Allis, WI 53214

December 3, 2002  
2

To: Susan Okongo-Gwoke, Branch 4 Deputy Clerk of Court  
Milwaukee County Courthouse, Room 413  
901 N. 9th Street  
Milwaukee, WI 53233-1425

278-4474

Re: Case No. 02CV011238  
Robert C. Braun v. City of West Allis, et al

RECEIVED

DEC 2 2002

CITY OF WEST ALLIS  
CLERK/TREASURER

Dear Deputy Clerk Okongo-Gwoke:

Please file the appended "original signature" documents captioned:

**NOTICE OF MOTION**  
and  
**MOTION TO CONSOLIDATE CASES**

into the record for Case No.02CV011238

Please file stamp my duplicate copies and return them to me in the enclosed self addressed stamped envelope.

Circuit Court Branch 47 Judge John Siefert (phone 278-4764) is scheduled to hear this **MOTION TO CONSOLIDATE** (along with another motion) at 10:30 AM on December 6<sup>th</sup>, 2002, and Judge Flanagan will likely receive a telephone conference call from Judge Siefert at that time to discuss the feasibility of consolidating the newly filed Court Case No.02CV011238 with the action now before Judge Siefert, Case No.02FO000474.

Please inform Judge Flanagan that she will likely receive this conference call on December 6<sup>th</sup>, 2002 sometime shortly after 10:30 AM from Judge Siefert's chambers to discuss this Consolidation proposal.

If for any reason this conference call is not feasible please have Judge Flanagan contact Judge Siefert to arrange a convenient time for this conference call.

Please contact me by telephone at 762-8414 regarding any discrepancy.

**CERTIFICATION OF SERVICE**

Robert C. Braun hereby certifies that true and correct copies of the appended documents were served upon the Defendants in Milwaukee County Circuit Court Case No. 02FO000474 by either hand delivery or First Class U.S. Mail, postage prepaid, addressed

to:

THE CITY OF WEST ALLIS ✓  
West Allis City Hall  
7535 West Greenfield Ave.  
West Allis, WI 53214, and

and:

SCOTT E. POST,  
West Allis City Hall  
7535 West Greenfield Ave.  
West Allis, WI 53214, and


PHILIP SOBOCINSKI,  
Schools Administration Building  
9333 W. Lincoln Avenue  
West Allis, WI 53227, and,

ANTHONY BALL,  
West Allis Police Department  
11601 West Lincoln Avenue  
West Allis, WI 53227, and

KATHLEEN MACDONALD, Principal  
Nathan Hale High School  
11601 West Lincoln Avenue  
West Allis, WI 53227,  
Defendants.

PATRICIA KERHIN, School Board President  
Schools Administration Building  
9333 W. Lincoln Avenue  
West Allis, WI 53227,

Thank you for your attention, sincerely,

  
\_\_\_\_\_  
Robert C. Braun  
(414) 543-3584



STATE OF WISCONSIN

CIRCUIT COURT  
Branch 4 Civil Division

MILWAUKEE COUNTY

ROBERT C. BRAUN

Plaintiff,

Case No. 02CV011238

-vs-

In conjunction with Case No. 02FO000474

THE CITY OF WEST ALLIS, et al,  
Defendants.

Case Code No. 30701

NOTICE OF MOTION

To:  
THE CITY OF WEST ALLIS ✓  
West Allis City Hall  
7535 West Greenfield Ave.  
West Allis, WI 53214, and

and:  
SCOTT E. POST,  
West Allis City Hall, and

PHILIP SOBOCINSKI,  
Schools Administration Building  
9333 W. Lincoln Avenue  
West Allis, WI 53227, and,

ANTHONY BALL,  
West Allis Police Department  
11601 West Lincoln Avenue  
West Allis, WI 53227, and

KATHLEEN MACDONALD, Principal  
Nathan Hale High School  
11601 West Lincoln Avenue  
West Allis, WI 53227,

PATRICIA KERHIN, School Board President  
Schools Administration Building  
9333 W. Lincoln Avenue  
West Allis, WI 53227,

Defendants.

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CITY OF WEST ALLIS  
CLERK/TREASURER

**Please take notice** that above captioned Plaintiff, Robert C. Braun, will appear before the Honorable John Siefert in his Branch 47 Court, Room 615 in the Milwaukee County Courthouse at 10:30 AM on December 6<sup>th</sup>, 2002, for the scheduled hearing on the appended **MOTION TO CONSOLIDATE CASES**, to seek transfer of Circuit Court Case No. 02CV011238 to Branch 47, Milwaukee County Circuit Court, on grounds proffered within the Motion.

Circuit Court Branch 04 will participate via telephone conference call initiated by Branch 47, Milwaukee County Circuit Court On December 6<sup>th</sup>, 2002, at 10:30 AM, or as soon thereafter as counsel may be heard via telephone hookup.

Signed by, Robert C. Braun  
Robert C. Braun, Plaintiff pro se

STATE OF WISCONSIN

CIRCUIT COURT  
Branch 4 Civil Division

MILWAUKEE COUNTY

ROBERT C. BRAUN

Plaintiff,

Case No. 02CV011238

-vs-

In conjunction with Case No. 02FO000474

THE CITY OF WEST ALLIS, et al,  
Defendants.

Case Code No. 30701

RECEIVED

MOTION TO CONSOLIDATE CASES

DEC 2 2002

CITY OF WEST ALLIS  
CITY TREASURER

COMES NOW Plaintiff Robert C. Braun, in want of counsel, pursuant to sections 805.05(1)(b) and 803.04(1) Wis. Stats., seeking an order of consolidation “. . . to allow the broadest possible scope of action consistent with fairness to the parties.”

Circuit Court Case No. 02FO000474 (see appended Citation) involves “. . . the claims of several parties arising out of the same litigable occurrence . . .” that is under consideration in the above captioned case, with two parties identical in both cases. The questions of law and fact propounded by the Plaintiff in Case No. 02CV011238 are common to all parties

Therefore, Movant has set up a telephone conference, pursuant to section 807.13(3) Wis. Stat., between Circuit Court Branch 47 Judge John Siefert (278-4764) and Circuit Court Branch 04 Judge Mel Flanagan (278-4474), which should be initiated during the Motion Hearing in Branch 47 for Case No. 02FO000474 set for December 6<sup>th</sup>, 2002 at 10:30 AM in Room 615.

Movant will show the Courts that the named Defendants in Case No. 02CV011238 are witnesses needed to establish their collaboration to bring the charge of “trespassing” against Robert C. Braun, the named Defendant in Case No. 02FO000474, which testimony is significant to the cause of Defendant Robert C. Braun.

Signed by,



Robert C. Braun, Pro se Plaintiff.

M-75072

# WEST ALLIS MUNICIPAL COURT CITATION

DEPOSIT

\$ 162<sup>00</sup>

STATE OF WISCONSIN MUNICIPAL COURT

CITY

OF

WEST ALLIS

The undersigned for and in behalf of the above municipality states on basis of personal knowledge (or upon information and belief) that said

defendant  
did on

11-19

20

01

at

5:26

A.M.

M

violate Ord. No.

943.13

(IMXB)

Adopting Stat. No.

943.13

(IMXB)

To Wit:

City of

WEST ALLIS

VS.

Name-First

ROBERT

Middle Initial

C

Last

BRAUN

Last

Designation of Offense:

TRESPASS

Address (Residence)

2160 S. 86<sup>ST</sup>

Post Office

WEST ALLIS WI

State

Zip

53219

TO LAND

Birthdate

05-31-35

Other Identification

DL # B650-7633-5191-07

Describe Violation and Location

A REFUSE TO LEAVE PREMISES

Description

Sex

M

Race

W

Eyes

BRN

Hair

BRN

HL

600

WT

220

AFTER BEING TOLD TO AT NATHAN

Telephone No.

543-3584

Place of Employment

N/A

HALF 11601 W LINCOLN AVE.

YOU ARE HEREBY NOTIFIED TO APPEAR IN THE ABOVE NAMED COURT

ON

12-25

2002

AT

8:30

A.M.

P.M.

County

MILWAUKEE

City

WEST ALLIS

Officer's Signature

Date

Sworn to Before Me

Date

LOCATED AT

11301 WEST LINCOLN AVENUE

TRIC

Exhibit A



# CITY OF WEST ALLIS

WISCONSIN



City Clerk/Treasurer

December 3, 2002

Robert C. Braun  
2160 S. 86 St.  
West Allis, WI 53227

Dear Mr. Braun:

This letter acknowledges receipt of your Summons and Verified Complaint of Civil Rights Violations Seeking Declaratory Decree with Injunctive and Monetary Relief and Jury Trial Demanded in the matter of *Robert C. Braun v. City of West Allis, et al.* with Notice of Motion and Motion to Consolidate Cases.

The original document will be submitted to the Common Council at its meeting of December 17, 2002.

It is not anticipated that a decision regarding this matter will be made on this date. Generally, all communications are directed to the City Attorney's office for investigation. Common Council action regarding your communication will not be taken until the City Attorney's investigation is completed. Any questions you may have regarding this matter should be directed to their attention.

Sincerely,

Paul M. Ziehler  
Acting City Clerk/Treasurer

/ms

cc: City Attorney