

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

LEAGUE OF UNITED LATIN AMERICAN
CITIZENS (LULAC) OF WISCONSIN; CROSS LUTHERAN
CHURCH; MILWAUKEE AREA LABOR COUNCIL,
AFL-CIO; and WISCONSIN LEAGUE OF YOUNG VOTERS
EDUCATION FUND;

Plaintiffs,

v.

Case No. 12-CV-00185-LA

JUDGE DAVID G. DEININGER, JUDGE MICHAEL BRENNAN,
JUDGE GERALD C. NICHOL, JUDGE THOMAS BARLAND,
JUDGE THOMAS CANE, KEVIN J. KENNEDY, and
NATHANIEL E. ROBINSON, all in their official capacities,

Defendants.

PLAINTIFFS' CIVIL L. R. 16(c) PRETRIAL REPORT

Plaintiffs in Case No. 12-CV-185-LA, by their undersigned counsel, and pursuant to Civil L.R. 16(c), and this Court's orders respectfully submit this Pretrial Report.

A. Summary of the Facts, Claims, and Defenses

Plaintiffs raise a single federal statutory claim — that the photo ID requirements of 2011 Wisconsin Act 23 violate Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973. Section 2 forbids state and local governments from imposing any “voting qualification or prerequisite to voting or standard, practice, or procedure . . . in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color,” or membership in a language minority group. 42 U.S.C. § 1973(a). Section 2 is violated when the challenged voting requirement or procedure results in voters of color having

“less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.” *Id.* § 1973(b).

Plaintiffs will demonstrate that Act 23 is a voter suppression law that disproportionately impacts African-American and Latino voters and results in them having “less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice” in violation of Section 2. Numerous studies and the State’s own data confirm that Wisconsin’s African-American and Latino voters are much less likely than other voters to possess a driver’s license or state ID. The process of obtaining the required ID (including tracking down an original birth certificate) is, at best, inconvenient and costly. Many voters encounter substantial and sometimes insurmountable hurdles in seeking IDs. The State’s justifications for these disproportionate burdens are tenuous and demonstrably wrong. The evidence will establish that, whether innocently or intentionally, Act 23 is the modern equivalent of the voter suppression measures of earlier generations that were outlawed by Section 2. Like those disfranchisement laws of the past, Act 23 imposes “vague, arbitrary, hypertechnical, [and] unnecessarily difficult” requirements and a variety of bureaucratic “procedural hurdles” in a disproportionate manner on African-Americans, Latinos, and other voters of color, turning the voting process for them into a “test of skill” and the “engine of discrimination,” with the predictable result of suppressing the vote of voters of color. 1965 H. REP. 10, 13. Plaintiffs seek to enjoin the implementation and enforcement of the photo ID requirements of Act 23 in their entirety, together with additional equitable relief.

The companion case, *Ruthelle Frank, et al. v. Scott Walker, et al.*, No. 11-CV-1128-LA (E.D. Wis.), also alleges that 2011 Wisconsin Act 23 violates Section 2 of the Voting Rights Act. The *Frank* claims differ from those in this case in several respects: (a) The *Frank* case includes

claims of “vote dilution” as well as “vote denial” under Section 2, whereas this case focuses solely on “vote denial.” (b) The *Frank* case includes additional claims under the U.S. Constitution, whereas this case presents a single Section 2 claim. (c) The *Frank* case seeks the certification of several classes and sub-classes pursuant to Fed. R. Civ. P. 23, whereas this case is not a proposed class action.

B. Statement of the Issues

1. Do the photo ID requirements of 2011 Wisconsin Act 23 violate Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973?
2. What is the appropriate scope of relief to prevent any further implementation and enforcement of the photo ID requirements of 2011 Wisconsin Act 23 and to counteract the damage they already have caused?

C. Witnesses Expected To Testify

The following is a list of witnesses who may be called to testify at trial. Plaintiffs are working on ways to reduce the number of testifying witnesses, and to streamline the presentation of testimony at trial, including through coordination with the *Frank* plaintiffs and the use of witness declarations and deposition excerpts.

1. Debra Crawford
4265 N. 133rd Street
Brookfield, WI 53005
2. Arturo Martinez
LULAC-Wisconsin
700 West State Street
Milwaukee, Wisconsin 53233
3. Pastor Michelle Townsend de Lopez
Cross Lutheran Church
1821 N. 16th Street
Milwaukee, WI 53205
4. Rosalynn Wolfe

Wisconsin State Director
League of Young Voters of Wisconsin
2209 N. Martin Luther King Drive Suite 1
Milwaukee, WI 53212

5. Jaime Alvarado
LULAC-Wisconsin
700 West State Street
Milwaukee, Wisconsin 53233
6. Nicole Callazo-Santiago
3427 West St. Paul Avenue
Milwaukee, WI 53208
7. Lorene Hutchins
10205 W Good Hope Rd
Milwaukee, WI 53224
8. Katherine Clark
10205 W. Good Hope Rd.
Milwaukee, WI 53224
9. Brother David Schwab
St. Benedict's
1015 N. 9th Street
Milwaukee, WI 53233
10. Anita Johnson
Citizen Action of WI
221 South 2nd Street, Suite 300
Milwaukee, WI 53204
11. Jacqueline Johnson
2718 W. 34th Street
Milwaukee, WI 53210
12. Alice Leflore-Weddle
7035 W. Silver Spring Rd. Apt 2.
Milwaukee, WI 53225
13. Melvin Robertson
3515 W Hadley St.
Milwaukee, WI 53210
14. James Parker
3365 N 4th St.

Milwaukee, WI 53212

15. Rosie Thompson
4244 N. Teutonia Apt. 4
Milwaukee, WI 53209
16. John R. Mas
593 Belmont Ave.
Haledon, NJ 07508
17. Shamir Mahoney
3006 West Pierce ST
Milwaukee, WI 53215
18. Ray Sznewski
2487 South 99th ST
Milwaukee, WI 53227
19. Sheryl Egan
9230 W. Park Hill Ave.
Milwaukee, WI 53226
20. Reverend Willie E. Brisco
President, MICAH
1927 N. 4th ST
St. Francis Capuchin Center
Milwaukee, WI 53212
21. David Harris
2673 N. 29th St.
Milwaukee, WI 53210
22. Carmen Cabrera
1220 West Scott Street
Milwaukee, WI 53204
23. Rickey Davis
3017 W. Highland Blvd.
Apt. 108
Milwaukee, WI 53208
24. Roberta Lyles
3432 N. 3rd Street
Milwaukee, WI 53212
25. Yolanda Santos-Adams

718 North Memorial Drive
Racine, WI 53404

26. Jayme Montgomery Baker
2209 North Martin Luther King Jr. Drive, Suite 1
Milwaukee, WI 53212
27. Leland Beatty
1103 Upland Drive
Austin, TX 78741
28. Barry C. Burden
University of Wisconsin - Madison
Department of Political Science
1050 Bascom Mall
301 North Hall
Madison, WI 53706-1316
29. Sheila Cochran
CEO, Milwaukee Area Labor Council
633 S. Hawley Road, Suite 110
Milwaukee, WI 53214
30. Kenneth Lumpkin
1646 East St
Racine, WI 53402
31. Lorraine C. Minnite
401 Cooper Street
Camden, New Jersey 08102
32. Shirley Grandberry
1649 35th St, #208
Milwaukee, WI 53215
33. Angela McClinton
9200 W. Burch
Milwaukee, WI 53225
34. Lazaro Matheu
1028 S. 19th ST
Milwaukee, WI 53204
35. Orlando Martinez
828 S 19th St Apt 5
Milwaukee WI 53221

36. Martha Spencer
2900 N 37th St
Milwaukee, WI 53210
37. Tommy Wallace
3310 W McKinley Blvd
Milwaukee, WI 53208
38. Abigail Martinez
2344 S 18th St
Milwaukee, WI 53215
39. Carmencita Jackson
2749A North 25th St.
Milwaukee, WI 53206
40. Pastor Kenneth Wheeler
Head Pastor, Retired
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1821 North 16th Street
Milwaukee, WI 53205
41. Luis Garza
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Racine, WI 53408
42. Gloria Moore
3278 N. 17th St.
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43. Rep. JoCasta Zamarripa
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We reserve the right to call any other witness included in the witness lists submitted by the *Frank* plaintiffs or by defendants in either this case or the *Frank* case.

D. Statement of the Background of All Expert Witnesses Listed

Plaintiffs will introduce the testimony of three expert witnesses: (1) Leland Beatty, a statistical marketing consultant who has done extensive research on minority voting participation. Mr. Beatty's resume appears as Exhibit 1 to this Pretrial Report. (2) Barry C. Burden, Ph.D., a Professor of Political Science at the University of Wisconsin-Madison and Associate Chair and Director of Graduate Studies in the U.W.-Madison Department of Political Science. Dr. Burden's resume appears as Exhibit 2 to this Pretrial Report. (3) Lorraine C. Minnite, an Associate Professor in the Department of Public Policy and Administration at Rutgers, The State University of New Jersey-Camden. Dr. Minnite's resume appears as Exhibit 3 to this Pretrial Report.

E. Exhibits To Be Offered At Trial

Plaintiffs' list of Exhibits to be offered at trial is attached hereto as Exhibit 4. Plaintiffs reserve the right to offer additional exhibits into evidence at trial in rebuttal to Defendants' evidence.

F. Deposition Designations

Attached as Exhibit 5 are designations of portions of depositions which Plaintiffs may read into the record or play at trial as substantive evidence.

G. Estimated Time Needed To Try the Case

Plaintiffs believe that roughly two weeks (ten trial days) will be needed to try this case and the companion *Frank* case. Plaintiffs believe it would be most efficient to focus first on the Section 2 issues that are present in both cases, and for the *Frank* plaintiffs thereafter to proceed with other issues and evidence unique to their case. Plaintiffs also believe that the presentation of evidence can be accelerated through appropriate use of fact stipulations and witness affidavits rather than live testimony and/or deposition testimony.

H. Jury-Related Matters

As this case is not scheduled for a jury trial, Civil L. R. 16(c)(1)(H) is inapplicable.

I. Proposed Findings of Fact and Conclusions of Law

At the September 16, 2013 status conference, the Court gave the parties permission to wait until after the trial to file their proposed findings of fact and conclusions of law.

Dated: October 18, 2013

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Respectfully submitted,

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