

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

MARK L. THOMSEN, *et al.*,

Defendants.

REPLY IN SUPPORT OF STAY PENDING APPEAL

This Court’s decision is a “disruption of the state’s electoral system” that “will cause irreparable injury” absent a stay. *Frank v. Walker*, No. 16-3003, slip op. at 1 (7th Cir. Aug. 10, 2016).¹ The decision changed where and when Wisconsin may conduct in-person absentee voting, and how it can distribute ballots. (Dkt. 234:118–19.) It rewrote the law on how people can register to vote, and how long a person must live in a municipality before voting there. (*Id.*) It even rewrote administrative rules for the DMV,² created an entire new type of official Wisconsin state-issued ID, and dictated the rules for how the new Wisconsin ID will be issued. (*Id.*) The ruling amounts

¹ A copy of the August 10, 2016, Seventh Circuit Order is attached to this reply as Exhibit A for the convenience of the court.

² The Wisconsin Department of Transportation, Division of Motor Vehicles is referred to as “DMV.”

to a rewrite of state election procedures by a federal court, in the face of the states' "broad [Constitutional] authority to regulate the conduct of elections, including federal ones." *Griffin v. Roupas*, 385 F.3d 1128, 1130 (7th Cir. 2004). The plaintiffs are dismissive of this vast overhaul of state election procedures and refer to this description as a caricature, but it is not; the Court "really did" undertake a massive, severe, and burdensome rewrite of Wisconsin's election rules. (Dkt. 250:1.)

The majority of the plaintiffs' argument in opposition to granting a stay simply restates the Court's decision. But, as Plaintiffs note, rehashing trial arguments is not helpful to the stay inquiry. Relevant here are the likelihood of reversal on appeal, the harm to the defendants, and the harm and confusion to voters and the integrity of Wisconsin's election system. Reversal on appeal is extremely likely in light of the substance of the ruling, and the reliable pattern of appellate modification in cases like this. The defendants, and the public, will be harmed by the Court's ruling, and also by the changes that will occur after a likely reversal, which could happen shortly before an election. The decision and judgment should be stayed.

I. The defendants are likely to succeed on the merits of an appeal.

Defendants disagree with many of the plaintiffs' characterizations of facts and law in their response. But the defendants' position is already stated in the stay motion and the hundreds of pages of briefing on summary

judgment and post-trial submissions. This reply will focus on the most important points from the plaintiffs' response.

A stay of the IDPP portion of this Court's order is entirely appropriate. Earlier today, the Seventh Circuit stayed the affidavit procedure imposed by the Eastern District in *Frank v. Walker*. See No. 16-3003, Dkt. 24 at 2. In both the stay motion in *Frank* and in the present stay motion, the State argued that there is no need for judicial intervention into the IDPP because every IDPP applicant will receive a photo ID. Attached to this Reply is a copy of Kristina Boardman's declaration, submitted in *Frank* and explaining how the IDPP is implemented under current law (including that, under the May 10, 2016 rule, no IDPP application can be denied except for fraud, ineligibility, failure to respond once for 180 days in a row, or voluntary withdrawal from the IDPP). See Ex. B (Boardman Decl. ¶ 41.)³ In any event, at the absolute minimum, it is entirely undisputed that under current law, all IDPP applicants automatically receive a free photo ID for the November 2016 election. This means that a stay pending appeal is appropriate here, just as it was in *Frank*.

³ Kristina Boardman's declaration was part of the record considered by Judge Adelman in making his decision in *Frank*. See *Frank v. Walker*, No. 11-cv-1128, Dkt. 287 (E.D. Wis.). And this Court has expressly adopted Judge Adelman's facts from *Frank*, so it is attached for the convenience of the Court.

Plaintiffs suggest that the defendants are somehow making inconsistent arguments in the two cases. (Dkt. 250:11.) But the defendants have simply explained that this Court's ruling as it might affect the November election "duplicates, in every respect relevant to the November 2016 election, the system that Wisconsin has voluntarily had in place since May 10, 2016." Defs'-Appellants-Cross-Appellees' Reply in Support of the Emergency Motion to Stay the Preliminary Injunction Pending Appeal at 2, *Frank v. Walker*, Nos. 16-3003, 3052 (7th Cir. Aug. 8, 2016) (Dkt. 21:2.) This is because every voter who makes a simple trip to DMV will have a valid voting ID in November. *See* Wis. EmR. 1618 § 8.

Next, regarding faxing and emailing ballots, the plaintiffs suggest that it is "specious" to discuss what clerks will have to do to process ballots that are faxed or emailed back to the clerk. (Dkt. 250:16.) Plaintiffs assert that this Court's order relates solely to clerks sending ballots, not their receipt. Such a narrow view of the relief granted misperceives the effect of this Court's order and highlights the legitimate concern underlying many of the laws that this Court invalidated.

To illustrate: although this Court's order only directly addressed clerks *sending* ballots via fax or email, the more significant administrative burden occurs when clerks receive those ballots back. Those completed ballots are not the normal printed ballots, because they are reproductions of the faxed or

emailed electronic version. (*See* Dkts. 216:142; 218:116–18.) Clerks must reproduce the transmitted ballots into a form that can be read along with the rest of the ballots. This requires time and oversight, introduces the possibility of error, and unnecessarily deprives voters of their private vote. (*See* Dkts. 216:142; 218:116–18.) The Court’s order entirely ignores this reality, and disrupts the State’s electoral system. (*See* Dkts. 216:118–20; 219:14–16, 32–33; 218:114–15, 160–61.)

Regarding voting locations and hours, what the plaintiffs characterize as “simply restor[ing] discretion to municipalities” is in fact a rejection of the State’s attempt to develop a cohesive statewide elections system. (Dkt. 250:2.) The State found a clear, consistent window in which in-person absentee voting may occur. And Wisconsin clerks outside of Milwaukee and Madison agree with this approach. (*See* Dkts. 216:118–20; 219:14–16, 32–33 (discussing pressures on clerks from voters); 218:114–15, 160–61.) This Court’s ruling prevents the State from making that basic administrative decision, and is likely to be reversed on appeal.

II. Voter confusion and hardship to the defendants will occur if a stay is not granted.

This Court’s vast reform of Wisconsin election procedures will cause confusion if not stayed, which will be dramatically compounded after likely

reversal or modification on appeal. More so than in *Frank*, the Order here threatens a much bigger disruption because it impacts so many laws.

A. The decision causes confusion and disruption to election procedures.

The plaintiffs argue that concerns about voter confusion weigh against a stay. (Dkt. 250:17.) To the contrary, this Court's ruling creates serious confusion about the state of current law. For example, the Court ruled that the increase of durational requirement from 10 to 28 days is unconstitutional. The plaintiffs seem to presume that this means the prior 10-day requirement is in effect. (Dkt. 250:15.) But if the statute containing the 28-day requirement is unenforceable, there is *no* durational requirement. If the Court's intention was to un-enact the 28-day law and revert to the 10-day rule, then substantial uncertainty exists about the current state of the law. Did the Court line-edit the statute to cross out 28 and add 10, or is the entire statute nullified, placing the entire construct of durational residency under this Court's jurisdiction?

Under the ruling, clerks are unrestricted in the time they can hold in-person absentee voting, except for the Monday preceding an election. (Dkt. 234:118.) But clerks are not the only players involved in administering a state-wide election. The Court's ruling is silent about the effect of clerks who may decide to hold hours long before an election is ready to be held.

Confusion is assured if municipalities advertise, or hold, in-person absentee voting hours before election materials are finalized. This, along with the other rulings, is an inappropriate disruption to the State's electoral system, and it should be stayed.

B. Recent election law cases demonstrate an undeniable trend of modification and reversal of district court decisions invalidating election laws.

Plaintiffs make no attempt to challenge the undisputed procedural history of virtually every recent major election law case—decisions that get stayed, reversed, or modified on appeal. Instead, they argue “those are different cases with different facts.” (Dkt. 250:18.) Their response is unconvincing and, when dismantled, necessarily supports granting a stay.

Plaintiffs first cite the Fourth Circuit's recent denial of a stay in *North Carolina State Conference of NAACP v. McCrory*, No. 16-1468, 2016 WL 4053033 (4th Cir. July 29, 2016), arguing that the court's reasoning should apply equally here. (Dkt. 250:18.) This argument misses the mark. *McCrory* has already reached a merits decision on appeal. *See id.* The Fourth Circuit denied a stay pending North Carolina's filing and disposition of a petition for writ of certiorari to the Supreme Court. Stay Order, *McCrory*, No. 16-1468, slip op. at 7 (4th Cir. Aug. 4, 2016). Plaintiffs fail to acknowledge that before *McCrory* reached this appellate decision on the merits of its state election laws, the district court was twice

reversed by the Fourth Circuit and once stayed by the Supreme Court—ultimately in favor of allowing existing state elections law to stand. (See Dkt. 241:10–11.)

Furthermore, a primary reason for the Fourth Circuit’s recent denial of a stay was that North Carolina had already begun the process of notifying its voters of the mandated changes, and “[v]oters are likely to rely on that announcement.” Stay Order, *McCrorry*, No. 16-1468, slip op. at 7 (4th Cir. Aug. 4, 2016). North Carolina also assured the Fourth Circuit that it could comply with the injunction. *Id.* “Because of these assurances, [the Fourth Circuit is] confident that North Carolina can conduct the 2016 election in compliance with [its] injunction.” *Id.*

Unlike *McCrorry*, this case has just begun the appellate process—a process that, in every recent major election law case, has resulted in instability during the appellate process. The State has not begun the process of notifying voters as to any portion of the Court’s order, nor were any assurances made to the Court regarding implementation of its order. So while a stay was recently denied in *McCrorry*, both the procedural posture and reasons for the denial significantly distinguish that decision from application here.

Plaintiffs’ reliance on *Veasey* is similarly misguided. While they acknowledge that the Supreme Court upheld a stay that allowed the

challenged election law to stand—a fact that *supports* granting the stay in this case—they ignore the back-and-forth procedural history between the district court and the Fifth Circuit. It is this pattern of appeal followed by modification or reversal that confuses voters, which is contrary to the public interest.

Tellingly, the plaintiffs fail to even acknowledge the dizzying pattern of election law implementation that has resulted in this State from the *Frank* litigation—a case involving the same voter ID law at issue here. Continuing this pattern of modification of state election practices and subsequent reversal, the Seventh Circuit today stayed the district court’s preliminary injunction requiring an affidavit process for voters who do not possess a qualifying photo ID. *Frank v. Walker*, Nos. 16-3003, 16-3052, slip op. at 2 (7th Cir. Aug. 10, 2016). *Frank* demonstrates the close level of scrutiny the Seventh Circuit has given challenges to state election laws—a level of scrutiny that will likely result in a reversal of this case on appeal.

In fact, the plaintiffs’ appeal in this case fully supports the issuance of a stay. They will inevitably request different relief than what the Court has issued in its order, which further supports the pattern of reversal or modification of election laws that occurs on appeal. Indeed, they have already done so in their response to the stay motion. (*See* Dkt. 250:11, urging broader relief than what this Court has already ordered.) The public interest is not

furthered by election laws that are constantly evolving through the course of appellate review. As the Supreme Court recognized in *Purcell v. Gonzalez*, 549 U.S. 1 (2006), “[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls.” *Id.* at 4–5. For these reasons, a stay must be granted.

CONCLUSION

The defendants are likely to succeed on appeal for all of the reasons already argued in this case. Modification and remand of the Court’s improper disruption of the state’s electoral system is likely, just like what has happened on appeal in virtually every similar elections law case. The present confusion caused by this Court’s decision, and the compounding effect of a likely remand, compels staying the decision and judgment pending appeal.

Dated this 10th day of August, 2016.

Respectfully submitted,

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United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

August 10, 2016

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL S. KANNE, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

Nos. 16-3003 & 16-3052

RUTHELLE FRANK, *et al.*,
Plaintiffs-Appellees, Cross-Appellants,

v.

SCOTT WALKER, in his official capacity as
Governor of the State of Wisconsin, *et al.*,
Defendants-Appellants, Cross-Appellees.

Appeals from the United
States District Court for
the Eastern District of
Wisconsin.

No. 11-C-1128
Lynn Adelman, *Judge.*

Order

The injunction entered by the district court on July 19, 2016, is stayed pending appeal. Applying the standards of *Nken v. Holder*, 556 U.S. 418 (2009), we conclude both that the district court's decision is likely to be reversed on appeal and that disruption of the state's electoral system in the interim will cause irreparable injury.

Our most recent decision in this case concluded that anyone who is eligible to vote in Wisconsin, but cannot obtain a qualifying photo ID with reasonable effort, is entitled to an accommodation that will permit him or her to cast a ballot.

Frank v. Walker, 819 F.3d 384 (7th Cir. 2016). On remand, the district court concluded that at least some voters fall in this category, notwithstanding the most recent revisions to the procedures that Wisconsin uses to issue photo IDs. But instead of attempting to identify these voters, or to identify the kinds of situations in which the state's procedures fall short, the district court issued an injunction that permits any registered voter to declare by affidavit that reasonable effort would not produce a photo ID—even if the voter has never tried to secure one, and even if by objective standards the effort needed would be reasonable (and would succeed).

The district court's injunction allows any registered voter to check a box stating a reason why reasonable effort would not produce a qualifying photo ID. The boxes include lack of necessary documents (apparently including situations in which the person has not tried to obtain them), "work", "family responsibilities", and "other" —and the voter can put anything in the "other" box, including a belief that spending a single minute to obtain a qualifying photo ID is not reasonable. The injunction adds that state officials are forbidden to dispute or question any reason the registered voter gives. Yet the Supreme Court held in *Crawford v. Marion County Election Board*, 553 U.S. 181, 198 (2008), that "the inconvenience of making a trip to the [department of motor vehicles], gathering the required documents, and posing for a photograph surely does not qualify as a substantial burden on the right to vote, or even represent a significant increase over the usual burdens of voting." A given voter's disagreement with this approach does not show that requiring one trip to a governmental office is unreasonable.

Because the district court has not attempted to distinguish genuine difficulties of the kind our opinion mentioned, 819 F.3d at 385–86, or any other variety of substantial obstacle to voting, from any given voter's unwillingness to make the effort that the Supreme Court has held that a state can require, there is a substantial likelihood that the injunction will be reversed on appeal.

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

RUTHELLE FRANK, ET AL.,

Plaintiffs,

v.

Case No. 11-CV-1128

GOVERNOR SCOTT WALKER, ET AL.,

Defendants.

DECLARATION OF KRISTINA BOARDMAN

Kristina Boardman declares as follows under penalty of perjury, pursuant to 28 U.S.C. § 1746:

1. I make this declaration based on my personal knowledge review of the regularly conducted business records of the Wisconsin Department of Transportation (DOT), Division of Motor Vehicles (DMV).

2. I am the Administrator of the DMV. I have held this position since February of 2016. From July of 2013 to February of 2016, I was the Deputy Administrator of the DMV. I started at the DMV in 2005 and have also worked as an Operations Chief for the Bureau of Field Services and as the Director of the DMV Bureau of Field Services.

3. Under state law, DMV issues free Wisconsin Identification Cards (state ID) to individuals for the purpose of voting. DMV has been issuing non-drivers license ID cards since 1979. DMV started issuing free IDs on July 1, 2011.

Before that, the application was the same for a driver license and a state ID card. But in July of 2011, a separate form for free state ID cards was created. A true and accurate copy of the *Wisconsin Identification Card (ID) Application* (form MV3004) is attached hereto at **Exhibit 1013**. This form is available in both English and Spanish.

4. About 4.2 million people have a Wisconsin driver license. That is about 95% of people over 18 years old in the state.

5. To apply for state ID, you must visit a DMV customer service center, complete a *Wisconsin Identification Card (ID) Application* (form MV3004), and provide: (1) proof of name and date of birth (for example, a certified U.S. birth certificate, valid passport or certificate of naturalization); (2) proof of identity (usually a document with a signature or photo); (3) proof of Wisconsin residency; (4) proof of U.S. citizenship, legal permanent resident status, legal conditional resident status or legal temporary visitor status; and (4) your social security number.

6. DMV websites show all of these requirements for obtaining a state ID, in both English and Spanish. The websites provide several examples of sufficient documentation, as well as an easy-to-follow interactive ID card guide and checklist for those looking for information on the ID card requirements. See, <http://wisconsin.gov/Pages/dmv/license-drvs/how-to-apply/id-card.aspx>

7. DMV has 92 customer service centers, which are also called field offices. There are approximately 350-370 people staffing those locations. By statutory requirement, each county must have at least 20 hours a week of field

service office hours for driver license and identification card issuance, but many counties have more than that. For example, Milwaukee has six locations, most of which are open from 8:30 a.m. to 4:45 p.m. Monday through Friday. Two Milwaukee locations offer Saturday service from 8:30 a.m. to noon. Someone who wants a state ID does not have to go to any particular DMV location.

8. DMV's goal is to get people the state ID that they are entitled to.

9. If an individual presents at a DMV field office with the required documentation, an ID is issued from the field office.

10. From July 2011 through April 2016, 420,061 free state IDs have been issued. This includes 127,398 original IDs that have been issued to applicants since July 2011. The difference between the 420,061 and the 127,398 are renewals and duplicate state IDs. A true and accurate copy of a chart documenting the issuance of state IDs from July 2011 through April 2016 is attached hereto as **Exhibit 1014**.

IDPP – UNAVAILABLE DOCUMENTATION

11. If an individual applying for an original state ID card for purposes of voting does not have available documentation to prove U.S. citizenship, name and date of birth, and/or legal name change, their application is not denied. Rather, they may enter the ID Petition Process (IDPP).

12. The IDPP was created in September of 2014 to address applicants who did not have this type of verifying documentation.

13. Individuals can enter the IDPP process at DMV customer service centers by completing both the *Wisconsin Identification Card (ID) Application* (form

MV3004) and a *DMV Administrator Petition—Unavailable Documentation* (form MV3012). They must also present documents to prove identity and Wisconsin residency. A true and accurate copy of the MV3012 form is attached hereto at **Exhibit 1015**.

14. The MV3012 form is available in English and Spanish.

15. Any documents the petitioner presents to the field office are scanned and sent to the DMV Central Office in Madison. Supplemental documentation can also be mailed, faxed, or emailed to the Central Office.

16. When a person enters the IDPP process, DOT staff makes very clear that they are under no obligation to pay a fee for government verification of the petitioner's information.

17. The information provided on the petitioner's MV3012 form is used to communicate with state and federal partners to verify whether or not vital records on file in Wisconsin and other states substantiate a petitioner's qualifications to obtain a free Wisconsin ID for purposes of voting. For example, Wisconsin vital records are verified through the Wisconsin Department of Health Services (DHS). DHS processes Wisconsin records very quickly. Records from other states are verified through a database called EVVE, or by looking through records if the other state does not participate in EVVE, or if the birth records for the requested year are not available in EVVE.

18. This initial verification is conducted at the DMV Central Office in Madison. Once verification is received, an ID card will be processed and mailed to the applicant's address.

19. If DMV cannot verify the information within five (5) working days, it will issue an identification card receipt, which is valid for the purposes of voting. DMV can issue an identification card receipt prior to five (5) working days if required immediately for purposes of voting.

20. Even if DHS cannot confirm that a petitioner's personal identifying information matches the birth record ("no match"), the state ID application is not denied. At that point, the application and petition are forwarded to DMV's Compliance, Audit, and Fraud Unit (CAFU) to be researched.

21. CAFU became involved in the IDPP process in September of 2014.

22. CAFU procedures for processing petitions through the IDPP are established in an internal document titled *Processing ID Petition Process Applications*. These procedures were developed over the course of the past two years. The document is continually updated as new information is made available to best assist applicants to obtain an ID. A true and accurate copy of these procedures is attached hereto at **Exhibit 1016**.

23. IDPP petitions are assigned to CAFU investigators. For these investigators, the primary goal is to issue state IDs to whoever is eligible. CAFU investigators are able to leverage investigatory skills developed in the other aspects

of CAFU's work to determine whether the information provided matches with a birth record or some other secondary information.

24. CAFU investigators engage in numerous and varied efforts in helping petitioners obtain IDs. These include poring over ancient documents and forms, searching various databases, examining whatever personal documents petitioners might provide, and following up with the petitioners on each possible lead.

25. CAFU investigators are not restricted in the information they can consider. They often talk to family members, hospitals, school districts, and will take whatever lead they can find in hopes that DMV can resolve the process and move forward with issuing an ID. If another jurisdiction is slow to respond to CAFU, its investigators can use these other methods to issue an ID.

26. If CAFU can get additional information to facilitate a birth record request, the application is re-submitted to DHS for verification.

27. If information for a DHS match cannot be found, CAFU uses the extraordinary proof process. This process utilizes early documentation such as a baptismal certificate, hospital birth certificate, census record, early school record, family bible, and/or doctor's record of post-natal care to confirm a petitioner's name, date of birth, and place of birth information.

28. DMV has funding to obtain documents for petitioners that are required from non-governmental entities and/or other state entities.

29. The Director of the Bureau of Field Service, Jim Miller, is the final decision-maker for IDPP petitions that reach CAFU. Mr. Miller utilizes the

applicable administrative code provisions as the basis for approving or disapproving a CAFU recommendation.

30. As part of the extraordinary proof process, Mr. Miller can look to documents beyond those specifically enumerated documents. He is authorized under the administrative code to consider all additional information provided by the applicant.

31. DMV can utilize the IDPP and CAFU to work with homeless people to obtain a free state ID. Documents and correspondence can be mailed to a place such as a shelter, food pantry, or social services agency, where a homeless individual can get mail.

32. From September 15, 2014, through May 12, 2016, there were 1,389 IDPP petitions. Of those, 1,132 of the petitioners got a free state ID through the IDPP. The majority of these issuances—all but 230—were issued from a DHS verification match. A true and accurate copy of DMV's *Monthly ID Petition Record Process Report* for this time period is attached hereto as **Exhibit 1017**.

33. One IDPP petition investigated by CAFU was made by a person who turned out *not* to be U.S. citizen. Without the verification process, this individual would have likely gotten an ID and been able to vote.

34. Errors in the IDPP are tracked in a semi-annual error report entitled "BFS IDPP Data by Month" (*see* Declaration of Sean J. Young, Ex. 47; Dkt. No. 280-47). Much of what the report addresses is completely internal and relates to office efficiency. Of all the error types included in the error report, most are resolved in an

hour or less, with the vast majority of the remainder being resolved within the next business day. The only way that one of these errors would result in the non-issuance of an ID is if it involved field staff not scanning or copying a necessary document from the customer, and the customer did not follow-up by forwarding the necessary information.

NAME ERRORS

35. DMV field office staff is trained on how to process applications where there is a discrepancy in the name on a birth record or other verifying documentation compared to the name the applicant uses.

36. Applicants with a single letter discrepancy in a first, middle, or last name spelling (examples such as Glenn—Glen or Shaun—Shawn) are still issued a state ID card by field office staff and need not enter the IDPP process. Individuals presenting with this type of name spelling discrepancy are handled at the field office, and the applications never reach the IDPP or CAFU. A true and accurate copy of the field office guidelines for name discrepancies is attached hereto as **Exhibit 1018**.

37. If an individual has a different name, or a name that is significantly different from his birth records, he can utilize an *Affidavit of Common Law Name Change*. This form does not require an applicant to change the name he is now known as. Rather, it provides evidence of a legal name that is different than that reflected on a birth record or other source document. A true and accurate copy of the *Affidavit of Common Law Name Change* is attached hereto as **Exhibit 1019**.

38. The *Affidavit of Common Law Name Change* form does contain a notary block. However, because some notaries require a fee, DMV also provides the option for the affidavit to be witnessed by a DMV employee free of charge.

EMERGENCY RULE / ID RECEIPTS

39. On May 10, 2016, an emergency rule governing the IDPP process was approved. The emergency rule codifies the best practices, timelines, standards and common sense steps that have been developed since implementation of the IDPP process. In addition, the emergency rule includes provisions that result in a more specific process and deadlines to verify an applicant's name, date of birth, and U.S. citizenship (*see* Declaration of Sean J. Young, Ex. 23, 24; Dkt. Nos. 280-23, 280-24).

40. Under the emergency rule, Wis. Admin. Code § Trans 102.15 was amended to allow for the issuance of a temporary ID card receipt, usable for voting purposes, while an application is being processed through the IDPP. Thus, under the new rules, anyone who goes to a Wisconsin DMV office and applies for a free voter ID will be mailed either an ID card or get a photo ID receipt that is valid for voting within six days. A true and accurate copy of an example photo ID receipt is attached hereto as **Exhibit 1020**.

41. For those receiving an ID receipt, DMV will re-issue 60-day receipts without the applicant needing to apply for a renewal. An applicant will automatically receive two (2) 60-day renewals, providing an applicant with a photo ID receipt for a minimum of 180 days. A person will continue getting renewal ID receipts as long as DMV has information to work with, and as long as the petitioner

cooperates in the process. Renewed receipts will stop being issued only in the event of fraud, when a person is found to be ineligible for a product, when an applicant does not respond to multiple DMV inquiries with information that can advance the investigation for a period of 180 days, or when a customer requests that DMV cancel the process.

42. Photo ID receipts are issued within six days because DMV has found that 60% of petitioners received their ID card within five days or less, and the receipt timing was designed to give time for that majority to get their card before a receipt is issued.

43. Since the emergency rule has gone into effect, DMV has issued 166 photo ID receipts. Unless found to be fraudulent or unqualified, these individuals will either have an ID card or an automatic renewal ID receipt for both the August 2016 and November 2016 elections.

44. During an election week, DMV will issue a photo ID receipt by mail on the day that a person makes an application. This is to provide applicants who were not prepared with a compliant voter ID before going to the polls an opportunity to cast a provisional ballot and still return with an ID receipt in time for the provisional ballot to be counted.

45. Petitioners, as well as CAFU, can use the photo ID receipts to request birth records and source documents from other jurisdictions that require a photo ID with an application.

PLAINTIFFS AND DECLARANTS

46. Seven Plaintiffs have been issued a state ID by DMV that is currently unexpired and can be used for purposes of voting: Justin Luft, Barbara Oden, Pamela Dukes, Anthony Judd, Anna Shea, Shirley Brown, and Frank Ybarra.

47. Four Plaintiffs have been issued a Wisconsin driver's license by DMV that is currently unexpired and can be used for purposes of voting: Anthony Sharp, Sarah Lahti, Edward Hogan, and Nancy Lea Wilde.

48. While Plaintiffs Ruthelle Frank, Dartric Davis, Sandra Jashinski, Max Kligman, Steve Kvasnicka, Eddie Lee Holloway, Jr., Mariannis Ginorio, and Dewayne Smith do not appear to have a current Wisconsin driver's license or state ID, none of these individuals have filed a petition through the IDPP process. If they were to visit a DMV service center and fill out a *Wisconsin Identification Card (ID) Application* (form MV3004) and, if necessary, a *DMV Administrator Petition—Unavailable Documentation* (form MV3012), they would be issued either an ID card or ID receipt within 6 days that could be used to vote.

49. Cinderria Harwell, who is identified in the Plaintiff's preliminary injunction materials, was issued a state ID by DMV on February 23, 2016.

50. Kari Venteris, who is identified in the Plaintiff's preliminary injunction materials, was issued a Wisconsin driver's license by DMV on April 7, 2016.

51. Because there are multiple records in the DMV databank for individuals named Melvin Robertson, James Green, Gilbert Ramos, and Miguel

Angel Vega, I am unable to confirm whether or not they have a current state ID card and/or Wisconsin driver's license without additional information. However, even assuming they do not, none of these individuals has filed a petition through the IDPP process. If they were to visit a DMV service center and fill out a *Wisconsin Identification Card (ID) Application* (form MV3004) and, if necessary, a *DMV Administrator Petition—Unavailable Documentation* (form MV3012), they would be issued either an ID card or ID receipt within 6 days that could be used to vote.

52. None of the following individuals identified in the Plaintiff's preliminary injunction materials appear to have a current Wisconsin driver's license or state ID: Leroy Switlick, Christine Krucki, Rachel Fon, Shawnteasha Kirkwood-Coleman, Alexandra Kirschner, Bernice Kvidera, Myesiha Moore. However, none of these individuals has filed a petition through the IDPP process. If they were to visit a DMV service center and fill out a *Wisconsin Identification Card (ID) Application* (form MV3004) and, if necessary, a *DMV Administrator Petition—Unavailable Documentation* (form MV3012), they would be issued either an ID card or ID receipt within 6 days that could be used to vote.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on June, 16, 2016.

/s/Kristina Boardman
KRISTINA BOARDMAN