



**Board of Directors**

Julaine K. Appling  
President

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Treasurer

March 28, 2008

Mr. James C. Alexander  
Executive Director  
Wisconsin Judicial Commission  
110 E Main St. #606  
Madison, WI 53703-3328

Re: Complaint Against Justice Louis Butler

Dear Mr. Alexander:

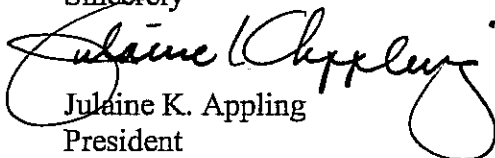
Enclosed for filing is the Complaint of Wisconsin Family Action, Inc., against Justice Louis Butler. Fair Wisconsin is a party in a case pending before the Wisconsin Supreme Court. Justice Butler accepted contributions from board members and the attorney for Fair Wisconsin while representing to the public that he would not do so. He disclosed those donations to the opposing party and the public only after media investigations forced him to do so.

Wisconsin Family Action supported the Wisconsin Defense of Marriage Amendment and the uniqueness of marriage which that Amendment protects. Fair Wisconsin opposes the Amendment and that traditional view. Several cases are pending or will soon appear before the court challenging the application and constitutionality of the Amendment, with profound ramifications for traditional marriage as defined by the Wisconsin legislature.

Justice Butler's dishonesty in accepting contributions from Fair Wisconsin while telling the public he would not do so appears improper and demonstrates a lack of integrity and inability to exercise independent judgment in the cases involving Fair Wisconsin and issues related to its interests.

The linked documentation referenced in the complaint are publicly available sources. We request that the Commission further investigate Justice Butler's representations to the public and his links and communications with Fair Wisconsin, its board members, and attorney. Thank you.

Sincerely

  
Julaine K. Appling  
President

**Actively strengthening & preserving, marriage, family, life and liberty in Wisconsin**

PO Box 1327, Madison WI 53701-1327  
222 S. Hamilton Street, Suite 23, Madison WI 53703-3201  
Local: 608-268-5074 ★ Toll-free: 866-849-2536 ★ Fax: 608-256-3370  
[www.wisconsinfamilyaction.org](http://www.wisconsinfamilyaction.org)

A non-partisan, not-for-profit 501(c)(4) lobbying organization. Donations to WFA are not tax deductible.

WISCONSIN JUDICIAL COMMISSION  
110 East Main Street, Suite 700  
Madison, WI 53703  
(608) 266-7637

REQUEST FOR INVESTIGATION

Name: WISCONSIN FAMILY ACTION, INC  
(please type or print)

Address: PO BOX 1321  
MADISON WI 53701

Phone: Daytime ~~(608)~~ 268-5074 Evening ~~(608)~~ 334-6435

I have information of possible misconduct or disability on the part of  
JUSTICE LOUIS BUTLER, of the WISCONSIN SUPREME Court in  
(name of judge or court commissioner)  
MADISON, DANE, Wisconsin.  
(city) (county)

STATEMENT OF FACTS

1. When and where did this happen? SEE ADDENDUM ATTACHED.  
Date(s): \_\_\_\_\_ Time: \_\_\_\_\_ Location: \_\_\_\_\_
2. If your information arises out of a court case, please answer these questions:
  - a) What is the name and number of the case?  
Case name: James R. Donohoe v. Action Wisconsin Case no.: 2006 AP000396
  - b) What kind of case is it?  
 criminal,  domestic relations,  small claims,  probate,  
 civil,  juvenile,  other (specify): \_\_\_\_\_

c) What is your relationship to the case?

plaintiff/petitioner                       defendant/respondent

attorney for \_\_\_\_\_

witness for \_\_\_\_\_

other (specify): President Wisconsin FAMILY ACTION

d) If you were represented by an attorney in this matter at the time of the conduct of the judge or court commissioner, please identify the attorney:

Name: N/A

Address: N/A

Phone: (    ) \_\_\_\_\_

e) Identify any other attorney(s) who represented you or any person involved in the case:

Name of attorney: N/A

Addresses: \_\_\_\_\_

Phone: (    ) \_\_\_\_\_ (    ) \_\_\_\_\_

Represented: \_\_\_\_\_

3. List documents that help support your information that the judge or court commissioner has engaged in misconduct or has a disability, noting which ones you have attached:

SEE APPENDIX ATTACHED

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Identify, if you can, any other witnesses to the conduct of the judge or court commissioner:

Name(s): SEE APPENDUM ATTACHED

Addresses: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_ ( ) \_\_\_\_\_

5. Specify below the details of what the judge or court commissioner did that you think constitutes misconduct or indicates disability. (Please type or print legibly; attach additional paper if necessary.)

SEE APPENDUM ATTACHED  
\_\_\_\_\_  
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I UNDERSTAND THAT STATE LAW PROVIDES THAT THE JUDICIAL COMMISSION'S PROCEEDINGS ON THIS REQUEST FOR INVESTIGATION ARE CONFIDENTIAL AND THAT I MAY REQUEST THE COMMISSION NOT TO DISCLOSE MY IDENTITY TO THE JUDGE OR COURT COMMISSIONER PRIOR TO THE FILING OF A PETITION OR FORMAL COMPLAINT WITH THE SUPREME COURT.

I REQUEST THE COMMISSION NOT TO DISCLOSE MY IDENTITY TO THE JUDGE OR COURT COMMISSIONER.

Signature:  Date: March 28, 2008

# ATTACHMENT

March 28, 2008

Re: Complaint of Wisconsin Family Action, Inc. against Justice Louis F. Butler

## Question 3. Documents.

See response to Question 5.

## Question 4. Witnesses.

See response to Question 5.

## Question 5. Facts.

- JUSTICE BUTLER ACCEPTED CONTRIBUTIONS FROM LGBT INTEREST GROUPS AND ATTORNEYS WHILE TELLING THE PUBLIC THAT HE WOULDN'T. HIS DISHONESTY APPEARS IMPROPER TO THE PUBLIC AND DEMONSTRATES A LACK OF INTEGRITY AND INABILITY TO EXERCISE INDEPENDENT JUDGMENT IN CASES INVOLVING THOSE GROUPS' INTERESTS.

Summary. In November 2007, Justice Butler announced to the public that he would not accept contributions from parties involved in cases before the Wisconsin Supreme Court. However, he accepted and failed to disclose contributions from two board members for Action Wisconsin, (now known as Fair Wisconsin) which was a party in the case *Donohoo v. Action Wisconsin*, Appeal Number 2006AP000396. Butler made the announcement in the wake of the Ziegler-Clifford race, culling favor with the public by representing that he would maintain a higher ethical standard. However, he accepted contributions from Action Wisconsin board members, Peter Bock and Ruth Irvings anyway, and failed to disclose them to the public and the parties in the case. Accepting Action Wisconsin's donations while telling the public he wouldn't demonstrates a lack of integrity and inability to be independent and impartial in cases in which Action Wisconsin is a party or in which its interests are at stake.

- JUSTICE BUTLER'S LACK OF INTEGRITY AND INABILITY TO EXERCISE INDEPENDENT JUDGMENT WILL AFFECT WISCONSIN FAMILY ACTION'S INTERESTS IN AT LEAST 3 CRITICAL CASES.

Complainant Wisconsin Family Action ("WFA") is a policy organization supporting traditional marriage which actively supported the Wisconsin Defense of Marriage Amendment ("WIDOMA") which was approved by almost 60% of Wisconsin voters in 2006. Action Wisconsin ("AW") is an action organization supporting LGBT issues. Fair Wisconsin ("FW") was AW's action organization in opposing WIDOMA. AW is also a party in *Donohoo v. Action Wisconsin* discussed below.

WFA's interests supporting WIDOMA and traditional marriage are at stake in the following three cases. AW's opposing interests are likewise at stake. Because of Justice Butler's lack of

integrity and independence in accepting donations from AW while stating publicly that he wasn't, WFA has no confidence in his ability to be forthright and impartial.

- *McConkey vs. Doyle*, Dane County Case No. 2007CV002657. This case challenges whether WIDOMA violates the Wisconsin Constitution's single subject rule. The Wisconsin Supreme Court will decide whether WIDOMA was constitutionally adopted.
- *Helgeland v. Wisconsin Municipalities*, Appellate Case No. 2005AP002540. This case seeks judgment declaring the same-sex couples are substantially similar to married couples under the Wisconsin Constitution's equal protection clause. The Wisconsin Supreme Court will decide whether to create a legal definition of "same-sex couple" equivalent to marriage and whether the legislature may provide health benefits to married couples without providing similar benefits to such same-sex couples.
- *Donohoo v. Action Wisconsin*, Appellate Case No. 2006AP000396. In this case, the circuit court imposed sanctions against attorney James Donohoo for bringing a frivolous action against Action Wisconsin claiming that Donohoo's client had defamed AW. The court of appeals reversed, and AW appealed. This case has now been argued before the Wisconsin Supreme Court and is awaiting decision. While Wisconsin Family Action does not endorse the speech of Donohoo's client, the case is of great concern because AW has a direct financial interest in its outcome and Justice Butler's participation in the case without disclosing AW's financial contributions demonstrates partiality that may affect other cases in which AW is a party or its interests are at stake.

➤ JUSTICE BUTLER VIOLATED HIS PROMISE TO THE PUBLIC AT LEAST 4 TIMES BY ACCEPTING CONTRIBUTIONS FROM INTEREST GROUPS AND PARTIES INVOLVED IN A CASE HE WILL PARTICIPATE IN.

In early 2007, Justice Louis Butler announced publicly that he would not accept campaign contributions from parties to cases before the Wisconsin Supreme Court. However, he stated that he would accept contributions from attorneys representing those parties, but would disclose the contributions to all parties.

Attorney Lester Pines represents Action Wisconsin in *Donohoo v. Action Wisconsin*. Pines contributed \$300.00 to Butler's campaign in July, 2007, but did not disclose the contribution to Donohoo until December, 2007, when the Milwaukee Journal Sentinel began investigating.

Butler also failed to disclose contributions from board members of Fair Wisconsin, Action Wisconsin's corporate successor. Fair Wisconsin was the political campaign that Action Wisconsin formed for its failed effort to defeat Wisconsin's Marriage Protection Amendment in the 2006 election. According to State Election Board records, after the Amendment was adopted, Fair Wisconsin transferred \$27,000 and all of its remaining debt to Action Wisconsin.

Fair Wisconsin Board member Peter Bock donated \$125.00 to the Butler campaign on June 30, 2007, the day after Pines filed a notice of appeal with the Supreme Court in *Donohoo*. Pines donated \$300.00 just 10 days after he filed his first brief with the Supreme Court on July 23, 2007. On December 7, 2007, Fair Wisconsin Board member Ruth Irvings contributed \$100.00 to the Butler campaign. She gave another \$1,000.00 on January 28, 2008, less than two weeks after the oral arguments were presented in the case.

After the Milwaukee Journal Sentinel began investigating, Justice Butler made a public announcement in November, 2007, and advised Attorney Donohoo by letter dated December 3, 2007 that he had received a donation from Attorney Pines. He did not disclose the contribution from Boch. Butler later accepted contributions from FW board Ruth Irving, *safter* he made the announcement, and following oral arguments in the case. FW then announced an absentee ballot program specifically to benefit him.

Even then, Butler still accepted contributions from FW board members who gave money *after* he made the announcement and *after* FW announced an absentee ballot program specifically to benefit him.

➤ CHRONOLOGY.

- 2/2/2006 Circuit Court dismisses Donohoo as frivolous. Action Wisconsin represented Lester Pines.
- 2/16/2006 Donohoo files notice of Appeal  
<http://wscca.wicourts.gov/caseDetails.do;jsessionid=3F2F3CD5C742A1E9A298AD81FD06B2B3?caseNo=2006AP000396&cacheId=B0DBD996760B42316FC36835A7E4E3A8&recordCount=2&offset=0>
- 9/11/2006 Action Wisconsin forms Fair Wisconsin as its PAC opposing Wisconsin's Marriage Protection Amendment in the 2006 election
- 9/11/2006 Pines files motion for frivolous costs
- 11/3/2006 Fair Wisconsin Pays NGL Task Force \$5,298
- 11/3/2006 Fair Wisconsin transferred \$27,000 and all of its remaining debt to Action Wisconsin
- 12/16/2006 Fair Wisconsin transfers \$27,590.66 cash and related debt to Action Wisconsin, Inc.
- 12/16/2006 Action Wisconsin changed its name to Fair Wisconsin.
- 5/30/2007 Appeals Court Reverses order and Judgment
- 6/29/2007 Pines files notice of intent to appeal
- 6/30/2007 Peter Bock contributes \$125 (BOD Fair Wisconsin). Media accounts show that Butler also failed to disclose contributions from board members of Fair Wisconsin—formerly Action Wisconsin.
- 7/13/2007 Pines submits petition for SC review
- 7/23/2007 Lester Pines contributes \$300 to Butler
- 8/26/2007 Butler speaks at Wisconsin LGBT PAC <http://www.hrl-pac.org/id53.html>
- 9/11/2007 Supreme Court Accepts Review  
<http://wscca.wicourts.gov/appealHistory.xsl;jsessionid=875C858AA7654CF7ADAFBA4E49076C38?caseNo=2006AP000396&cacheId=D0CF0E9C5DBAD893AC3CA5F6002DDE9B&recordCount=2&offset=0&linkOnlyToForm=false&sortDirection=DESC>
- 10/9/2007 Tamara Packard files motion for misc. relief
- 10/15/2007 Oral Arguments Assigned
- 11/28/07 Butler announces he will advise all parties of having accepted contributions. Last year, Justice Louis Butler announced that while he would not accept campaign contributions from parties to cases before the court, he would

accept contributions from attorneys representing parties in cases, but that he would disclose those contributions.

<http://www.jsonline.com/story/index.aspx?id=691293>

State Supreme Court Justice Louis Butler did not immediately disclose that an attorney appearing before the court sat on his campaign finance committee and contributed \$500 to his election effort, despite his policy of making such matters public.

Butler eventually disclosed those details to parties in a tax case on Wednesday, just hours after the Journal Sentinel inquired about it.

12/7/2007 Ruth Irvings contributes \$100 (BOD Fair Wisconsin). Media accounts show that Butler also failed to disclose contributions from board members of Fair Wisconsin—formerly Action Wisconsin.

12/3/07 Butler finally sends letter advising parties of the Pines contribution.

1/15/2008 Oral Arguments DECISION PENDING

1/22/2008 Wisconsin LGBT PAC issues [Endorsement](#) of Butler for Supreme Court  
<http://www.hrl-pac.org/id70.html>

1/28/2008 Ruth Irvings contributes \$1000. Media accounts show that Butler also failed to disclose contributions from board members of Fair Wisconsin—formerly Action Wisconsin.

2/7/2008 Butler concurs to prohibit Municipal governments and legislators from joining as party to the lawsuit.

"Yet simply because other entities who are not at all involved in this action are concerned that any decision rendered by a court of law might become binding precedent in some future legal action against them, the dissent asserts that as a matter of right, these uninvolved entities can essentially hijack this lawsuit from the parties and turn it into a political referendum unrelated to the action filed. Give me a break."

2/7/2008 Fair Wisconsin News regarding SC's decision on municipalities' intervention in *Helgeland* <http://www.fairwisconsin.org/news/index.html>

2/19/2008 [Fair Wisconsin](#) (formerly known as Action Wisconsin) announces absentee ballot drive for Supreme Court race.  
<http://www.madison.com/tct/news/273062>

A gay advocacy group plans to hand out applications for absentee ballots outside polling stations around the state on Tuesday in order to hike voter participation in this spring's Wisconsin Supreme Court election.

"Hopefully, it will turn what is normally a very dreary turnout for an April election into something more," said Glenn Carlson, interim executive director of Fair Wisconsin, the statewide group that led the fight against the constitutional ban on gay marriage approved by voters last year.

Local election officials are predicting a high turnout for Tuesday's presidential primary at least in part due to the tight race between Sen. Hillary

Clinton and Sen. Barack Obama for the Democratic nomination.

Carlson said the upcoming Supreme Court race between Justice Louis Butler and challenger Michael Gableman is particularly important. The outcome could change the balance on the court between liberals and conservatives, and several cases important to Fair Wisconsin will likely make the docket in the next several years.

For starters, the Wisconsin Supreme Court will likely end up reviewing a technical issue associated with Bill McConkey's challenge of the same-sex marriage ban, Carlson said. A Dane County circuit court judge recently ruled that McConkey had standing to sue because the referendum illegally asked two questions -- whether to ban gay marriage and whether to ban anything "substantially similar" to marriage.

Carlson said the court will also likely hear a case involving six lesbian couples who are suing the state for being denied domestic partner benefits. He said the court will also ultimately decide how broadly to interpret the second sentence of the gay marriage amendment that bans anything "substantially similar" to marriage.

That would affect any number of things, including Fair Wisconsin's efforts to get a statewide domestic partner registry started, Carlson said.

Carlson said similar get-out-the vote efforts with absentee ballots have been successful in other nonpartisan races, both in Dane County and across the nation.

3/24/2008 Butler misrepresents in radio interview with VCY America's Jim Schneider that he appeared at Julaine Appling's group just like he did LGBT PAC Garden Party. <http://67.36.84.226/crosstalk2/Butler.mp3>