

J.B. VAN HOLLEN,

Plaintiff,

Case No. 08-CV-4085

vs.

GOVERNMENT ACCOUNTABILITY BOARD,
THOMAS CANE, GERALD NICHOL,
MICHAEL BRENNAN, WILLIAM EICH,
VICTOR MANIAN, GORDON MYSE,
KEVIN J. KENNEDY and NATHANIEL E. ROBINSON.

Defendants.

**DEFENDANT GOVERNMENT ACCOUNTABILITY BOARD'S
MOTION TO STRIKE PORTIONS OF THE COMPLAINT**

The Defendants, Government Accountability Board, Thomas Cane, Gerald Nichol, Michael Brennan, William Eich, Victor Manian, Gordon Myse, Kevin Kennedy and Nathaniel E. Robinson (hereinafter collectively "the Government Accountability Board") by Cullen Weston Pines & Bach LLP, their attorneys, hereby respectfully move the Court pursuant to Wis. Stat. §802.06(6) for an order striking out as immaterial surplusage the following matter in the Plaintiff's Complaint:

- Paragraphs 2, 3 and 4;
- The fourth sentence of paragraph 6;
- The first sentence of paragraph 38.


As grounds, Defendants respectfully represent as follows:

The statements made in those portions of the Complaint are immaterial surplusage, improper for a Complaint. Paragraph 2, the fourth sentence of paragraph 6 and the first sentence of paragraph 38, are speculative, unprovable statements and mere political grandstanding, clearly designed to inflame the passions of the reader, but irrelevant to the legal claims. Paragraphs 3 and 4 are more properly suited for a brief, as they cannot be responded to substantively without discussion of and citation to other legal authorities.

As our Supreme Court explained long ago, "The pleader is not permitted to inject by way of recital redundant or immaterial matter even if he numbers the paragraphs." *Bolick v. Gallagher*, 266 Wis. 208, 212, 63 N.W.2d 93 (1954). Such allegations make litigation even more costly, and can confuse the issues. *See 2 Wisconsin Pleading & Practice* §19:17.

Dated this 6th day of October, 2008.

CULLEN WESTON PINES & BACH LLP

By: 
Lester A. Pines, SBN 1016543
Tamara B. Packard, SBN 1023111
Nicholas E. Fairweather, SBN 1036681
Attorneys for the Defendants

Mailing Address:
122 West Washington Avenue
Suite 900
Madison, WI 53703
Telephone: (608) 251-0101
Facsimile: (608) 251-2883
pines@cwpb.com
packard@cwpb.com
fairweather@cwpb.com