

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ONE WISCONSIN INSTITUTE, INC., *et al.*,

Plaintiffs,

v.

Case No. 15-CV-324

GERALD C. NICHOL, *et al.*,

Defendants.

**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFFS' AMENDED COMPLAINT**

Defendants Gerald C. Nichol, Elsa Lamelas, Thomas Barland, Harold V. Froelich, Timothy Vocke, John Franke, Kevin J. Kennedy, and Michael Hass (collectively, "Defendants"), answer Plaintiffs' Amended Complaint as follows:

STATEMENT REGARDING MOTION TO DISMISS

Defendants are filing a motion to dismiss some claims in Plaintiffs' Amended Complaint. Defendants move to dismiss: (1) some of Plaintiffs' claims challenging the voter ID law, specifically, Counts I and II of the Amended Complaint; (2) Plaintiffs' rational basis claims in Count III of the Amended Complaint; and (3) Plaintiffs' so-called "partisan fencing" claims in

Count IV of the Amended Complaint. These Counts fail to state a claim upon which relief can be granted and should be dismissed under Rule 12(b)(6).

Response to unnumbered paragraphs on pages 1 and 2 of the Amended Complaint: Defendants lack knowledge or information sufficient to form a belief as to these allegations.

JURISDICTION AND VENUE

1. Defendants DENY that paragraph 1 contains any factual allegations. Paragraph 1 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 1 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 1.

2. Defendants DENY that paragraph 2 contains any factual allegations. Paragraph 2 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 2 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 2.

3. Defendants DENY that paragraph 3 contains any factual allegations. Paragraph 3 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 3 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 3.

PARTIES

4. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 4.

5. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 5.

6. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 6.

7. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 7.

8. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 8.

9. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 9 and footnote 1.

10. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 10.

11. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 11.

12. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 12.

13. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 13.

14. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 14.

15. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 15.

16. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 16.

17. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 17.

18. Defendants ADMIT the allegations in the first two sentences of paragraph 18. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 18.

19. Defendants ADMIT the allegations in paragraph 19.

20. Defendants ADMIT the allegations in paragraph 20.

21. Defendants ADMIT the allegations in paragraph 21.

22. Defendants ADMIT the allegations in paragraph 22.

23. Defendants ADMIT the allegations in paragraph 23.

24. Defendants ADMIT the allegations in paragraph 24.

25. Defendants ADMIT the allegations in paragraph 25.

26. Defendants ADMIT the allegations in paragraph 26.

FACTUAL ALLEGATIONS

Wisconsin's History and the Ongoing Effects of Discrimination

27. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 27.

28. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 28.

29. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 29.

30. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 30.

31. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize "early voting." To the extent that the allegations in paragraph 31 regarding "early voting" misstate the law, Defendants DENY the allegations in paragraph 31. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 31.

32. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 32.

33. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 33 and footnote 2.

34. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 34.

35. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 35.

36. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 36.

37. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 37.

38. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 38.

39. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 39.

40. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 40.

41. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 41.

Recent Political History

The 2008 Election

42. Defendants ADMIT that in the 2008 election President Barack Obama defeated Senator John McCain in Wisconsin by a margin of approximately 14% and that the two prior elections in Wisconsin were decided by less than one-half of a percentage point. Defendants lack

knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 42.

43. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 43.

44. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 44.

45. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 45.

46. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 46.

47. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 47.

48. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 48.

The 2010 Election and Subsequent Legislation

49. Defendants ADMIT the allegations in paragraph 49.

50. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 50.

51. Defendants AFFIRMATIVELY ALLEGE that the provision of Act 23 speak for themselves. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 51.

52. Defendants AFFIRMATIVELY ALLEGE that the requirements in 2011 Wisconsin Act 23 cited speak for themselves. To the extent the allegations in paragraph 52 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 52.

53. Defendants AFFIRMATIVELY ALLEGE that the requirements of the Wisconsin Acts cited and of the Wisconsin Statutes cited speak for themselves. To the extent the allegations in paragraph 53 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 53.

54. Defendants AFFIRMATIVELY ALLEGE that in August 2012 the Wisconsin Government Accountability Board unanimously directed that election officials shall accept electronic versions of any of the proof of residence documents under Wis. Stat. § 6.34(3)(a) that contain a current and complete name and address. See <http://tinyurl.com/qyrctuy>. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 54.

55. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 55.

The 2012 Election and Subsequent Litigation

56. Defendants ADMIT that President Obama was re-elected in 2012 and that he again won Wisconsin. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 56.

57. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 57.

58. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 58.

59. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 59.

60. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 60.

61. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 61 and footnote 3.

62. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 62 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 62. Defendants further AFFIRMATIVELY ALLEGE that the requirements of the Wisconsin Acts cited speak for themselves. To the extent the allegations in paragraph 62 and footnote 4 misstate the law or constitute factual allegations, Defendants lack knowledge

or information sufficient to form a belief as to the allegations in paragraph 62 and footnote 4.

63. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 63.

Challenged Provisions

Limitation on Early Voting Locations

64. Defendants DENY that paragraph 64 contains any factual allegations. Paragraph 64 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 64 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 64.

65. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 65 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 65. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 65.

66. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 66 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 66. Defendants further AFFIRMATIVELY ALLEGE that the GAB report referenced in paragraph 66 speaks for itself.

Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 66.

67. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 67 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 67. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 67.

68. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 68 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 68. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 68.

69. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 69 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 69. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 69.

70. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 70 regarding “early voting” misstate the law, Defendants DENY

the allegations in paragraph 70. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 70.

71. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 71 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 71. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 71.

72. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 72 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 72. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 72.

73. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 73 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 73. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 73.

74. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 74 regarding “early voting” misstate the law, Defendants DENY

the allegations in paragraph 74. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 74.

75. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 75 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 75. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 75.

76. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 76 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 76. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 76.

77. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 77 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 77. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 77.

Reductions in the Early Voting Period

78. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 78 regarding “early voting” misstate the law, Defendants DENY

the allegations in paragraph 78. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 78.

79. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 79 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 79. Defendants further AFFIRMATIVELY ALLEGE that the requirements of the Wisconsin laws cited speak for themselves. To the extent the allegations in paragraph 79 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 79.

80. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 80 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 80. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 80.

81. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 81 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 81. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 81.

82. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 82 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 82. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 82.

83. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 83 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 83. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 83.

84. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 84 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 84. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 84.

85. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 85 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 85. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 85.

86. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 86 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 86. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 86.

87. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 87 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 87. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 87.

88. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in paragraph 88 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 88. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 88.

Voter-Registration Restrictions

89. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 89.

Elimination of Corroboration and Expanded Proof-of-Residence Requirement

90. Defendants AFFIRMATIVELY ALLEGE that the requirements of the Wisconsin Acts and laws cited speak for themselves. To the extent the allegations in paragraph 90 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 90.

91. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 91.

92. Defendants AFFIRMATIVELY ALLEGE that Defendant Kennedy's testimony before the Wisconsin Senate Committee on Transportation and Ethics speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 92.

93. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 93.

94. Defendants ADMIT that Defendant Kennedy made the statement that is quoted in the last sentence of paragraph 94. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 94.

95. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 95.

96. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 96.

97. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 97.

98. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 98.

99. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 99.

100. Defendants ADMIT that Defendant Kennedy made the statement in the first sentence of paragraph 100. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 100.

101. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 101.

102. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 102.

103. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 103.

104. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 104.

Registration Restrictions Targeting Young Wisconsinites

105. Defendants AFFIRMATIVELY ALLEGE that the requirements of 2011 Wisconsin Act 23 cited speak for themselves. To the extent the allegations in paragraph 105 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 105.

106. Defendants AFFIRMATIVELY ALLEGE that the requirements of FERPA, 20 U.S.C. § 1232g, cited speak for themselves. To the extent the allegations in paragraph 106 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 106.

107. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 107.

108. Defendants AFFIRMATIVELY ALLEGE that the requirements of 2011 Wisconsin Act 240 cited speak for themselves. To the extent the allegations in paragraph 108 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 108.

109. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 109.

110. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 110.

Overturing Requirement that Landlords Distribute Voter-Registration Forms

111. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 111.

112. Defendants AFFIRMATIVELY ALLEGE that the requirements of 2013 Wisconsin Act 76 cited speak for themselves. To the extent the allegations in paragraph 112 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 112.

113. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 113.

114. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 114.

Elimination of Statewide Special Registration Deputies

115. Defendants AFFIRMATIVELY ALLEGE that the requirements of the Wisconsin laws cited speak for themselves. To the extent the allegations in paragraph 115 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 115.

116. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 116.

117. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 117.

118. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 118.

Increased Residency Requirements

119. Defendants AFFIRMATIVELY ALLEGE that the requirements of 2011 Wisconsin Act 23 cited speak for themselves. To the extent the allegations in paragraph 119 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 119.

120. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 120.

121. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 121.

122. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 122.

123. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 123.

124. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 124.

Invasive Poll Monitoring

125. Defendants DENY that prior to 2013 Wisconsin Act 177 election observers were required, pursuant to GAB policy, to maintain a six-foot distance from voters. Defendants AFFIRMATIVELY ALLEGE that prior to 2013 Wisconsin Act 177, GAB policy required election observers to maintain a six-foot distance from voters only if physically feasible. Defendants further AFFIRMATIVELY ALLEGE that the requirements of 2013 Wisconsin Act 177 cited speak for themselves. To the extent the remaining allegations in paragraph 125 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 125.

126. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 126.

127. Defendants ADMIT that on July 31, 2012, the GAB issued a statement, which included the language quoted in the first sentence of paragraph 127. Defendants AFFIRMATIVELY ALLEGE that the GAB's July 31, 2012, statement speaks for itself. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 127.

128. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 128.

129. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 129.

130. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 130.

131. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 131.

Elimination of Straight-Ticket Voting

132. Defendants AFFIRMATIVELY ALLEGE that the requirements of 2011 Wisconsin Act 23 cited speak for themselves. To the extent the allegations in paragraph 132 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 132.

133. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 133.

134. Defendants AFFIRMATIVELY ALLEGE that the requirements of the Wisconsin laws cited speak for themselves. To the extent the allegations in paragraph 134 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 134.

135. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 135.

136. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 136.

Changes to Absentee Voting

Elimination of Option to Obtain Absentee Ballots by Fax or Email

137. Defendants AFFIRMATIVELY ALLEGE that the requirements of 2011 Wisconsin Act 75 cited speak for themselves. To the extent the allegations in paragraph 137 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 137.

138. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 138.

139. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 139.

Prohibition on Returning Absentee Ballots to Correct Certain Mistakes

140. Defendants AFFIRMATIVELY ALLEGE that the requirements of 2011 Wisconsin Act 227 cited speak for themselves. To the extent the allegations in paragraph 140 misstate the law or constitute factual

allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 140.

141. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 141.

142. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 142.

The Voter ID Law

143. Defendants DENY that IDs from Wisconsin's two-year technical colleges cannot be used for voting. Defendants AFFIRMATIVELY ALLEGE that the GAB has promulgated an emergency rule that permits the use of technical college ID cards for voting. Defendants further AFFIRMATIVELY ALLEGE that the requirements of the Wisconsin Statutes cited speak for themselves. To the extent the allegations in paragraph 143 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 143.

144. Defendants AFFIRMATIVELY ALLEGE that the requirements of the Wisconsin Statutes cited speak for themselves. To the extent the allegations in paragraph 144 misstate the law or constitute factual allegations, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 144.

145. Defendants AFFIRMATIVELY ALLEGE that the trial court's decision in *Frank v. Walker*, 17 F. Supp. 3d 837, 854 (E.D. Wis. 2014), *rev'd* 768 F.3d 744 (7th Cir. 2014), speaks for itself. To the extent the allegations in paragraph 145 misstate the case law, Defendants DENY the allegations in paragraph 145. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 145.

146. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 146.

147. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 147.

148. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 148.

149. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 149.

150. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 150.

151. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 151.

152. Defendants AFFIRMATIVELY ALLEGE that the GAB has promulgated an emergency rule that permits the use of technical college ID

cards for voting. Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 152.

153. Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 153.

CAUSES OF ACTION

COUNT I

(Violations of Section 2 of the Voting Rights Act)

154. Defendants reassert and incorporate by reference their answers to all prior paragraphs of this Answer and the responses paragraphs in the paragraphs below as though fully set forth herein. To the extent that Count I of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

155. Defendants DENY that paragraph 155 contains any factual allegations. Paragraph 155 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 155 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 155. To the extent that Count I of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

156. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” To the extent that the allegations in

paragraph 156 regarding “early voting” misstate the law, Defendants DENY the allegations in paragraph 156. Defendants ADMIT that the Seventh Circuit has held that Wisconsin’s voter ID law does not violate Section 2 of the Voting Rights Act and that the voter ID law cannot be distinguished from the Indiana voter ID law upheld in *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008), which the Supreme Court found did not unduly burden the right to vote. Defendants DENY the remaining allegations in paragraph 156 and footnote 5. To the extent that Count I of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

157. Defendants DENY the allegations in paragraph 157. Defendants AFFIRMATIVELY ALLEGE that the Seventh Circuit has determined that the voter ID law does not violate Section 2 of the Voting Rights Act. *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014). To the extent that Count I of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

158. Defendants DENY the allegations in paragraph 158. Defendants AFFIRMATIVELY ALLEGE that the Seventh Circuit has determined that the voter ID law does not violate Section 2 of the Voting Rights Act. *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014). To the extent that Count I of

the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

159. Defendants DENY the allegations in paragraph 159. Defendants AFFIRMATIVELY ALLEGE that the Seventh Circuit has determined that the voter ID law does not violate Section 2 of the Voting Rights Act. *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014). To the extent that Count I of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

160. Defendants DENY the allegations in paragraph 160. Defendants AFFIRMATIVELY ALLEGE that the Seventh Circuit has determined that the voter ID law does not violate Section 2 of the Voting Rights Act. *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014). To the extent that Count I of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

COUNT II

(Undue Burdens on the Right to Vote in Violation of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment)

161. Defendants reassert and incorporate by reference their answers to all prior paragraphs of this Answer and the responses paragraphs in the paragraphs below as though fully set forth herein. To the extent that Count II

of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

162. Defendants DENY that paragraph 162 contains any factual allegations. Paragraph 161 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 162 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 162. To the extent that Count II of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

163. Defendants DENY the allegations in paragraph 163. Defendants AFFIRMATIVELY ALLEGE that the Seventh Circuit has determined that the voter ID law is constitutional. *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014). To the extent that Count II of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

COUNT III

(Disparate Treatment of Voters Without a Rational Basis in Violation of the Equal Protection Clause of the Fourteenth Amendment)

164. Defendants are moving to dismiss Plaintiffs' rational basis claims in Count III of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants reassert and

incorporate by reference their answers to all prior paragraphs of this Answer and the responses paragraphs in the paragraphs below as though fully set forth herein.

165. Defendants are moving to dismiss Plaintiffs' rational basis claims in Count III of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants DENY that paragraph 165 contains any factual allegations. Paragraph 165 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 165 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 165.

166. Defendants are moving to dismiss Plaintiffs' rational basis claims in Count III of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants DENY that paragraph 166 contains any factual allegations. Paragraph 166 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 166 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 166.

167. Defendants are moving to dismiss Plaintiffs' rational basis claims in Count III of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants DENY the allegations in paragraph 167.

168. Defendants are moving to dismiss Plaintiffs' rational basis claims in Count III of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants **AFFIRMATIVELY ALLEGE** that GAB has promulgated an emergency rule that permits the use of technical college ID cards for voting. Defendants further **AFFIRMATIVELY ALLEGE** that the voter ID law does not permit out-of-state IDs and some expired IDs for purposes of voting. Defendants **DENY** the remaining allegations in paragraph 168.

169. Defendants are moving to dismiss Plaintiffs' rational basis claims in Count III of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants **DENY** the allegations in paragraph 169.

COUNT IV

(Partisan Fencing in Violation of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment)

170. Defendants are moving to dismiss Plaintiffs' so-called "partisan fencing" claims in Count IV of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants reassert and incorporate by reference their answers to all prior paragraphs of this Answer and the responses paragraphs in the paragraphs below as though fully set forth herein.

171. Defendants are moving to dismiss Plaintiffs' so-called "partisan fencing" claims in Count IV of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants DENY that paragraph 171 contains any factual allegations. Paragraph 171 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 171 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 171. Plaintiffs' "partisan fencing" claims should be dismissed for the reasons stated in Defendants' motion to dismiss.

172. Defendants are moving to dismiss Plaintiffs' so-called "partisan fencing" claims in Count IV of the Amended Complaint; therefore, no response is warranted. To the extent any response is deemed necessary, Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize "early voting." To the extent that the allegations in paragraph 172 regarding "early voting" misstate the law, Defendants DENY the allegations in paragraph 172. Defendants DENY any remaining allegations in paragraph 172.

COUNT V

(Abridgement or Denial of the Right to Vote on the Basis of Race in Violation of the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment)

173. Defendants reassert and incorporate by reference their answers to all prior paragraphs of this Answer and the responses paragraphs in the paragraphs below as though fully set forth herein. To the extent that Count V of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

174. Defendants DENY that paragraph 174 contains any factual allegations. Paragraph 174 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 174 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 174. To the extent that Count V of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

175. Defendants DENY that paragraph 175 contains any factual allegations. Paragraph 175 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 175 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 175. To the extent that Count V of the Amended

Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

176. Defendants DENY that paragraph 176 contains any factual allegations. Paragraph 176 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 176 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 176. To the extent that Count V of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

177. Defendants DENY the allegations in paragraph 177. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” Defendants AFFIRMATIVELY ALLEGE that the Seventh Circuit has determined that the voter ID law is constitutional. *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014). To the extent that Count V of the Amended Complaint challenges the voter ID law, Defendants are filing a motion to dismiss that claim.

COUNT VI

(Abridgement or Denial of the Right to Vote on the Basis of Age in Violation of the Twenty-Sixth Amendment)

178. Defendants reassert and incorporate by reference their answers to all prior paragraphs of this Answer and the responses paragraphs in the paragraphs below as though fully set forth herein.

179. Defendants DENY that paragraph 179 contains any factual allegations. Paragraph 179 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 179 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 179.

180. Defendants DENY that paragraph 180 contains any factual allegations. Paragraph 180 instead contains only legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 180 misstate the law or constitute factual allegations, Defendants DENY the allegations in paragraph 180.

181. Defendants AFFIRMATIVELY ALLEGE that Wisconsin election laws do not authorize “early voting.” Defendants DENY the allegations in paragraph 181.

RESPONSE TO PRAYER FOR RELIEF AND WHEREFORE CLAUSE:

Defendants DENY that Plaintiffs are entitled to the relief that they have requested.

FURTHER RESPONSE: Defendants DENY all factual allegations in the Amended Complaint not expressly admitted herein.

AFFIRMATIVE DEFENSES

1. This Court lacks jurisdiction over the subject matter of the Amended Complaint because Plaintiffs lack standing.

2. The Amended Complaint fails to state a claim upon which relief can be granted.

WHEREFORE, Defendants respectfully request that judgment be entered in their favor dismissing this action with prejudice, denying all of the relief requested, and granting them such further relief as the Court deems appropriate.

Dated this 22nd day of July 2015.

Respectfully submitted,

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General Information

Court	United States District Court for the Western District of Wisconsin; United States District Court for the Western District of Wisconsin
Federal Nature of Suit	Civil Rights - Voting[441]
Docket Number	3:15-cv-00324