

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

_____)	
ONE WISCONSIN INSTITUTE, INC., et al.,)	
)	
Plaintiffs,)	
)	
v.)	
)	
JUDGE GERALD C. NICHOL in his official)	Civil Action No.: 3:15-cv-00324-jdp
capacity, et al.,)	
)	
Defendants.)	
)	
_____)	

MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO INTERVENE OF SENATOR VAN WANGGAARD, REPRESENTATIVE
KATHY BERNIER, WISCONSIN ELECTION OFFICIALS, AND WISCONSIN
VOTERS

Proposed Intervenors Senator Van Wanggaard, Representative Kathy Bernier, Tim McCumber, Kathleen Novack, Ken Dragotta, and Ardis Cerny hereby move to intervene as defendants in this case under Federal Rule of Civil Procedure 24. Proposed Intervenors each have a direct and tangible interest in this litigation that will necessarily be impaired if Plaintiffs prevail and that is not adequately represented by any Defendant. Moreover, Proposed Intervenors’ defense of Wisconsin’s ballot integrity laws shares common questions of law and fact with the claims and defenses raised in this case. The Court therefore should grant the Motion to intervene as of right under Rule 24(a) or, in the alternative, permissive intervention under Rule 24(b).

Proposed Intervenor Senator Van Wanggaard is a candidate for reelection to the Wisconsin Senate in 2018 and intends to be a candidate for office in Wisconsin in the future. Proposed Intervenor Representative Kathy Bernier is a candidate for reelection to the Assembly

in 2016 and intends to be a candidate for office in Wisconsin in the future. Proposed Intervenor Tim McCumber is the Merrimac Municipal Clerk, and Proposed Intervenor Kathleen Novack is the Waukesha County Clerk. Both are responsible for implementing Wisconsin's voting laws and conducting the electoral process in a fair and orderly fashion in their respective municipalities. Proposed Intervenors Ken Dragotta and Ardis Cerny are registered voters in Wisconsin. Each of the Proposed Intervenors has strong interests related to the integrity and orderly operation of Wisconsin's electoral process, and Plaintiffs' lawsuit unquestionably threatens to harm those interests by seeking to invalidate Wisconsin's ballot integrity laws and impose other sweeping and disruptive changes to the State's electoral system.

The State officials named as Defendants will not adequately represent Proposed Intervenors' interests—as reflected in the fact that they do not oppose intervention. Proposed Intervenors intend to raise arguments that the State will not raise, including the argument that the Constitution prohibits the type of race-conscious decisionmaking required under the aggressive interpretation of the Section 2 “results” test Plaintiffs embrace. Wisconsin law also presumes that the Attorney General is not an adequate representative of the specific interests of municipalities and local officials. Because the State cannot be counted on to represent the unique perspectives of the local officials who must implement the challenged laws or to raise the full range of arguments that Proposed Intervenors will raise, intervention should be granted as of right. At a minimum, permissive intervention is plainly warranted.

I. THE COURT SHOULD GRANT INTERVENTION AS OF RIGHT

Upon filing of a “timely motion,” Federal Rule of Civil Procedure 24(a)(2) requires this Court to “permit anyone to intervene” who demonstrates that he has “an interest relating to . . . the subject of the action” that would be impaired “as a practical matter” because of the action, unless the interest is adequately represented by existing parties to the litigation. *Reich v.*

ABC/York-Estes Corp., 64 F.3d 316, 321 (7th Cir. 1995). It is well settled that Rule 24(a) should be construed liberally in favor of permitting intervention. *See Trbovich v United Mine Workers of Am.*, 404 U.S. 528, (1972) (permitting union member to intervene in government lawsuit against union because an individual with a concern about “his lawyer,” *i.e.*, the Labor Secretary, should be heard). Proposed Intervenors easily meet this liberal standard for intervention as of right.

A. Proposed Intervenors’ Motion Is Timely

The Motion is timely. The most important timeliness consideration is whether intervention will cause any delay that will “prejudice . . . the original parties.” *Reich*, 64 F.3d at 321. The test for timeliness is “one of reasonableness: potential intervenors need to be reasonably diligent in learning of a suit that might affect their rights” and then act “reasonably promptly” to protect those rights. *Id.* (citation and internal quotation marks omitted). That is the case here. Plaintiffs originally filed their suit on May 29 and filed an Amended Complaint a month later on June 22. Proposed Intervenors have filed their Motion within two months of the filing of the Amended Complaint—and the parties have just completed briefing the motion to dismiss. *See Reich*, 64 F.3d at 321 (approving intervention nineteen months after complaint filed and after entry of default judgment); *Citizens Opposing Pollution v. Jewell*, No. 14-1107-DRH, 2015 U.S. Dist. LEXIS 99759, at *18 (S.D. Ill. July 30, 2015) (finding intervention motion timely when filed two months after motion to dismiss filed).

Proposed Intervenors thus have acted promptly and timely to protect their interests, and allowing them to intervene would cause no delay or prejudice to anyone. Proposed Intervenors, moreover, will work closely with Defendants to minimize any duplicative, overlapping, or additional discovery and testimony. Because “[t]he purpose of the [timeliness] requirement is to prevent a tardy intervenor from derailing a lawsuit within sight of the terminal” and this train has

only just left the station, Proposed Intervenor's Motion is timely. *Sokaogon Chippewa Cmty. v. Babbitt*, 214 F.3d 941, 949 (7th Cir. 2000) (second omission in original).

B. Proposed Intervenor's Strong Interests in Defending Wisconsin's Voter-Integrity Laws Will Be Impaired if Plaintiffs Prevail

To satisfy the standard for intervention as of right, a movant must "claim[] an interest relating to the property or transaction that is the subject of the action, and [be] so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest." Fed. R. Civ. P. 24(a)(2); *see also Reich*, 64 F.3d at 321. Here, Proposed Intervenor each have several strong interests related to the integrity and orderly operation of Wisconsin's electoral process, and those interests will be directly impaired if Plaintiffs prevail.

1. Municipal Election Officials: Tim McCumber and Kathleen Novack

Proposed Intervenor McCumber, the Merrimac Municipal Clerk, and Proposed Intervenor Novack, the Waukesha County Clerk, have a "direct, significant legally protectable" interest in this case because they are responsible for running clean, fair, and orderly elections in their respective municipalities; and they therefore will be "directly affected by" the injunctive relief sought by Plaintiffs. *Reich*, 64 F.3d at 322. In general, persons have a "right to intervene" in a case where they may be "directly affected by the District Court's orders." *Sixty-Seventh Minnesota State Senate v. Beens*, 406 U.S. 187, 194 (1972). And in particular, a government official has a sufficient interest to intervene if an adverse decision would make it "harder for him" to carry out his "statutory duty" or otherwise "directly affect him in the performance of his [statutory] obligations." *I.T.O. Corp. of Balt. v. Benefits Review Bd.*, 542 F.2d 903, 908 (4th Cir. 1976), *vacated on other grounds, Adkins v. I.T.O. Corp. of Baltimore*, 433 U.S. 904 (1977); *see also Bd. of Ed. of Cent. Sch. Dist. No. 1 v. Allen*, 392 U.S. 236, 241 n.5 (1968) (state officials have a "personal stake in the outcome of" a case if it may directly affect them in carrying out

their duties, especially if they may be forced to “violate[] their oath” by acting contrary to their sworn obligations); *Blake v. Pallan*, 554 F.2d 947, 953 (9th Cir. 1977) (“A state official has a sufficient interest [to intervene] in adjudications which will directly affect his own duties and powers under the state laws.” (citing *Hines v. D’Artois*, 531 F.2d 726, 738 (5th Cir. 1976))).

Proposed Intervenors McCumber and Novack easily satisfy this test. In each Wisconsin municipality, the Municipal Clerks and County Clerks must swear an oath to faithfully carry out “the duties of their respective offices,” Wis. Const. Art. IV, § 28, including the preparation of ballots, the administration of the absentee ballot provisions, the conduct of the election, and ascertaining of the results of the election. Wis. Stat. § 7.15; *see also id.* §§ 7.10 (listing election responsibilities of county clerks). If Plaintiffs prevail in their lawsuit, the Municipal Clerks and County Clerks will no longer have the “power” to require a Voter ID to prevent fraud during the “conduct of the election” and will instead be saddled with a “duty” not to enforce the Voter ID and other ballot integrity requirements. *See id.* § 6.28 (providing that voters may register to vote at municipal and county clerk offices). Under the black-letter law discussed above, any such limitation on the exercise of their official duties is the paradigmatic interest justifying intervention—indeed, it is an interest that is functionally the same as that of the State Defendants themselves.

In addition, Municipal Clerks and County Clerks would be significantly burdened by the requirement to engage in new training and adopt new procedures in response to whatever relief Plaintiffs may obtain. State law provides that “[e]ach municipal clerk shall train election officials,” as well as educate voters about the requirements of state law. *Id.* § 7.15(9), (11); *see also id.* § 7.10(7), (9) (same for county clerks). Proposed Intervenors McCumber and Novack, the Municipal Clerk and County Clerk who seek to intervene here, have already conducted many

hours of training in accordance with Wisconsin's existing laws. To conduct and undergo retraining for a new regime would require considerable time, effort, and inconvenience.

Finally, if Plaintiffs prevail, it may expose these officials to lawsuits in their personal capacities for carrying out their sworn duty to faithfully conduct elections. If this case sets a precedent "clearly establish[ing]" that even neutral and non-discriminatory ballot integrity requirements are unlawful, then Municipal Clerks and County Clerks could be held personally liable for enforcing other sensible, nondiscriminatory measures to protect the sanctity of the ballot. *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

2. Senator Van Wanggaard and Representative Kathy Bernier

Senator Van Wanggaard represents Wisconsin's 21st senatorial district in the Wisconsin Senate. He will be a candidate for reelection in 2018 and plans to run in future Wisconsin elections as well. Representative Kathy Bernier represents Wisconsin's 68th assembly district and serves as chair of the Assembly's Campaigns and Elections Committee, which passed the voter integrity measures that Plaintiffs now challenge. She will be a candidate for reelection in 2016 and plans to be a candidate in future Wisconsin elections. Accordingly, both Senator Wanggaard and Representative Bernier have strong personal interests that are threatened by Plaintiffs' lawsuit.

First, as incumbent officeholders and future candidates for office in Wisconsin, Senator Wanggaard and Representative Bernier have a direct interest in the process for determining qualified voters and votes in elections where they are candidates, particularly those parts of the process that implicate fraudulent votes that could cancel out their supporters' votes. Courts have recognized that elected officials have a "personal interest[] in their office" and that this interest is sufficient to support intervention in a lawsuit seeking to change the parameters of elections for

their office. *Johnson v. Mortham*, 915 F. Supp. 1529, 1538 (N.D. Fla. 1995); *see also Baldus v. Members of the Wis. Gov't Accountability Bd.*, No. 11-CV-562 JPS-DPW-RMD, 2011 U.S. Dist. LEXIS 134744, at *8 (E.D. Wis. Nov. 21, 2011) (allowing intervention by Wisconsin congressmen and state representatives); *Arrington v. Elections Bd.*, 173 F. Supp. 2d 856, 858-59, 867-68 (E.D. Wis. 2001) (allowing intervention by the State Senate Democratic Caucus, Assembly Speaker Scott Jenson, and State Senate Minority Leader Mary Panzer); *King v. State Bd. of Elections*, 979 F. Supp. 582, 587 (N.D. Ill. 1996) (noting the intervention of Congressman Bobby Rush), *vacated on other grounds by* 519 U.S. 978 (1996); *United States v. Bd. of Educ. of the City of Chicago*, No. 80 C 5124, 1993 U.S. Dist. LEXIS 14307, at *1 n.1 (N.D. Ill. Oct. 12, 1993) (noting the intervention of State Senator James Phillips); *Prince v. Kramer*, No. Civ. No. 9668, 1972 WL 123242, at *2 (W.D. Wash. Apr. 21, 1972) (noting intervention of Congressman Brock Adams).

In fact, a candidate's interest in defending his "chances for reelection" is so concrete that it even suffices to confer Article III standing. *Meese v. Keene*, 481 U.S. 465, 474-75 (1987). Here, Senator Wanggaard and Representative Bernier have an interest not only in ensuring that they are not defeated in an election through fraudulent means but also in guarding against corruption or "the appearance of corruption in the electoral process," which would undermine public confidence in and diminish the legitimacy of their offices. *Buckley v. Valeo*, 424 U.S. 1, 25 (1976) (per curiam); *see also Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 197 (2008) (holding that requiring photographic Voter ID not only "prevent[s] voter fraud" but also enhances "public confidence in the integrity of the electoral process," which "encourages citizen participation in the democratic process." (citing Carter-Baker Report, "Building Confidence in U. S. Elections" § 2.5 (Sept. 2005))).

Moreover, Senator Wanggaard and Representative Bernier have devoted considerable portions of their personal time and resources to advocating for voter-integrity measures such as the laws challenged in this case. If Plaintiffs succeed in having the laws declared invalid under the federal Constitution or the Voting Rights Act, all of this time and effort will have been wasted; and Senator Wanggaard and Representative Bernier will be foreclosed from meaningfully pursuing similar measures in the future. Relatedly, given their close association with the challenged laws in the public's eye, a victory for Plaintiffs on their false claims of racial discrimination would inevitably tar Senator Wanggaard and Representative Bernier with the brush of sponsoring such invidious discrimination.

3. Wisconsin Voters: Ken Dragotta and Ardis Cerny

Proposed Intervenors Dragotta and Cerny, as individual Wisconsin voters, have a strong personal interest in this case because they have a right not to have their votes canceled out by fraudulent ballots. The Supreme Court has long recognized that individuals have the "right to a vote" that is free of "dilution by a false tally." *Baker v. Carr*, 369 U.S. 186, 208 (1962). That interest will be impaired if Plaintiffs' challenge succeeds because the elimination of the challenged provisions will increase voter fraud and dilute the legitimate votes of Proposed Intervenors. Every unqualified vote inherently disenfranchises a qualified voter by cancelling out his or her vote. Thus, the increased potential for unqualified votes caused by invalidating Wisconsin's ballot reforms directly threatens Proposed Intervenors' right to have their votes counted. As lawful voters, Proposed Intervenors are the intended beneficiaries of the challenged provisions' protections.

In addition, if Plaintiffs' claims were to succeed, individual voters would face the same sort of burdens that Plaintiffs claim unconstitutionally infringe on the right to vote. Poll workers

and municipal election officials would need to be retrained, and the voting public would need to be educated about whatever new procedures may be ordered. This would likely lead to confusion among voters and poll workers, which would in turn cause longer lines and wait times at polling places, which under Plaintiffs' own theory would constitute a significant burden on the individual right to vote. *See* Amend. Compl. ¶ 66.

C. Defendants Will Not Adequately Protect Proposed Intervenors' Interest in the Integrity of Wisconsin Elections

The State officials who are the Defendants in this case cannot and will not adequately represent Proposed Intervenors' interests. Supreme Court precedent dictates that the burden to prove inadequacy "should be treated as minimal." *Trbovich*, 404 U.S. at 538 n.10. This "requirement of the Rule is satisfied if the applicant shows that representation of his interest 'may be' inadequate." *Id.* As a result, Proposed Intervenors should be allowed to intervene when the original party may not "diligently" pursue the "same" objective as the proposed intervenors, *Lake Investors Dev. Grp., Inc. v. Egidi Dev. Grp.*, 715 F.2d 1256, 1261 (7th Cir. 1983), or when the Proposed Intervenors' interest may not be "at one" with that of the original party, *City of Chicago v. Fed. Emergency Mgmt. Agency*, 660 F.3d 980, 984 (7th Cir. 2011). Cases involving public officials routinely fall into these categories because public officials often have "the duty to serve to two distinct interests, which are related, but not identical." *Trbovich*, 404 U.S. at 538. Thus, such "[c]ases allow intervention as a matter of right when an original party does not advance a ground that if upheld by the court would confer a tangible benefit on an intervenor who wants to litigate that ground." *City of Chicago*, 660 F.3d at 986; *see Reich*, 64 F.3d at 321-22; *Freedom From Religion Found., Inc. v. Koskinen*, 298 F.R.D. 385, 387-88 (W.D. Wis. 2014).

That is exactly the case here. Proposed Intervenors intend to raise arguments that the State cannot and will not raise. Specifically, Proposed Intervenors will argue that the aggressive view of the Section 2 “results” test embraced by Plaintiffs raises serious constitutional concerns under the Equal Protection Clause. Plaintiffs’ claims under Section 2 of the Voting Rights Act are based on an expansive notion of disparate-impact liability that overrides reasonable and neutral laws to favor certain racial groups. Under Plaintiff’s theory, the Voting Rights Act would “place a racial thumb on the scales, often requiring [defendants] to evaluate the racial outcomes of their policies, and to make decisions based on (because of) those racial outcomes”—a “type of racial decisionmaking” that is clearly “discriminatory.” *Ricci v. DeStefano*, 557 U.S. 557, 594 (2009) (Scalia, J., concurring); *see also Georgia v. Ashcroft*, 539 U.S. 461, 491 (2003) (Kennedy, J., concurring) (noting that “consideration of race” to achieve racial targets under the Voting Rights Act could “doom a redistricting plan under the Fourteenth Amendment”). Proposed Intervenors will argue that Plaintiffs’ interpretation of the Voting Rights Act would violate the Equal Protection Clause by sacrificing Wisconsin’s nondiscriminatory ballot-integrity measures for the sake of benefiting particular racial groups. The State has not pursued this argument, *e.g.*, Defs. Brief in Support of Motion to Dismiss at 3-5, Dkt. No. 22 (July 22, 2015), and will not pursue this argument because it conflicts with the State’s ability to pursue various race-based initiatives.

In addition, even assuming the Attorney General is an adequate representative of the generic public interest underlying the laws challenged in this case, he is not an adequate representative of the Proposed Intervenors’ specific interests. *See, e.g., City of Chicago*, 660 F.3d at 986. That is because he has no incentive to advance the Wisconsin local officials’ interests in protecting local resources and maintaining the efficiency of local voting mechanisms.

Indeed, in Wisconsin, local officials may obtain their own counsel to protect their unique interests. *See* Wis. Stat. §§ 59.42, 978.05(6). Wisconsin law thus presumes that the Attorney General is not an adequate representative for the unique interests of its municipalities and local officials.

For all these reasons, Proposed Intervenors have more than overcome their “minimal” burden of showing that the existing parties cannot adequately represent their interests, *Trbovich*, 404 U.S. at 538 n.10, and the Court should grant the Motion.

II. IN THE ALTERNATIVE, THE COURT SHOULD GRANT PERMISSIVE INTERVENTION

If the Court nonetheless determines that Proposed Intervenors are not entitled to intervene as of right, it should grant permissive intervention. Federal Rule of Civil Procedure 24(b) authorizes the Court to grant permissive intervention to “anyone . . . who . . . has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b). Rule 24(b) does not impose any additional requirements; it “is just about economy in litigation.” *City of Chicago*, 660 F.3d at 987. Here, Proposed Intervenors’ defense of Wisconsin’s laws obviously involves similar questions of law and fact as Plaintiffs’ challenge to those laws. And, as explained, their intervention will not “unduly delay or prejudice the adjudication of the original parties’ rights.” Fed. R. Civ. P. 24(b)(3); *see supra* Part I.A. Particularly given the importance of the issues involved, there is strong reason for this Court to exercise its discretion to grant permissive intervention. *Cf. Kasper v. Hayes*, 651 F. Supp. 1311, 1313 (N.D. Ill.) *aff’d sub nom. Kasper v. Bd. of Election Comm’rs*, 810 F.2d 1167 (7th Cir. 1987) (“[I]n litigation involving an issue so sensitive and central to the democratic process as the eligibility of voters, the active participation of all interested parties is essential”).

CONCLUSION

The Court should grant this Motion to intervene as of right or, in the alternative, permissive intervention.

Dated: September 1, 2015

Respectfully submitted,

/s/ Michael A. Carvin

Michael A. Carvin (*pro hac vice* pending)

John M. Gore (*pro hac vice* pending)

Anthony J. Dick (*pro hac vice* to be filed)

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CERTIFICATE OF SERVICE

I certify that on September 1, 2015, a copy of the Memorandum in Support of the Motion to Intervene was filed electronically with the Clerk of Court using the ECF system, which will send notification to the following ECF participants:

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Dated: September 1, 2015

/s/ Michael A. Carvin
Michael A. Carvin
Counsel for Proposed Intervenors

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

<p>ONE WISCONSIN INSTITUTE, INC., et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>JUDGE GERALD C. NICHOL in his official capacity, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Civil Action No.: 3:15-cv-00324-jdp</p>
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**INTERVENOR-DEFENDANTS’ [PROPOSED] ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFFS’ AMENDED COMPLAINT**

Intervenor-Defendants Senator Van Wanggaard, Representative Kathy Bernier, Bob Spindell, Tim McCumber, Ken Dragotta, and Ardis Cerny (collectively, Intervenor-Defendants), answer Plaintiffs’ Amended Complaint as follows:

Response to unnumbered paragraphs on pages 1 and 2 of the Amended Complaint:

Intervenor-Defendants lack knowledge or information sufficient to form a belief as to these allegations.

JURISDICTION AND VENUE

1. Intervenor-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 that the allegations in paragraph 1 misstate the law or constitute factual allegations, Intervenor-Defendants deny the allegations in paragraph 1.

2. Intervenor-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 that the allegations in paragraph 2 misstate the law or constitute factual allegations, Intervenor-Defendants deny the allegations in paragraph 2.

3. Intervenor-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 that the allegations in paragraph 3 misstate the law or constitute factual allegations, Intervenor-Defendants deny the allegations in paragraph 3.

PARTIES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 18.

19. Intervenor-Defendants admit the allegations in paragraph 19.

20. Intervenor-Defendants admit the allegations in paragraph 20.

21. Intervenor-Defendants admit the allegations in paragraph 21.

22. Intervenor-Defendants admit the allegations in paragraph 22.

23. Intervenor-Defendants admit the allegations in paragraph 23.

24. Intervenor-Defendants admit the allegations in paragraph 24.

25. Intervenor-Defendants admit the allegations in paragraph 25.

26. Intervenor-Defendants admit the allegations in paragraph 26.

FACTUAL ALLEGATIONS

Wisconsin's History and the Ongoing Effects of Discrimination

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

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

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

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

31. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 31. Intervenor-Defendants lack knowledge or information sufficient to form a belief as the remaining allegations in 31.

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

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

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

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

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

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

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

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

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

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

Recent Political History

The 2008 Election

42. Intervenor-Defendants admit that, in the 2008 election, President Barack Obama defeated Senator John McCain in Wisconsin by a margin of approximately fourteen percentage points and that the two prior elections in Wisconsin were decided by less than one-half percentage point. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 42.

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

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

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

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

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

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

The 2010 Election and Subsequent Legislation

49. Intervenor-Defendants admit the allegations in paragraph 49.

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

51. Intervenor-Defendants affirmatively allege that the text of Act 23 is a public record and speaks for itself. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 51.

52. Intervenor-Defendants affirmatively allege that the text of the Wisconsin Act and Wisconsin Statutes cited speak for themselves. To the extent the allegations in paragraph 52 misstate Wisconsin law or constitute factual allegations, Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegation in paragraph 52.

53. Intervenor-Defendants affirmatively allege that the text of the Wisconsin Act and Wisconsin Statutes cited speak for themselves. To the extent the allegations in paragraph 53 misstate Wisconsin law or constitute factual allegations, Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegation in paragraph 53.

54. Intervenor-Defendants affirmatively allege that, in August 2012, the Wisconsin Government Accountability Board unanimously directed that election officials should 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. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the remaining allegation in paragraph 54.

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

The 2012 Election and Subsequent Litigation

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

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

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

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

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

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

62. Intervenor-Defendants affirmatively allege that Wisconsin election laws do not authorize “early voting.” To the extent the allegations in paragraph 62 regarding “early voting”

misstate the law, Intervenor-Defendants deny the allegations in paragraph 62. Intervenor-Defendants affirmatively allege that the requirements of the Wisconsin Acts speak for themselves. To the extent the allegations in paragraph 62 and footnote 4 misstate the law or constitute factual allegations, Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 62 and footnote 4.

63. Intervenor-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. Intervenor-Defendants deny that paragraph 64 contains any factual allegations. Instead, it 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, Intervenor-Defendants deny the allegations in paragraph 64.

65. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 65. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 65.

66. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 66. Intervenor-Defendants further affirmatively allege that the GAB report referenced in paragraph 66 speaks for itself. Intervenor-Defendants lack knowledge or information sufficient to form a

belief about the remaining allegations in paragraph 66.

67. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 67. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegation in paragraph 67.

68. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 68. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 68.

69. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 69. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 69.

70. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 70. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 70.

71. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 71. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 71.

72. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 72. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 72.

73. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 73. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 73.

74. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 74. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 74.

75. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 75. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 75.

76. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 76. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 76.

77. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 77. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 77.

Reductions in the Early Voting Period

78. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 78. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 78.

79. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 79. Further, Intervenor-Defendants affirmatively allege that the requirements of the cited Wisconsin laws speak for themselves. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 79.

80. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 80. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 80.

81. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 81. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 81.

82. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 82. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 82.

83. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 83. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 83.

84. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 84. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the

remaining allegations in paragraph 84.

85. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 85. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 85.

86. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 86. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 86.

87. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 87. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 87.

88. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 88. Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 88.

Voter Registration Restrictions

89. Intervenor-Defendants lack knowledge or information sufficient to form a belief

as to the allegations in paragraph 89.

Elimination of Corroboration and Expanded Proof-of-Resident Requirement

90. Intervenor-Defendants affirmatively allege that the requirements of the Wisconsin Acts and laws cited speak for themselves. To the extent that the allegations in paragraph 90 misstate the law or constitute factual allegations, Intervenor-Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 65.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Registration Restrictions Targeting Young Wisconsinites

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

106. Intervenor-Defendants affirmatively allege that the requirements of 20 U.S.C. § 1232g speak for themselves. To the extent the allegations in paragraph 106 misstate the law or constitute factual allegations, Intervenor-Defendants lack knowledge or information sufficient to

form a belief as to the allegations in paragraph 106.

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

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

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

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

Overturning Requirement That Landlords Distribute Voter-Registration Forms

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

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

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

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

Elimination of Statewide Special Registration Deputies

115. Intervenor-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, Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 115.

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

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

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

Increased Residency Requirements

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

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

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

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

123. Intervenor-Defendants lack knowledge or information sufficient to form a belief

as to the allegations in paragraph 123.

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

Invasive Poll Monitoring

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

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

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

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

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

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

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

Elimination of Straight-Ticket Voting

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

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

134. Intervenor-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, Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 134.

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

136. Intervenor-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 E-mail

137. Intervenor-Defendants affirmatively allege that the requirements of 2011 Wisconsin Act 75 speak for themselves. To the extent the allegations in paragraph 137 misstate

the law or constitute factual allegations, Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegation in paragraph 137.

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

139. Intervenor-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. Intervenor-Defendants affirmatively allege that the requirements of 2011 Wisconsin Act 227 speak for themselves. To the extent the allegations in paragraph 140 misstate the law or constitute factual allegations, Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 140.

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

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

The Voter ID Law

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

144. Intervenor-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, Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph 144.

145. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 145. Intervenor-Defendants lack knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 145.

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

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

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

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

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

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

152. Intervenor-Defendants affirmatively allege that the GAB has promulgated an emergency rule that permits the use of technical college ID cards for voting. Intervenor-

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

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

155. Intervenor-Defendants deny that paragraph 155 contains factual allegations. Paragraph 155 instead constitutes 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, Intervenor-Defendants deny the allegations of paragraph 155.

156. Intervenor-Defendants affirmatively allege that Wisconsin election laws do not authorize “early voting.” To the extent the allegations in paragraph 156 regarding “early voting” misstate the law, Intervenor-Defendants deny the allegations in paragraph 156. Intervenor-Defendants admit that the Seventh Circuit has held that the Wisconsin 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 held did not unduly burden the right to vote. Intervenor-Defendants deny the remaining allegations in paragraph 156 and footnote 5.

157. Intervenor-Defendants deny the allegations of paragraph 157. Intervenor-

Defendants affirmatively allege that the Seventh Circuit has determined that the voter ID law does not violate Section 2 of the Voting Rights Act in *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014).

158. Intervenor-Defendants deny the allegations in paragraph 158. Intervenor-Defendants affirmatively allege that the Seventh Circuit has determined that the voter ID law does not violate Section 2 of the Voting Rights Act in *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014).

159. Intervenor-Defendants deny the allegations in paragraph 159. Intervenor-Defendants affirmatively allege that the Seventh Circuit has determined that the voter ID law does not violate Section 2 of the Voting Rights Act in *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014).

160. Intervenor-Defendants deny the allegations in paragraph 160. Intervenor-Defendants affirmatively allege that the Seventh Circuit has determined that the voter ID law does not violate Section 2 of the Voting Rights Act in *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014).

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

162. Intervenor-Defendants deny that paragraph 162 contains any factual allegations. Instead, it only contains legal conclusions to which no responsive pleading is required. To the extent the allegations in paragraph 162 misstate the law or constitute factual allegations,

Intervenor-Defendants deny the allegations in paragraph 162.

163. Intervenor-Defendants deny the allegations contained in paragraph 163. Intervenor-Defendants affirmatively allege that the Seventh Circuit has determined that the voter ID law is constitutional in *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014).

COUNT III

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

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

165. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 165.

166. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 166.

167. Intervenor-Defendants deny the allegations in paragraph 167.

168. Intervenor-Defendants affirmatively allege that the GAB has promulgated an emergency rule that permits the use of technical college ID cards for voting. Intervenor-Defendants further affirmatively allege that the voter ID law does not permit out-of-state and some expired voter IDs for the purpose of voting. Intervenor-Defendants deny the remaining allegations in paragraph 168.

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

171. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 171.

172. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 172 and 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 Fifteenth Amendment)

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

174. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 174.

175. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 175.

176. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 176.

177. Intervenor-Defendants deny the allegations in paragraph 177. Intervenor-Defendants affirmatively allege that Wisconsin election laws do not authorize “early voting.” Intervenor-Defendants further affirmatively allege that the Seventh Circuit has determined that the voter ID law is constitutional in *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014).

COUNT VI

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

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

179. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 179.

180. Intervenor-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, Intervenor-Defendants deny the allegations in paragraph 180.

181. Intervenor-Defendants affirmatively allege that Wisconsin election laws do not authorize “early voting.” Intervenor-Defendants deny the allegations in paragraph 181.

RESPONSE TO PRAYER FOR RELIEF AND WHEREFORE CLAUSE:

Intervenor-Defendants deny that Plaintiffs are entitled to the relief they have requested.

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

AFFIRMATIVE DEFENSES

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

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

WHEREFORE, Intervenor-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: September 1, 2015

Respectfully submitted,

/s/ Michael A. Carvin

Michael A. Carvin (*pro hac vice* pending)

John M. Gore (*pro hac vice* pending)

Anthony J. Dick (*pro hac vice* to be filed)

Michael Murray (*pro hac vice* to be filed)

Stephen A. Vaden (*pro hac vice* pending)

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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