

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

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

Plaintiffs,

v.

Case No. 15-CV-324

GERALD C. NICHOL, *et al.*,

Defendants.

**PLAINTIFFS' PROPOSED FINDINGS OF FACT IN OPPOSITION TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Plaintiffs One Wisconsin Institute, Inc., Citizen Action of Wisconsin Education Fund, Inc., Renee M. Gagner, Anita Johnson, Cody R. Nelson, Jennifer S. Tasse, Scott T. Trindl, and Michael R. Wilder (“Plaintiffs”) propose the following findings of fact in opposition to Defendants’ Motion for Summary Judgment:

INTRODUCTION

1. Dr. Barry Burden, a Professor of Political Science at the University of Wisconsin-Madison (“UW-Madison”), who was a faculty member in the Department of Government at Harvard University for seven years before coming to Madison, details Wisconsin’s history and the ongoing effects of discrimination. Dkt. No. 72, Expert Report of Dr. Barry C. Burden (“Burden Rpt.”), Dec. 10, 2015, at 1.

2. Dr. Burden finds that “[t]he dramatic disruption of voting practices resulting from the challenged provisions is likely to negatively affect minority voters more than white voters.” Dkt. No. 72 (Burden Rpt.), at 1.

3. Dr. Burden finds that “[t]he challenged laws inhibit the opportunity to participate based on political views, age, and other seemingly arbitrary voter characteristics.” Dkt. No. 72 (Burden Rpt.), at 1.

4. The expert report of Dr. Ken Mayer, a Professor of Political Science at UW-Madison who joined the faculty more than 25 years ago, teaches courses on election law, electoral systems, and other topics, and is a faculty affiliate at the UW-Madison La Follette School of Public Affairs, provides substantial empirical support for these conclusions based on recent Wisconsin elections. Dkt. No. 71, Expert Report of Dr. Kenneth Mayer (“Mayer Rpt.”), Dec. 10, 2015, at 1.

5. Based on his analysis, Dr. Mayer finds that “the changes to voting and registration enacted since 2011 impose substantial burdens on voters when registering or casting a ballot. Dkt. No. 71 (Mayer Rpt.), at 5.

6. Dr. Mayer finds that “these burdens have the greatest effect on identifiable subgroups, particularly racial minorities, young voters, students, and registrants without ID, depressing their turnout by making it significantly harder to register and vote.” Dkt. No. 71 (Mayer Rpt.), at 5.

7. Dr. Mayer finds that the negative impact from his empirical analysis “is largest in 2014 and almost entirely absent in 2010, which is strong — even conclusive — evidence that the effects are the result of changes to voting and registration practices enacted after the 2010 elections.” Dkt. No. 71 (Mayer Rpt.), at 5.

8. Dr. Lorraine Minnite, an Associate professor in the Department of Public Policy and Administration at Rutgers, The State University of New Jersey-Camden, who studies the incidence and effect of voter fraud in American elections and has published a full-length scholarly book on the subject, has also submitted an expert report. Dkt. No. 74, Expert Report of Dr. Lorraine C. Minnite (“Minnite Rpt.”), Dec. 10, 2015, at 36.

9. After conducting a lengthy assessment of evidence of voter fraud, Dr. Minnite concludes that “fraud committed by voters in registering to vote or at the polls is exceedingly rare.” Dkt. No. 74 (Minnite Rpt.), at 1.

10. Dr. Minnite finds that “American political parties compete as much by demobilizing voters as by mobilizing them, and that it is black Americans who are usually singled out as the targets of demobilization.” Dkt. No. 74 (Minnite Rpt.), at 1.

11. Dr. Minnite finds that “[w]hile proponents of electoral policies that reduce voter access to the ballot purportedly believe that such policies are justified as fraud prevention measures, in the absence of evidence of a problem with voter fraud” and “given historical patterns and evidence and the context for party competition, . . . such policies actually serve as a form of voter suppression.” Dkt. No. 74 (Minnite Rpt.), at 35.

12. Dr. Allan Lichtman, a Distinguished Professor of History at American University who has written scholarly works on quantitative and qualitative methodology in social science and been an expert in numerous voting and civil rights cases, submitted an expert report on behalf of Plaintiffs as well. Dkt. No. 75, Expert Report of Allan J. Lichtman (“Lichtman Rpt.”), Dec. 10, 2015, at 2-3.

13. In his report, Dr. Lichtman details current racial disparities on a number of socioeconomic measures and finds, among other things, that “Wisconsin is one of the most unequal states in the nation as gauged by disparities between African Americans and whites on socio-economic measures.” Dkt. No. 75 (Lichtman Rpt.), at 4.

14. Dr. Lichtman finds that the “increase in the minority share of the vote in Wisconsin threatens Republicans’ electoral prospects.” Dkt. No. 75 (Lichtman Rpt.), at 4.

15. Dr. Lichtman finds that the “voter photo ID provision adopted in 2011 in Wisconsin was the most restrictive identification law in the nation at that time.” Dkt. No. 75 (Lichtman Rpt.), at 4.

16. Dr. Lichtman finds that Wisconsin “exceeded all other states in the number of new restrictive voting and registration measures enacted between 2011 and 2014.” Dkt. No. 75 (Lichtman Rpt.), at 5.

17. Dr. Lichtman finds that, “[b]ased on considerable evidence, . . . the majority Republicans deliberately and knowingly enacted a voter photo ID requirement and numerous other legislative measures that placed disparate burdens on the opportunities for African Americans and Hispanics to register and vote in Wisconsin.” Dkt. No. 75 (Lichtman Rpt.), at 5.

PLAINTIFFS

18. Plaintiff Renee Gagner is a U.S. Citizen and is otherwise eligible to vote in Wisconsin. Declaration of Renee Gagner (“Gagner Decl.”), Feb. 1, 2016, ¶1.

19. Plaintiff Renee Gagner is 23-years-old and currently resides in Milwaukee, Wisconsin. Gagner Decl. ¶3.

20. Plaintiff Anita Johnson is a U.S. citizen and is otherwise eligible to vote in Wisconsin. Declaration of Anita Johnson (“Johnson Decl.”), Feb. 1, 2016, ¶1.

21. Plaintiff Anita Johnson is a 70 year-old African American resident of Milwaukee, Wisconsin. Johnson Decl. ¶5.

22. Plaintiff Cody Nelson is a U.S. Citizen and is otherwise eligible to vote in Wisconsin. Declaration of Cody Nelson (“Nelson Decl.”), Jan. 31, 2016, ¶1.

23. Plaintiff Cody Nelson is 19-years-old and a political science major at the University of Wisconsin, Madison. Nelson Decl. ¶3.

24. Plaintiff Jennifer S. Tasse is a U.S. citizen and is otherwise eligible to vote in Wisconsin. Declaration of Jennifer S. Tasse (“Tasse Decl.”), Jan. 31, 2016, ¶1.

25. Plaintiff Jennifer S. Tasse is 21-years-old and currently resides in Madison, Wisconsin where she is a Junior at the University of Wisconsin-Madison (UW Madison). Tasse Decl. ¶3.

26. Plaintiff Scott Trindl is a U.S. Citizen and is otherwise eligible to vote in Wisconsin. Declaration of Scott Trindl (“Trindl Decl.”), Jan. 31, 2016, ¶1.

27. Plaintiff Scott Trindl is 60-years-old and currently resides in Waukesha, Wisconsin. Trindl Decl. ¶3.

28. Plaintiff Citizen Action of Wisconsin Education Fund, Inc. (“Citizen Action”) is a 501(c)(3) non-profit organization that, among other social and economic justice focused activities, engages in voter-registration, voter-education, and get-out-the-vote (“GOTV”) efforts, with the goal of increasing the number of eligible voters and voter engagement in Wisconsin. Johnson Decl. ¶2.

29. In its 33 years of work in Wisconsin, Citizen Action has built a wide base of support including over 123,000 supporters from each of Wisconsin’s 99 state assembly districts and a volunteer base of over 38,000. Johnson Decl. ¶2.

30. Anita Johnson has been a Community Organizer for Citizen Action for over 8 years. Johnson Decl. ¶2.

31. One Wisconsin Institute (“One Wisconsin”) is a 501(c)(3) non-profit organization whose mission is to advance progressive values, ideas, and policies through strategic research and sophisticated communications, providing in-depth research and analysis on voter rights, among other issues, and has provided the public and the media with research and legal information about critical issues surrounding the right to vote. Declaration of Scot Ross (“Ross Decl.”), Feb. 1, 2016, ¶2.

32. One Wisconsin researches and reports on the status of voter outreach and education and the negative impact of restrictive voting measures, in an effort to oppose voter

suppression and to expand the right to vote, and sends press releases and educational information to its 90,000 online supporters to promote an informed citizenry. Ross Decl. ¶2.

33. The individual plaintiffs in this case object to having to present an official government photo ID in order to vote. Gagner Decl. ¶13 (“I object to the voter ID law. . . . Although I have a driver’s license, I have already started thinking about whether it is sufficient for the upcoming spring election as it has my old address on it. . . . And, the law does not seem necessary to me because voters also have to sign the poll book attesting to who they are.”); Johnson Decl. ¶19 (“I personally object to having to show an official photo ID in order to vote in person. . . . [T]he voter ID law has significantly burdened my work and my ability to help as many eligible voters as possible participate in the democratic process.”); Nelson Decl. ¶11 (“The Young Progressives also field questions about the voter ID law. . . . In general, answering questions about the new ID law extends the time it takes to register people to vote.”); Tasse Decl. ¶14 (“I have also been burdened by the state’s voter ID law and its requirements which invalidate most university-issued student IDs and have devoted a significant amount of my time that could have been spent on other civic engagement activities to working to get student IDs that are compliant under the new law and to educate them about the law.”); Trindl Decl. ¶16 (“Although I have a valid form of identification, I personally object to the Voter ID law because it adversely affects certain groups of voters more than others and imposes too heavy a burden on the exercise of people’s constitutional right.”).

34. Many voters are discouraged in general or even intimidated by the imposition of the voter ID law and, thus, it is the requirement that they present ID—whether they have the required ID or not—that causes them not to vote. Johnson Decl. ¶19 (“In my capacity as the Community Organizer for Citizen Action I have observed significant confusion and

misinformation about the voter ID law since its implementation. . . . In my experience small burdens can prevent otherwise eligible and willing voters from casting a ballot because these voters are often facing other obstacles in their lives that are more immediate and pressing.”); Nelson Decl. ¶11 (“There were . . . [students] who either could not or would not take the extra step to get the new ID required under the law.”); Tasse Decl. ¶15 (“In my experience explaining the voter ID law to my peers, I have seen students turned off by the need to spend time going to a special building on campus to request another ID when they already have a student ID that is good for all of their activities on campus.”); Trindl Decl. ¶17 (“[T]here is a lot of confusion around which forms of identification are sufficient. In my experience chief election inspector, I have had to turn some people away from the polls because they did not know about the law and so did not have proper identification.”).

35. At least one of the individual plaintiffs intends to move to new locations in Wisconsin and thus predictably will be subject to the new voter registration restrictions in the future. Tasse Decl. ¶11.

36. Many of the individual plaintiffs have a long history of working to register their fellow citizens to vote and getting them to the polls (including through early voting). Gagner Decl. ¶¶7-8, 10, 12; Johnson Decl. ¶¶7, 9-12; Nelson Decl. ¶¶8, 10; Tasse Decl. ¶¶6, 8; Trindl Decl. ¶5.

37. These plaintiffs intend to continue their registration and GOTV efforts. Gagner Decl. ¶11; Johnson Decl. ¶¶7, 9-12; Nelson Decl. ¶¶10, 13; Tasse Decl. ¶7; Trindl Decl. ¶8.

38. The State’s challenged registration and voting restrictions have made it much more difficult and often impossible for these plaintiffs to engage in their registration and GOTV efforts. Gagner Decl. ¶12 (“[I]n college, I met many people who were intimidated by all the

rules around voting and others who were from out-of-state and confused by Wisconsin's process."); Johnson Decl. ¶¶13-16, 19; Johnson Decl. ¶20 ("Since the implementation of Wisconsin's registration and voting law changes Citizen Action and I have had to divert significant resources from our other work to helping educate voters on how to comply with the state's new laws."); Nelson Decl. ¶9 ("Many times, I ran into problems with people who could not prove their residence."); Tasse Decl. ¶10 ("The challenged provisions have burdened my ability to register to vote, to register others, to engage in civic activities, including voter-registration, GOTV, and voter-education efforts, and to help elect Democratic candidates."); Trindl Decl. ¶ 12 ("In my role as chief election inspector, I have experienced some cases where people come to the polls to vote but do not have proof of residence. Proving their residency required me to go online and access various forms of proof for those who wanted to register and vote. This slowed the process down."); Trindl Decl. ¶¶13-18.

39. One Wisconsin and Citizen Action, which are funded through thousands of contributors, work to implement their goals through thousands of committed volunteers, and serve their constituents on an ongoing basis through one election cycle after another. Johnson Decl. ¶2; Ross Decl. ¶2.

40. One Wisconsin and Citizen Action have each diverted substantial money, staff time, and other resources away from other important priorities in order to help its constituents overcome the many additional hurdles to registration and voting imposed by the challenged laws. Johnson Decl. ¶¶9, 20; Ross Decl. ¶¶ 11-13.

41. Following the passage of the challenged voting provisions, Anita Johnson, in her capacity as Community Organizer for Citizen Action, began making 3-5 minute presentations to

primarily African American church congregations in Milwaukee about the changes to Wisconsin's voting laws. Johnson Decl. ¶9.

42. After seeing the need for education on these issues firsthand Anita Johnson, with the support of and on behalf of Citizen Action, began speaking to as many churches, schools, senior centers, neighborhood meetings, and any other events or locations that invited her or would allow her to speak with people about voting. Johnson Decl. ¶9.

43. Citizen Action has had to divert time, money, and attention away from other important work in order to focus on these voter education efforts. Johnson Decl. ¶9.

44. Since the implementation of Wisconsin's registration and voting law changes, Citizen Action and Anita Johnson have had to divert significant resources from their other work to helping educate voters on how to comply with the state's new laws. Johnson Decl. ¶20.

45. These changes have forced Citizen Action to divert administrative staff time and salaries, transportation costs for Anita Johnson's voter outreach efforts, and numerous other costs such as the cost of producing the printed materials that she hands out at presentations, plus 100 percent of her paid staff time, plus overtime, to this educational effort. Johnson Decl. ¶20.

46. But for the passage of these new laws these resources could have been more evenly spread among Citizen Action's other priorities such as expanding access to affordable healthcare and working to promote economic equality and opportunity in Wisconsin. Johnson Decl. ¶20.

47. The efforts One Wisconsin has expended to educate the public about voter registration and identification requirements under the challenged laws have diverted resources from other initiatives. Ross Decl. ¶11.

48. In light of the complexity of the new laws, and the lack of any comprehensive marketing campaign by the state, One Wisconsin has had to expend more resources on communication and voter education efforts than it would have otherwise. Ross Decl. ¶11.

49. The 28-day residency requirement directly burdens plaintiffs' efforts to register as many voters as possible and get them out to the polls. Johnson Decl. ¶9; Trindl Decl. ¶15.

50. Protecting voting rights is not "marginal" to Citizen Action and One Wisconsin—it is a core part of their missions. Johnson Decl. ¶2; *id.* ¶10 ("I am passionate about helping others exercise their right to vote so that they can interact with their democracy and make their voices heard."); Ross Decl. ¶2; Ross Decl. ¶4 ("One Wisconsin believes that engaged and involved citizens are required in order to create strong, safe communities that make forward progress. The more people participate and have a voice in the democracy, the more elected officials are held accountable, the more effective the government is.").

WISCONSIN'S HISTORY AND ONGOING EFFECTS OF DISCRIMINATION

51. Wisconsin's "original state constitution only permitted blacks to vote if a majority of the public voted to approve the practice." Dkt. No. 72 (Burden Rpt.), at 9.

52. From 1913 until 2006, voters were required to register only if they lived in municipalities with over 5,000 residents. Dkt. No. 72 (Burden Rpt.), at 10.

53. Because "in 2006 approximately 98% of blacks and 91% of Latinos" but "only 68% of whites" "lived in municipalities where registration was required," this registration rule subjected a far larger percentage of minority voters than white voters to the burden of voter registration and in turn "contributed to lower turnout by blacks and Latinos." Dkt. No. 72 (Burden Rpt.), at 10.

54. “This system of unequal election practices persisted for nearly a century” and “was ended by the passage of the federal Help America Vote Act (HAVA), not by any action initiated by policy makers in the state.” Dkt. No. 72 (Burden Rpt.), at 10.

55. Spanish-language ballots were not provided in Milwaukee until 2012, when the city was required to provide such ballots pursuant to the Voting Rights Act. *See* Dkt. No. 72 (Burden Rpt.), at 10; Dkt. No. 94, Deposition of Kevin Kennedy (“Kennedy Dep.”), Jan. 14, 2016, at 262:19-25.

56. In April of that year, the Justice Department sent special monitors to oversee the conduct of elections in Milwaukee. Dkt. No. 94 (Kennedy Dep.), at 263:14-17.

57. Director Kennedy’s understanding based on his understanding and experience is that this occurred in part as “normal practice for a new Section 203 jurisdiction” and in part because of the Justice Department’s perception—which Director Kennedy shares—that “Milwaukee might not have been taking this seriously.” Dkt. No. 94 (Kennedy Dep.), at 263:18-264:2; *see also* Declaration of Neil Albrecht (“Albrecht Decl.”), Jan. 29, 2016, ¶5 (Executive Director of the Milwaukee Election Commission noting that, “for a long time, there was a failure to recognize that Milwaukee has many monolingual Spanish-speaking citizens who face significant cultural and language barriers to voting and, in many cases, have had negative experiences when they have attempted to vote,” and that “the challenge of building trust remains”).

58. No other municipality in the state has ever provided ballots in any language other than English. *See* Dkt. No. 72 (Burden Rpt.), at 10; Dkt. No. 94 (Kennedy Dep.), at 261:10-24.

59. Wisconsin election officials have taken “the position that an official ballot could not be in any other language [besides English] unless it was required by law.” Dkt. No. 94

(Kennedy Dep.), at 261:15-24; *see also id.* at 265:2-12 (explaining that “in response to questions about can we have a ballot in another language, the answer was not unless there’s a specific requirement authorizing it”).

60. “Few counties or municipalities outside Milwaukee even provide materials such as voter registration forms in languages other than English.” Dkt. No. 72 (Burden Rpt.), at 10.

61. The websites for the Rock County and Beloit City Clerks do not offer or even mention Spanish-language materials, even though “Census data show that speaking Spanish at home occurs in 6.2% of Rock County households and 14.9% of Beloit City households.” Dkt. No. 72 (Burden Rpt.), at 10.

62. The websites for the clerks for “Kenosha County (10.6% Spanish speaking) and the city of Kenosha (7.7% Spanish speaking)” do not offer Spanish-language materials. Dkt. No. 72 (Burden Rpt.), at 10-11.

63. According to American Community Survey data from 2010, “33.2 percent of Hispanics in Wisconsin speak English ‘less than very well.’” Dkt. No. 75 (Lichtman Rpt.), at 47.

64. “Research shows that Spanish-language ballots increase voter turnout among those with limited English skills.” Dkt. No. 72 (Burden Rpt.), at 10.

65. “Latinos in Milwaukee have historically not voted in numbers that are representative of their share of the city’s population.” Albrecht Decl. ¶5.

66. Dr. Burden’s and Dr. Lichtman’s expert reports address in great detail the extent to which minorities in Wisconsin “bear effects of discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process.” Dkt. No. 72 (Burden Rpt.), at 11-17; Dkt. No. 75 (Lichtman Rpt.), at 5-14.

67. Dr. Burden explains that, “[s]temming in large part from historic legacies of unequal treatment, segregation, and discrimination, blacks, Latinos, and whites in Wisconsin experience radically different outcomes in these areas.” Dkt. No. 72 (Burden Rpt.), at 11.

68. One historian has explained that “unequal treatment of blacks was generally illegal in Wisconsin from the Civil War until the 1960s, ‘but de facto segregation and discrimination were common.’” Dkt. No. 72 (Burden Rpt.), at 13.

69. “[I]n parts of Wisconsin ‘it wasn’t until after World War II that it was safe for black Americans to be anywhere in evidence after dark.’” Dkt. No. 72 (Burden Rpt.), at 13.

70. “A more recent era of contentious racial debates in Milwaukee occurred under Mayor Henry Maier, who served from 1960 to 1988.” Dkt. No. 72 (Burden Rpt.), at 13.

71. One historian wrote that Maier “‘was out of touch with the city’s blacks...his position on civil rights accurately represented the majority of his white constituency, and he probably believed he could safely ignore black voters.’” Dkt. No. 72 (Burden Rpt.), at 13.

72. “The 1960s were a particularly hostile era” for African Americans in Milwaukee due to the then-recent arrival into the city of increasing numbers of African Americans. Dkt. No. 72 (Burden Rpt.), at 12.

73. “Public disputes over educational and housing discrimination boiled to riots, including one that resulted in four deaths in 1967.” Dkt. No. 72 (Burden Rpt.), at 12-13.

74. Largely in response to school desegregation and open housing laws—the latter of which was passed in Milwaukee in 1968 only after repeated efforts by the one African American member on Milwaukee’s Common Council and “over 200 nights of public marches in the city”—“white-dominated suburbs quickly developed” through “white flight” from Milwaukee as

African Americans moved into the city at higher rates in the 1960s and 1970s. Dkt. No. 72 (Burden Rpt.), at 11.

75. “Even with the passage of the federal Fair Housing Act [in 1968], discriminatory real estate practices such as biased appraisal practices, redlining, and racial ‘steering’ nonetheless continued to constrain blacks’ housing choices to the inner city.” Dkt. No. 72 (Burden Rpt.), at 11.

76. And the resulting segregation was reinforced by “exclusionary land zoning rules in incorporated municipalities near the city of Milwaukee.” Dkt. No. 72 (Burden Rpt.), at 11.

77. In 1976, a federal judge held that Milwaukee’s schools were illegally segregated, and that case “settled in 1979 when the Milwaukee school board agreed to implement a five-year plan to desegregate.” Dkt. No. 72 (Burden Rpt.), at 13.

78. “Racial segregation and animosity have been enduring parts of Milwaukee’s history” and “[f]or these reasons the city has been called the ‘Selma of the North.’” Dkt. No. 72 (Burden Rpt.), at 12.

79. A study conducted in the Milwaukee area in the summer of 2001 with pairs of black and white individuals applying for jobs found that “‘employers, at least in Milwaukee, continue to use race as a major factor in their hiring decisions’”; “that blacks ‘may also be more strongly affected by the impact of a criminal record’”; and that “the callback rate was higher for white applicants with criminal records than for the equivalent black applicants *without* records.” Dkt. No. 72 (Burden Rpt.), at 14.

80. Data collected from Dane and Milwaukee Counties after the passage of legislation in 2009 showed that African Americans and Latinos, as compared to whites, were 2.2 to 3.8 times more likely to be stopped by law enforcement; were more likely to have their vehicles

searched; and were more likely to be ticketed, despite *not* being more likely to have weapons, drugs, or stolen goods. Dkt. No. 72 (Burden Rpt.), at 16.

81. Wisconsin's black and Latino populations "are highly geographically concentrated." Dkt. No. 72 (Burden Rpt.), at 11.

82. Two-thirds of African Americans residing in Wisconsin live in Milwaukee, which has "been identified by demographers as one of the most segregated cities in America." Dkt. No. 72 (Burden Rpt.), at 11-12.

83. One demographer who evaluated 102 metropolitan areas concluded that Milwaukee has the "highest level of black-white segregation and the ninth highest level of Latino-white segregation." Dkt. No. 72 (Burden Rpt.), at 12.

84. "Research from the University of Wisconsin-Milwaukee indicates that the 'suburbanization gap' between black and white males was the largest of 40 metropolitan areas studied." Dkt. No. 72 (Burden Rpt.), at 12.

85. And, as of 2000, "the Milwaukee metropolitan area had the lowest number of black suburbanites among all metropolitan areas with over one million people, with just 1.6% of blacks living in the suburbs." Dkt. No. 72 (Burden Rpt.), at 12.

86. "Much of the black population today remains confined to the 'Inner Core,' which was created in large part by restrictive housing covenants in place as late as the 1940s." Dkt. No. 72 (Burden Rpt.), at 12.

87. Latino households in Milwaukee and Dane Counties are much more likely than white households to lack access to a vehicle. Dkt. No. 72 (Burden Rpt.), at 12.

88. Black households in Milwaukee County are nearly three times, and black households in Dane County are over three times, more likely than white households in those counties to lack access to a vehicle. Dkt. No. 72 (Burden Rpt.), at 12.

89. American Community Survey data from 2010 indicates that in Wisconsin 23.1% of non-Hispanic black households, 8.7% of Hispanic households, and 5.5% of white households lack an available vehicle. Dkt. No. 75 (Lichtman Rpt.), at 10.

90. “A recent study indicates that Wisconsin has the highest black unemployment rates in the country, almost twice the national rate.” Dkt. No. 72 (Burden Rpt.), at 13.

91. The “unemployment rate in Wisconsin in 2014 was 19.9% for blacks, 9.1% for Latinos, and 4.3% for whites.” Dkt. No. 72 (Burden Rpt.), at 13; *see also* Dkt. No. 75 (Lichtman Rpt.), at 6.

92. Milwaukee’s employment gap between black and white males in 2010 was 32.7 percentage points—“the largest of 40 metropolitan areas studied by researchers at the University of Wisconsin-Milwaukee” and “almost a tripling of the gap since 1970.” Dkt. No. 72 (Burden Rpt.), at 13.

93. “A recent study shows that both black and Latino earnings in Wisconsin are 30 percentage points lower than those of whites.” Dkt. No. 72 (Burden Rpt.), at 13; *see also* Dkt. No. 75 (Lichtman Rpt.), at 6.

94. “The poverty rate in Wisconsin in 2013 was 7% for whites, 32% for Latinos, and 39% for blacks.” Dkt. No. 72 (Burden Rpt.), at 14; *see also* Dkt. No. 75 (Lichtman Rpt.), at 6.

95. These disparities are much greater than the national average. Dkt. No. 72 (Burden Rpt.), at 14.

96. Moreover, “research estimates that, at a minimum, one third of the wage gap between blacks and whites is due to racial discrimination,” while “the scholarly literature shows evidence of discrimination against black and Latino consumers in the areas of employment, housing, purchasing, and lending.” Dkt. No. 72 (Burden Rpt.), at 14.

97. Infant mortality rates for Latinos exceed those of whites in Wisconsin, and “[t]he rate for blacks is almost three times that of whites. These disparities are more severe than for the rest of the nation and have generally worsened over time.” Dkt. No. 72 (Burden Rpt.), at 15; *see also* Dkt. No. 75 (Lichtman Rpt.), at 12.

98. Although the state legislature created a Special Committee on Infant Mortality in 2010, “[a]fter two years of hearings, studies, and data collection by the committee, the legislature failed to pass a bill to address its recommendations.” Dkt. No. 72 (Burden Rpt.), at 15.

99. “Data from the Centers for Disease Control and other sources demonstrate that blacks and Latinos are generally in poorer health than whites.” Dkt. No. 72 (Burden Rpt.), at 17.

100. “Educational disparities between minorities and whites are substantial and enduring. Recent federal data indicate that high school graduation rates in Wisconsin were 66% for blacks, 78% for Latinos, and 93% for whites”; this gap between the black and white graduation rates “is the largest in the nation.” Dkt. No. 72 (Burden Rpt.), at 15; *see also* Dkt. No. 75 (Lichtman Rpt.), at 8.

101. Test scores for fourth and eighth graders in Wisconsin in mathematics and reading also reveal significant racial disparities. Dkt. No. 72 (Burden Rpt.), at 15.

102. African Americans are incarcerated at more than *10 times* the rate of whites in Wisconsin, and the state’s incarceration rate for blacks (or at least black men) is the highest in the country. Dkt. No. 72 (Burden Rpt.), at 15-16.

103. “Wisconsin displays substantial and enduring racial disparities in areas such as education, income, employment, criminal justice, and health.” Dkt. No. 72 (Burden Rpt.), at 17.

104. “These disparities are frequently larger than those in the rest of the United States.” Dkt. No. 72 (Burden Rpt.), at 17.

105. Dr. Lichtman’s report, citing “a study that ranks the states according to the black-to-white ratio of various socio-economic measures,” explains that, “[o]n most measures Wisconsin ranks at or near the bottom of the states.” Dkt. No. 75 (Lichtman Rpt.), at 14.

106. Wisconsin is the third-worst state in the country in black/white disparities in the unemployment rate; the second-worst state in black/white disparities in family poverty rates, percent of high school graduates, and average eighth grade math scores; and the worst state in black/white disparities in dropout rates. Dkt. No. 75 (Lichtman Rpt.), at 14.

107. Racially polarized voting “is sizable and enduring in Wisconsin.” Dkt. No. 72 (Burden Rpt.), at 9.

108. Exit polls for the 2012 presidential election in Wisconsin show that “support for the Democratic ticket was 94% among blacks, 66% among Latinos, and 48% among whites.” Dkt. No. 72 (Burden Rpt.), at 9.

109. Other recent major statewide elections have had similar black-white gaps in Democratic voting. Dkt. No. 72 (Burden Rpt.), at 9; *see also* Dkt. No. 75 (Lichtman Rpt.), at 17-19.

110. “Exit poll data demonstrates that Republican electoral success in Wisconsin turns in part on the white voter turnout relative to minority turnout.” Dkt. No. 75 (Lichtman Rep.), at 17.

111. Racial polarization has been present even in Democratic primaries. Dkt. No. 72 (Burden Rpt.), at 9.

112. “[V]arious campaigns have displayed racial appeals that are both implicit and explicit,” and, “[i]n the rare case where a minority candidate runs for a prominent office, racial messages are even more prominent.” Dkt. No. 72 (Burden Rpt.), at 17.

113. For example, in a campaign in 2008, Louis Butler, the state’s first African American supreme court justice, was attacked in an ad that the *Milwaukee Journal-Sentinel* described as amounting “to race-baiting”; that a column in the *Minneapolis Star-Tribune* described as “a reprise of the 1988 Willie Horton gambit” and a “race-baiting ad”; and that the Wisconsin Judicial Campaign Integrity Committee called “highly offensive and deliberately misleading,” with “the race-baiting style of the Willie Horton spot from the 1988 presidential race.” Dkt. No. 72 (Burden Rpt.), at 17-18.

114. “Butler became the first Supreme Court incumbent defeated since 1967 and only the fifth incumbent to lose ‘an election in the 159-year history of the Court.’” Dkt. No. 72 (Burden Rpt.), at 17.

115. In the 2006 gubernatorial election, Mark Green ran a television commercial asserting, “‘As illegal aliens stream in, [Governor Jim Doyle] actually wants to give them welfare and subsidized home loans’ and ‘even wants to give illegal aliens in-state tuition breaks at the [University of Wisconsin], while Wisconsin kids are being turned away.’” Dkt. No. 72 (Burden Rpt.), at 18.

116. WISC-TV found parts of this ad misleading. Dkt. No. 72 (Burden Rpt.), at 18.

117. Shortly before the 2012 general election, approximately 85 billboards “stating that voter fraud is a felony subject to punishment of three years in prison and [a] \$10,000 fine” were

put up in the Milwaukee metropolitan area. Dkt. No. 72 (Burden Rpt.), at 18; *see also* Dkt. No. 94 (Kennedy Dep.), at 177:22-178:10 (explaining that he had seen at least two of the billboards).

118. The *Milwaukee Journal-Sentinel* reported that “Democrats and civil rights groups complained that the signs...were concentrated in minority neighborhoods and intended to suppress the election turnout.” Dkt. No. 72 (Burden Rpt.), at 18-19.

119. The sponsor of the billboards was ultimately revealed to be Stephen Einhorn, who, with his wife, “had contributed nearly \$50,000 to Scott Walker’s campaigns between 2005 and 2012.” Dkt. No. 72 (Burden Rpt.), at 18-19.

120. In assessing Senate Factor 7 (“the extent to which members of the minority group have been elected to public office in the jurisdiction”), Dr. Burden concludes that “[b]lack are not well represented in Wisconsin public life.” Dkt. No. 72 (Burden Rpt.), at 19.

121. Vel Phillips, who served one term as Secretary of State, is the only black candidate ever to have been elected statewide; Gwen Moore is the only African American who has ever been elected to Congress from Wisconsin; and there are only two Latino members of the State Assembly and no Latino members of the State Senate. Dkt. No. 72 (Burden Rpt.), at 19.

122. Milwaukee has never had a black or Latino mayor. Dkt. No. 72 (Burden Rpt.), at 19.

123. “Blacks and Latinos suffer severe disparities in education, health, employment, income, and criminal justice in part due to state policies,” and “[m]any of these disparities are more severe than in the rest of the country and have worsened over time.” Dkt. No. 72 (Burden Rpt.), at 19.

124. “There is also social science evidence that local election officials in Wisconsin are less responsive to minority constituents seeking information about how to participate in state elections.” Dkt. No. 72 (Burden Rpt.), at 19.

125. While in-person absentee voters in Milwaukee “frequently face lines that extend for several blocks, forcing them to wait outside,” there have frequently been news stories about long lines to vote in Milwaukee, and the Milwaukee Election Commission has, since 2005, “advocated for the discretion to offer in-person absentee voting at multiple locations,” the rule limiting in-person absentee voting to a single location remains in place—and the legislature has *reduced* the period available for early voting. Albrecht Decl. ¶¶11, 13-15; *see also id.* ¶¶17-20 (discussing advocacy against elimination of weekend and evening in-person absentee voting).

126. Executive Director Albrecht notes that he does “not recall one action by the legislature during [his] 10 years as an election administrator that has increased voter access or participation, particularly for groups that have historically been disenfranchised.” Albrecht Decl. ¶54.

127. “When government has intervened to address the needs of blacks and Latinos,” it was seldom the state legislature and governor who acted”; “[i]nstead, state courts, federal courts, and the federal government were frequently the actors who forced the state to respond.” Dkt. No. 72 (Burden Rpt.), at 20.

128. “The challenged provisions are a significant shift away from long-term trends in Wisconsin election law. Wisconsin has prided itself on an inclusive election system that has generally become more accommodating over time,” and “[v]oters have adapted to that system.” Dkt. No. 72 (Burden Rpt.), at 20.

129. “Decades of political science research shows that voter participation is significantly affected by the demographic factors.” Dkt. No. 72 (Burden Rpt.), at 16.

130. “Numerous studies have shown that educational attainment is the single best predictor of whether an individual votes,” as “education lowers the ‘costs’ of voting by providing language skills, direct information about the electoral process, and confidence that facilitate participation.” Dkt. No. 72 (Burden Rpt.), at 16.

131. “The racial and ethnic disparities in education naturally produce disparities in voter participation.” Dkt. No. 72 (Burden Rpt.), at 16.

132. “Income also affects voter participation. Individuals with lower household incomes are significantly less likely to vote because it is comparably more burdensome for them to make time to do so.” Dkt. No. 72 (Burden Rpt.), at 16-17.

133. “General health is clearly related to . . . turnout”: “a person moving from ‘excellent’ to ‘poor’ health is estimated to be 12 percentage points less likely to vote.” Dkt. No. 72 (Burden Rpt.), at 17.

134. “A disability makes the average person approximately 20 percentage points less likely to vote, likely because it increases the burdens and costs associated with voting.” Dkt. No. 72 (Burden Rpt.), at 17.

135. “[D]emographic markers are strongly associated with the likelihood of an individual being deterred from voting by [the] introduction of a newly restrictive voting practice that raises costs and disrupts voting habits.” Dkt. No. 72 (Burden Rpt.), at 17.

136. The underrepresentation of African Americans and Latinos in public office in Wisconsin reinforces the impact of the above-described socioeconomic disparities, as “underrepresentation of these groups has contributed to their lower levels of electoral

participation and contributes to the likelihood that adding burdens to the voting process will more likely deter blacks and Latinos from voting because the perceived benefits of voting are not as high as they would be if minority-preferred candidates enjoyed greater electoral success.” Dkt. No. 72 (Burden Rpt.), at 17.

137. Taken together, the Senate Factors provide compelling evidence that, because of the ongoing effects of Wisconsin’s history of discrimination, any burdens imposed by the challenged provisions will fall disproportionately on African Americans and Latinos. *See generally* Dkt. No. 72 (Burden Rpt.), at 31 (“[V]oting was more costly for” African Americans and Latinos “before the challenged changes in election law were implemented. These voters generally had less established voting habits and had fewer resources to help overcome the costs of voting.”).

CHALLENGED PROVISIONS

Restrictions on In-Person Absentee Voting

Limitation on Locations of In-Person Absentee Voting

138. Wisconsin limits each municipality to a single in-person absentee voting location. Wis. Stat. § 6.855.

139. In 2014, the number of adults per municipality ranged from 33 to 433,496, a ratio of 13,136 to one, with the result that the number of voters in larger municipalities served by a single location is necessarily many times that in less populous areas. Dkt. No. 72 (Burden Rpt.), at 26.

140. This unequal distribution of in-person absentee voting locations severely burdens voters in Wisconsin’s larger municipalities, a fact borne out by research showing that a lower

density of early voting locations relative to the size of the voting age population decreases overall voter turnout. Dkt. No. 72 (Burden Rpt.), at 26.

141. Because one location must serve a larger volume of voters, lines are inevitably longer in more populous municipalities, thereby by decreasing voter turnout in these areas. Dkt. No. 72 (Burden Rpt.), at 26-27; Albrecht Decl. ¶¶13, 14; Declaration of Maribeth Witzel-Behl (“Witzel-Behl Decl.”), Jan. 29, 2016, ¶4.

142. For example, in Milwaukee County, 15.5 percent of voters in the 2008 and 2012 general elections experienced wait times of 31 minutes or more, 260 percent higher than the non-Milwaukee percentage of 4.3 percent. Dkt. No. 75 (Lichtman Rpt.), at 44; Declaration of Linea Sundstrom (“Sundstrom Decl.”), ¶11 (“In Milwaukee, there is only one in-person absentee voting location for the entire city. The location offers only limited parking, and though bus lines go there, public transportation is not always punctual or reliable. When, as frequently happens, many voters are trying to go right after work, during rush hour, it can be very difficult to get there. When it is crowded, the lines can span the length of a city block. Offering only one location that is open only during business hours for in-person absentee voting imposes significant burdens on voters in the form of time spent commuting, looking for parking, and waiting in line. This burden is particularly acute for those people with inflexible work schedules or child care commitments.”).

143. This, in turn, disproportionately burdens the voting rights of African Americans, Latinos, young voters between the ages of 18 and 22, and Democrats, all of whom disproportionately reside in Wisconsin’s more highly populated areas. Dkt. No. 72 (Burden Rpt.), at 26-27; Albrecht Decl. ¶4.

144. This combines with the resource disadvantages faced by these groups and their less robust voting habits to aggravate further the burdens these voters face when trying to vote. Dkt. No. 72 (Burden Rpt.), at 27.

145. As a result, only 12 to 14 percent of voters in Milwaukee and Madison—Wisconsin’s two largest cities—vote via in-person absentee ballot, compared to 25 to 35 percent of voters in neighboring cities. Albrecht Decl. ¶¶ 12, 13; Albrecht Decl. Ex. A.

146. These problems have been exacerbated by Act 23’s and Act 146’s reductions in the in-person absentee voting period. Albrecht Decl. ¶19.

147. Without the ability to provide expanded in-person absentee voting opportunities to accommodate the needs of their residents, more voters in cities like Madison and Milwaukee must be served by a single location in a narrower time frame, further increasing the pressure on lines and decreasing voter turnout. Dkt. No. 72 (Burden Rpt.), at 26-27; Albrecht Decl. ¶¶19, 21, 22.

148. Even voters in smaller municipalities and Native American communities have faced long lines as a result of the combined effects of restriction the in-person absentee voting period and the one-location rule, deterring voters in those areas from voting. Declaration of Matt Dannenberg (“Dannenberg Decl.”), Feb. 1, 2016, ¶14 (“In addition, the fact that in-person absentee voting is only offered in one location causes long lines during popular elections, such as the presidential and fall elections, even in smaller communities. And for Native Americans who are used to voting anywhere in the municipality within the reservation during tribal elections, the long lines and seemingly arbitrary designation of one location are burdensome and deter some people from voting.”).

149. The elimination of straight-ticket voting, new registration requirements, the Voter ID law, and disruptive behavior of some election observers all further adversely impact wait times by making voting a lengthier process. Dkt. No. 75 (Lichtman Rpt.), at 44; Trindl Decl. ¶18 (“Not offering straight tick slows down the voting process for such people.”).

150. As consequence of these laws, the single-location rule burdens Wisconsin’s voters—in particular the African Americans, Latino, lower-income, and younger voters who reside in the state’s larger municipalities—even more than it did in the past. Albrecht Decl. ¶21.

151. No single location is available in Milwaukee that is easily accessible by public transportation, centrally located and accessible from Milwaukee’s neighborhoods, and large enough to serve the city’s approximately 500,000 residents. Albrecht Decl. ¶11.

152. Allowing more locations would therefore both encourage voter participation and reduce crowding and long lines at the polls. Albrecht Decl. ¶14.

153. For this reason, the Milwaukee Election Commission has since 2005 requested for the discretion to offer in-person absentee voting at multiple locations. Albrecht Decl. ¶14.

154. Indeed, even GAB, whose officials are Defendants in this case, recommended that municipalities be permitted to use multiple in-person absentee voters to promote the “convenience factor for voting.” Dkt. No. 94 (Kennedy Dep.), at 59:25–60:20; Declaration of Joshua Kaul (“Kaul Decl.”), Feb. 1, 2016, Ex. 3 (Kennedy Dep. Ex. 4 at i).

155. Thus, permitting municipalities to open more locations would serve, not impair, the state’s interest in “efficient election administration.” Albrecht Decl. 14.

156. With respect to the rule limiting in-person absentee voting to one location per municipality, Dr. Burden explains that, “[i]n 2014 the correlation between the size of the adult

population and the percent of a group in the municipality was positive and statistically significant for blacks . . . [and] Latinos.” Dkt. No. 72 (Burden Rpt.), at 26.

157. Thus, African American and Latino voters in Wisconsin were “required to use early voting locations that served significantly larger numbers of people.” Dkt. No. 72 (Burden Rpt.), at 26.

158. “Research has shown that a lower density of early voting locations relative to the size of the voting age population decreases overall turnout.” Dkt. No. 72 (Burden Rpt.), at 25.

159. Minorities are also disproportionately burdened by the one-location rule because they are more likely than whites to lack access to a vehicle. Dkt. No. 72 (Burden Rpt.), at 12.

160. In Milwaukee, there is only one in-person absentee voting location for the entire city, and that location offers only limited parking, and though bus lines go there, public transportation is not always punctual or reliable. Sundstrom Decl. ¶11.

161. “Offering only one location that is open only during business hours for in-person absentee voting imposes significant burdens on voters in the form of time spent commuting, looking for parking, and waiting in line.” Sundstrom Decl. ¶11.

162. “This burden is particularly acute for those people with inflexible work schedules or child care commitments.” Sundstrom Decl. ¶11.

163. Executive Director Albrecht’s declaration confirms that the one-location rule has been particularly problematic in Milwaukee, where a significant share of the state’s minority population lives, as well as in Madison:

The one-location rule has reduced in-person absentee voting in Milwaukee and Madison. Election Commission staff compared Milwaukee’s and Madison’s turnout for in-person absentee voting in the 2012 general election with that of 14 other municipalities in Wisconsin and found that, other than a town with 358 registered voters, in-person absentee voting accounted for a higher percentage of total ballots cast in all of the other municipalities we analyzed. . . . [T]he

percentage of votes cast by in-person absentee ballot in Milwaukee (12.57%) was only about 3/4 of the percentage statewide (16.68%). In five of the six municipalities we assessed in Waukesha and Ozaukee Counties, which neighbor Milwaukee County, 25-27% of ballots were cast by in-person absentee voting; in the other municipality, which had 427 registered voters, 19.32% of ballots were cast in-person absentee. In Whitefish Bay, the other municipality we assessed in Milwaukee County, in-person absentee voting accounted for 34.58% of ballots cast.

Albrecht Decl. ¶12 & Ex. A.

164. Albrecht explains that “[t]hese discrepancies are a direct result of the fact that Milwaukee’s and Madison’s voters are deterred from using in-person absentee voting by the difficulty of traveling to a single in-person absentee voting location and the likelihood that they will have to wait in long lines due to the one-location rule.” Albrecht Decl. ¶13.

Reductions in Hours and Days of In-Person Absentee Voting

165. Prior to 2011, Wisconsin did not limit the days and times municipalities could provide for in-person absentee voting. Wis. Stat. § 6.86(1)(b) (2011).

166. Prior to 2011, Wisconsin voters could cast in-person absentee ballots up until 5 p.m. on the Monday before an election. Wis. Stat. § 6.86(1)(b) (2011).

167. In 2011, the General Assembly limited in-person absentee voting to the period beginning 12 days before an election and eliminated it during the final weekend and Monday before an election. *See* 2011 Wis. Act 23, § 57 (A.B. 7); Wis. Stat. § 6.86(1)(b)).

168. The legislature in 2013 then furthered curtail in-person absentee voting by eliminating it on weekends and after 7 p.m. *See* 2013 Wis. Act. 146, § 1 (S.B. 324); Wis. Stat. § 6.86(1)(b).

169. Rates of absentee voting, both in Wisconsin and nationally, have increased significantly since 2004. Dkt. No. 72 at 23-24 (Burden Rpt.).

170. Voting is habitual and disruptions caused by reducing the number of days and hours available for in-person absentee voting raises the cost of voting for the substantial number of Wisconsin voters who had relied on those now-eliminated days. Dkt. No. 72 (Burden Rpt.), at 3-4 (Under the costs of voting analysis, “[a] person votes if the probability of one’s vote determining the outcome multiplied by the net psychological benefit of seeing one’s preferred candidate win the election is greater than the ‘costs’ of voting.” These costs “include the time, resources, and activity needed to overcome the administrative requirements and other barriers to registering to vote and successfully casting a ballot.”); Dkt. No. 72 at 4 (Burden Rpt.) (“Political science research demonstrates that voting participation is largely a product of habit. As long as the habit is not disrupted, voting in an election actually makes voting in the next election more likely. Once a person becomes a voter, he or she tends to remain a regular voter, at least in major federal elections. The power of habit comes in part from the fact that once having voted, the costs of participating again are much lower. A successful voter has already figured out where, how, and when to register and where, how, and when to cast a ballot. If one of these parameters is altered, it is a disruption that adds new and unexpected costs to the voting calculus.”).

171. Approximately 60,000 voters cast in-person absentee ballots on the Monday before November 2008 general election, a day which was eliminated by Act 23. Dkt. No. 94 (Kennedy Dep.), at 51:17 - 52:11; Kaul Decl., Ex. 3 (Kennedy Dep. Ex. 4).

172. Many Wisconsin municipalities, in particular the larger ones, offered in-person absentee voting during the days, weekends, and hours that have now been eliminated. Witzel-Behl Decl. ¶5; Albrecht Decl. ¶¶10, 15.

173. When it was still permitted prior to the 2011 and 2013 restrictions placed on the in-person absentee voting period, the Madison City Clerk's Office regularly offered in-person absentee voting on weekend days. Witzel-Behl Decl. ¶5.

174. In 2012, over 2,000 voters in Madison utilized in-person absentee voting during the one weekend when in-person absentee voting was available. Witzel-Behl Decl. ¶5.

175. Many voters who submitted in-person absentee ballots on the weekend in Madison in 2012 thanked the City Clerk of Madison because they could not get away to vote on weekdays. Witzel-Behl Decl. ¶5.

176. The Madison City Clerk's Office also offered in-person absentee voting after 7 p.m. for high-turnout elections. Witzel-Behl Decl. ¶5.

177. Prior to 2011, Milwaukee offered close to three weeks of in-person absentee voting, beginning three weeks and a day before Election Day and continuing until the day immediately before Election Day. Albrecht Decl. ¶10.

178. Prior to 2011, Milwaukee generally offered one day of weekend voting per weekend during the early voting period, and in-person absentee voting has been offered as late as 8:00 p.m. Albrecht Decl. ¶10.

179. To alleviate the problems from the one-location rule, "Milwaukee and Madison offer[ed] extended evening and weekend hours during high turnout elections." Albrecht Decl. ¶19.

180. After the legislature eliminated the in-person absentee voting period to 12 days and prohibited in-person absentee voting on the three days before Election Day, to try to offset the problems that this limited window of in-person absentee voting created for Milwaukee voters in the 2012 election, the Milwaukee Election Commission offered in-person absentee voting

from 9:00 a.m. to 5:00 p.m. on both of the weekend days that were still available for in-person absentee voting. Albrecht Decl. ¶15.

181. Nearly 5,000 residents in Milwaukee voted that weekend. Albrecht Decl. ¶10.

182. Even so, “the growth rate for in-person absentee voting in Milwaukee from 2008 to 2012 was only about 14%—much lower than it previously had been and lower than the growth rate in other municipalities in Wisconsin.” Albrecht Decl. ¶16.

183. Now, moreover, weekend in-person absentee voting—which was much more likely to be used in Milwaukee and Madison than in other parts of the state—has been eliminated, making the burden on the disproportionately minority voters of Milwaukee even more severe. Declaration of Andrea Kaminski (“Kaminski Decl.”), Jan. 30, 2016, ¶24 & Ex. E (“municipalities were already limited to one early voting location regardless of size and, by treating municipalities equally, the bill eliminating weekend and evening early voting does not treat voters equally”).

184. “African Americans and Hispanics were more likely than whites to use early voting.” Dkt. No. 75 (Lichtman Rpt.), at 42.

185. Data from in-person absentee voting in Milwaukee shows that *within* Milwaukee, African Americans have been disproportionately likely to use in-person absentee voting. *See* Albrecht Decl. ¶ 22; *see also id.* ¶ 23 (“My personal observations have been consistent with what these numbers show. A majority of the voters I have seen using in-person absentee voting have been African American. This pattern has been particularly noticeable on the weekend. On the Sunday when in-person absentee voting was available for the 2012 presidential election, African American churches encouraged voting after services and organized transportation to the polls.”).

186. Dr. Mayer reports that, “[i]n 2010, the last statewide election in which . . . registration was permitted in the 3 days before an election, significantly more people registered over this period in municipalities with higher African American population concentrations[,] . . . even after removing Milwaukee from the analysis, and controlling for municipality size.” Dkt. No. 71 (Mayer Rpt.), at 4; *see also id.* at 34-37.

187. Moreover, “[r]esearch on early voting has found consistently that minority voters are more likely than white voters to vote on the weekend before an election.” Dkt. No. 71 (Mayer Rpt.), at 33; *see also id.* at 37 (analysis “confirms that late weekend registration in Wisconsin was disproportionately used by African Americans, which is the same pattern observed in other states”).

188. “In-person absentee voting generally, and lengthier and more flexible in-person absentee voting periods specifically, are also valuable in ensuring that voters with limited English proficiency, low literacy, or discomfort or unfamiliarity with the voting process are able to get to the polls.” Albrecht Decl. ¶24.

189. Executive Director Albrecht explains that such voters “benefit from in-person absentee voting because there are more resources and staff support available during early voting than on Election Day.” Albrecht Decl. ¶24.

190. In addition, “[i]n-person absentee voting is particularly valuable to the working poor, who are often working multiple jobs.” Albrecht Decl. ¶9.

191. Unsurprisingly, “[t]he residents of many of the districts [in Milwaukee] with high turnout for in-person absentee voting are among the working poor and have to work multiple jobs in order to make ends meet. These voters tend to have particularly inflexible schedules, and

voting early allows them to avoid concerns about being unavailable during polling hours on Election Day.” Albrecht Decl. ¶24.

192. Because minority voters are more likely than whites to use in-person absentee voting, a reduction in the in-person absentee voting period will plainly burden minority voters disproportionately. *See* Albrecht Decl. ¶19 & Ex. D (“The reality is that the majority of early voters in the City of Milwaukee are African American. . . . When the question is asked, ‘who in Milwaukee will be most affected by [the elimination of weekend and evening early voting hours],’ the answer is African Americans.”); *see also* Johnson Decl. ¶¶12-13 (explaining that she has “coordinated rides to the polls from African American churches on Sundays when the state permitted early voting on the weekend” but can no longer do so and that “limitations [on early voting] and long lines have made it significantly more difficult for African Americans to vote early or on Election Day”); Witzel-Behl Decl. ¶9 (“Based on my experience, the elimination of weekend early voting hours is particularly likely to burden low-income voters who work two shifts during the week or lack the transportation or child care they need to vote during the week.”); Sundstrom Decl. ¶10 (“Now that the legislature has reduced the number of in-person absentee voting days, and cut weekends entirely, it is not at all convenient for people who work, especially for lower income people who might work two jobs or have particularly inflexible schedules. Based on my conversations with voters, it is less likely that people with inflexible work schedules, which tend to be lower income people, will be able to vote at all.”); *see generally* Dkt. No. 94 (Kennedy Dep.), at 83:8-17 (Kennedy previously stated that there were concerns that the post-2012 changes to in-person absentee voting would “have an impact on people who live in urban areas who might be working during those hours”).

193. The elimination of weekend and evening in-person absentee voting disproportionately burdens lower-income individuals, who tend disproportionately to be African American and Latino voters in Wisconsin and whose less flexible job schedules and increased resource constraints make voting during weekday working hours more difficult. Dkt. No. 72 (Burden Rpt.), at 12-18, 27; Albrecht Decl. 24 (“The residents of many of the districts [in Milwaukee] with high turnout for in-person absentee voting are among the working poor and have to work multiple jobs in order to make ends meet. These voters tend to have particularly inflexible schedules, and voting early allows them to avoid concerns about being unavailable during polling hours on Election Day.”); Gagner Decl. ¶13 (eliminating weekend and evening in-person absentee voting makes it harder to vote do to work schedule); Witzel-Behl Decl. ¶9 (“[T]he elimination of weekend early voting hours is particularly likely to burden low-income voters who work two shifts during the week or lack the transportation or child care they need to vote during the week.”); Sundstrom Decl. ¶10 (“Now that the legislature has reduced the number of in-person absentee voting days, and cut weekends entirely, it is not at all convenient for people who work, especially for lower income people who might work two jobs or have particularly inflexible schedules. Based on my conversations with voters, it is less likely that people with inflexible work schedules, which tend to be lower income people, will be able to vote at all.”); Trindl Decl. ¶19 (“The reduction in evening and weekend hours makes it more difficult for those voters who work to access in-person absentee voting during the period it is offered.”).

194. Similarly, the elimination of in-person absentee voting on weekends disparately impacts African American voters by preventing “Souls to the Polls” efforts on Sundays in areas such as Milwaukee. Albrecht Decl. ¶ 23; Johnson Decl. ¶10; Citizen Action Decl. ¶10.

195. These reductions also burden voters with lower level of literacy or English proficiency—who, again, are disproportionately African American and Latino—whose unfamiliarity with the voting process deters them from the polls and who benefit from the increased resources and staff available during in-person absentee voting. Dkt. No. 72 (Burden Rpt.), at 12-18; Albrecht Decl. ¶ 24.

196. These reductions in in-person absentee voting likewise disproportionately impact younger and student voters whose lower levels of voter habituation and access to economic and transportation resources make it more difficult to vote in the now-reduced period for in-person absentee voting or on Election Day. Dkt. No. 72 (Burden Rpt.), at 27; Nelson Decl. ¶6; Tasse Decl. ¶6; Declaration of Carmen Gosey, Jan. 31, 2016, ¶8.

197. And, they impede GOTV efforts by making it harder to mobilize voters. Nelson Decl. ¶7; Johnson Decl. ¶10.

198. Minorities vote absentee at significantly higher rates than whites, with 22.4 percent of African American and Latino voters in Wisconsin voting absentee in 2008, 2010, and 2012, compared to 15.9 percent of whites. Dkt. No. 75 (Lichtman Rpt.), at 43.

199. GAB data shows that, before the elimination of weekend in-person absentee voting, voters in Madison and Milwaukee made up the lion share of all weekend in-person absentee voters, constituting 65 percent of those in 2010, 66 percent during the 2012 recall, and 49 percent during the November 2012 general election who voted on weekends in Wisconsin. Kaul Decl., Ex. 31 (Dkt. No. 92 (GAB 30(b)(6) Dep. Ex. 112)).

200. These numbers are likely imprecise. *See* Dkt. No. 92 (GAB 30(b)(6) Dep.), at 99-104.

201. These reductions in the period for in-person absentee voting also exacerbate the problem of long lines during both the in-person absentee voting period and on Election Day, particularly in larger municipalities with higher African American and Latino populations. Witzel-Behl Decl. ¶¶4, 9 (long lines in Madison during in-person absentee voting that “were over two city blocks long”); Albrecht Decl. ¶¶19, 21 (longer lines in Milwaukee that most affect African Americans); Johnson Decl. ¶10 (long lines during in-person absentee voting and on Election Day in Milwaukee).

202. Indeed, 16.4 percent of African American and Latino voters experienced wait times of 31 minutes or more in the 2008 and 2012 general elections, compared to 5.2 percent of whites. Dkt. No. 75 (Lichtman Rpt.), at 44.

203. The problem of long lines is further aggravated by the fact that larger municipalities are limited to a single in-person absentee voting location, leading to depressed turnout in the areas with the highest concentrations of minorities. Johnson Decl. ¶10; Albrecht Decl. 19, 21; Kaminski Decl. ¶24.

204. On top of these problems, Wisconsin’s voter ID law, its new restrictions on the ability of voters to register to vote, the elimination of straight-ticket voting, and its law facilitating disruptive behavior of election observers all slow down the voting process and cause even more congestion at the polls. Dkt. No. 75 (Lichtman Rpt.), at 4; Trindl Decl. ¶18 (“Not offering straight tick slows down the voting process for such people.”); Kaminski Decl. at ¶¶21-22; Kaminski Decl. Ex. C at 3.

205. Nothing in the prior law required municipalities to offer in-person absentee voting during the now-eliminated days and times, and each municipality could set a schedule that best accommodated the needs of its residents and its resources. Dkt. No. 94 (Kennedy Dep.), at

80:20-81:17 (“I mean I think one of the arguments in favor of the hours was that everybody would be the same, but the reality is in many places, they don’t offer that many hours because they don’t have as many people . . . [I]t provides a uniform window, but it doesn’t provide uniform hours because there’s a lot of places where there’s no voting on certain days of the week or it’s only in the afternoon. Q And prior to that change, there was a uniform window also, correct? A. It was still a uniform window in the sense that there was nothing that said you couldn’t vote on how early you started or how late, how early you could start or how late you could run or weekends or holidays.”).

206. In those municipalities that chose to provide in-person absentee voting more than 12 days before an election, the burden on clerks’ offices was light. Dkt. No. 94 (Kennedy Dep.), at 79:15-80:9.

207. Moreover, these reductions impose burdens on clerks’ offices because they have less time to process in-person absentee voters, thereby straining their resources during the remaining in-person absentee voting period. Witzel-Behl Decl. ¶7; Albrecht Decl. ¶25.

208. These reductions have also created hassles for clerks who work part time and have other full-time jobs because they cannot schedule appointments with voters during off hours or on weekends. Dkt. No. 95 (Lowe Dep.), at 104:11 - 104:19; *id.* at 107:8 - 111:24; Kaul Decl., Ex. 4 (Lowe Dep. Ex. 78) (email between GAB and clerk of Pine Grove discussing burdens imposed on part-time clerks with other full time jobs by reductions in early in-person absentee voting).

209. For these reasons, election officials in cities such as Madison, Milwaukee, and Green Bay complained about the change. Dkt. No. 95 (Lowe Dep.), at 102:25 - 103:13.

210. Furthermore, reducing the period for in-person absentee voting did not reduce costs, as Defendants contend, but increased costs by causing more people to vote by mail, which is significantly more expensive and time-consuming for clerks' offices. Witzel-Behl Decl. ¶8 ("Factoring in materials, postage, and the time spent by staff of the Clerk's Office, the cost, as of 2013, of an absentee ballot cast by mail was approximately \$4.79, while an absentee ballot cast in person was about 55 cents. Mailing out absentee ballots is a time-consuming process for the Clerk's Office—much more so than handling in-person absentee voting.").

211. The post office has mistakenly returned absentee ballots to the voter or the person who witnessed the voter's certification due to confusion about the proper address on the absentee ballot envelope. Dkt. No. 96 (Lowe Dep.), at 111:25 - 114:8; Kaul Decl., Ex. 5 (Lowe Dep. Ex. 79) (email among GAB staff discussing ballots returned to voters instead of clerk's office).

212. As under the prior law, clerks' offices are not required to offer in-person absentee voting during the now-allotted time, and the number of hours offered varies widely across municipalities under the current law. Dkt. No. 95 (Lowe Dep.), at 108:3 - 111:24; Kaul Decl., Ex. 4 (Lowe Dep. Ex. 78) (GAB email to Pine Grove clerk that clerks have a great deal of flexibility as to when they can offer in-person absentee voting); Dkt. No. 94 (Kennedy Dep.), at 80:20-81:17 ("I mean I think one of the arguments in favor of the hours was that everybody would be the same, but the reality is in many places, they don't offer that many hours because they don't have as many people . . . [I]t provides a uniform window, but it doesn't provide uniform hours because there's a lot of places where there's no voting on certain days of the week or it's only in the afternoon. Q And prior to that change, there was a uniform window also, correct? A. It was still a uniform window in the sense that there was nothing that said you

couldn't vote on how early you started or how late, how early you could start or how late you could run or weekends or holidays.”).

213. The result of the new law is not uniformity, but an unequal treatment of voters who reside Wisconsin's more populous areas and who are afforded fewer *per capita* resources due to the constrained absentee-voting schedule, a problem only worsened by rule limiting each municipality to a single in-person absentee voting location. Kaminski Decl. ¶¶24, 25; Albrecht Decl. ¶¶19, 21, 22.

Restrictions on Voter Registration

214. With 2011 Act 23, the Wisconsin Legislature increased from 10 to 28 days the residency requirement for voting in Wisconsin elections. 2011 Wis. Act. 23, § 10-12; Wis. Stat. § 6.02(1)-(3).

215. Under this law, voters who move into Wisconsin from out of state within 28 days of an election are denied the right to vote for any office other president or vice-president. Wis. Stat. § 6.15(1).

216. Voters who move within Wisconsin are not eligible to vote in their new wards or districts until they have resided there for 28 days. Instead, voters who move within Wisconsin 28 days before an election must vote in their old wards or districts. *Id.* § 6.02(2).

217. Actual voters who have moved to Wisconsin have already been denied the right to vote by this law. Johnson Decl. ¶16.

218. For those who move within the state, the 28-day residency requirement disenfranchises them from voting for local offices in the new locality where they reside, an impairment no less significant because the office is smaller. Wis. Stat. § 6.02(2).

219. Moreover, it adversely impacts their ability to cast a ballot by forcing them either to vote absentee, which requires them to know about this rule before Election Day, or travel to their old polling place. Witzel-Behl Decl. ¶14; Trindl Decl. ¶14 (“I have also experienced instances where a potential voter had recently moved, and so they had to return to their previous polling place in order to vote and could not vote at the polling place I was inspecting. I do not know if they succeeded in voting.”).

220. Voters who move within the 28-day period but who were not registered at their previous address face a particularly difficult situation, as they must still register at their previous address to vote. Dkt. No. 95 (Lowe Dep.), at 92:25 - 93:14.

221. However, many of these voters no longer have valid proof-of-residency documents. Albrecht Decl. ¶35; Dkt. No. 95 (Lowe Dep.), at 94:6 - 94:24.

222. When they register at their previous address, such individuals must sign a certification that they intend to reside at that address, which deters such individuals from registering because they cannot honestly represent that they intend to reside at their old address. Dkt. No. 95 (Lowe Dep.), at 94:6 - 94:24; Albrecht Decl. ¶36; Witzel-Behl Decl. ¶¶15, 16.

223. Furthermore, the confirmation mailing clerks’ offices send out to new registrants will be returned as undeliverable because these voters no longer live at the address where they registered, confusing clerks as to whether those persons’ ballots may be counted and exposing them to the risk that they will be referred to a district attorney for prosecution. Dkt. No. 95 (Lowe Dep.), at 94:25 - 96:14; Albrecht Decl. ¶36.

224. Understandably, these burdens have deterred a number of Wisconsin voters from voting. Witzel-Behl Decl. ¶¶15, 16.

225. Furthermore, these burdens fall disproportionately on poorer and more transient voters who move more frequently, as well as voters with lower levels of educational attainment, access to transportation, and voter habituation, all of which tend disproportionately to be minority and younger voters in Wisconsin. Albrecht Decl. ¶34; Dkt. No. 72 (Burden Rpt.), at 27 (“Minorities, young people, and lower income people are also more likely to move. Wisconsin election laws now require that people who moved within 28 days of the election must vote from their previous polling place or use absentee ballots. Thus, these groups will disproportionately be required to find time and appropriate transportation to return to the previous voting location or make use of the absentee ballot process.”); Johnson Decl. ¶16.

226. Rates of mobility for African Americans and Hispanics are significantly higher than those for whites. Dkt. No. 75 (Lichtman Rpt.), at 40-41, 47.

227. And, African Americans and Latinos disproportionately lack access to the transportation resources needed to travel to their previous residence. Dkt. No. 72 (Burden Rpt.), at 13 (“Blacks living in the “Inner Core” often lack the resources and the need to own an automobile and to hold a driver’s license. According to 2000 U.S. Census data on the population of Milwaukee, whites comprised 51% of residents but only 37% of public bus riders. Conversely, blacks and Latinos comprised roughly 49% of the city’s residents, but 63% of public bus riders. These statistics indicate that minorities are less likely to have a car available (and a driver’s license) to take advantage of when polling places are open. Data from the 2005 American Community Survey for Milwaukee County indicate that the rate at which households lack access to a vehicle is 9% for whites, 14% for Latinos, and 25% for blacks. Similar disparities in transportation exist in Dane County, where 7% of white households lack access to a vehicle compared to 12% for Latinos and 25% for blacks. Restrictions in the dates and hours

available to vote and additional requirements for documentation to register and vote will be disproportionately burdensome for these groups.”).

228. The 28-day residency requirement also disproportionately burden college students—who move more frequently—with the result that a greater number have been forced to vote absentee or return to their previous voting location. Dkt. No. 95 (Lowe Dep.), at 96:21–97:25; Kaul Decl., Ex. 28 (Lowe Dep. Ex. 77) (GAB emails discussing the impact of the increased residency requirement on college students during the 2012 recall election); Trindl Decl. ¶15; Tasse Decl. ¶11.

229. This law also impedes Plaintiffs’ GOTV and voter-registration efforts by hindering their ability to mobilize their core constituencies. Johnson Decl. ¶16.

230. Even GAB’s Director disavowed any knowledge of the election administration interests that are served by 28-day rule. Dkt. No. 94 (Kennedy Dep.), at 208:13–208:15 (“Q. And what, if any, election administration interests are served by that increase in the residency period? A. I don’t know.”).

231. In contrast to the State’s unsubstantiated assertions, Plaintiffs’ uncontroverted evidence shows that eliminating the 10-day requirement was a needless imposition on Wisconsin’s voters. Albrecht Decl. ¶34 (“The 10-day residency rule did not create any problems for voter registration in Milwaukee that would have been solved by a longer residency period.”); Witzel-Behl Decl. ¶12 (“The residency rules previously in place in Wisconsin—which required voters to reside in a location for 10 days before an election in order to establish residency—did not create any problems. From the perspective of election administration, there was no reason to change the residency requirement to 28 days.”).

232. It increased the workload for clerks' offices who must now explain the new rule to an increased number of confused and intimidated voters. Witzel-Behl Decl. ¶¶13, 16; Albrecht Decl. 35; Johnson Decl. ¶16.

233. Similarly, it has created confusion among poll workers as to how to treat the registrations of voters who register at their previous address and whose confirmations notices are returned as undeliverable. Dkt. No. 95 (Lowe Dep.), at 97:17 - 97:25; Kaul Decl., Ex. 28 (Lowe Dep. Ex. 77) (GAB email discussing the confusion created by the 28-day residency requirement); Witzel-Behl Decl. ¶¶15, 16.

234. Since 2010, Wisconsin has enacted a number of measures restricting its voters' ability to register to vote; for example, it has required documentary proof of residence, whereas the previous law only required documentation of residence for those who registered 20 days or fewer before an election. 2013 Wis. Act 182,; Wis. Stat. § 6.34(2).

235. It enacted this measure on top of having earlier eliminated corroboration as a means of proving residency, whereby one voter could "vouch" for the residence of another. *See* 2011 Wis. Act 23, §§ 29, 40-41.

236. With Act 23, it also eliminated statewide special registration deputies (SRDs), requiring each SRD to be registered by the municipality in which they intended to register voters. 2011 Wis. Act 23, § 26; Wis. Stat. § 6.26(2).

237. It required colleges and universities to certify that a student is a U.S. citizen in order for that student to be able to register with a student ID. 2011 Wis. Act 23, § 33m (A.B. 7); Wis. Stat. § 6.34(3)(a)7.b.

238. It eliminated SRDs at high schools and mandated that high schools not be used as voter registration locations. 2011 Wis. Act 240, § 2; Wis. Stat. § 6.28.

239. Finally, it prohibited local municipalities such as Madison from requiring landlords to provide voter registration forms to new tenants. 2013 Wis. Act 76, § 2; Wis. Stat. § 66.0104(2)(d)1.a.

240. Requiring documentary proof of residence has burdened Wisconsin's voters, and in some cases resulted in otherwise eligible voters being denied the right to vote. Trindl Decl. ¶12; Johnson Decl. ¶15 (requirement has "caused numerous eligible voters who wanted to register to be unable to do so due to a lack of sufficient documentation. "); Witzel-Behl Decl. ¶11 ("The changes to the rules for voter registration enacted since the beginning of 2011 have made it more difficult to register to vote. Since the legislature adopted the requirement that documentary proof of registration be included with voter registrations submitted during open registration, the Clerk's Office has received a couple thousand voter registration forms without documentary proof of residence.").

241. For example, in Lac du Flambeaux, a Native American resident was unable to register after he moved in with his mother to care for her because he lacked the necessary documentation, despite the fact that the Chief Election Inspector had been his teacher and knew him personally. Dannenberg Decl. ¶7.

242. These burdens disproportionately affect lower-income, African American, and Latino voters, who, due to their lower socio-economic status, move more frequently and thus are more likely both to need to reregister and to lack the necessary proof. Sundstrom Decl. ¶7 ("In my experience registering voters at off-site locations, the voters who are more frequently turned away for lack of proof of residence are voters who rent, who move frequently, and who tend to be lower income. In my experience much of Milwaukee's poverty is concentrated among Latino and African American populations, so those voters are disproportionately affected by the proof

of residency requirement.”); Johnson Decl. ¶15 (“In my experience this requirement has also made it more difficult to register voters in the African American community.”); Dkt. No. 75 (Lichtman Rpt.), at 40-41 (imposes a disproportionate burden on minorities because African Americans in Wisconsin are approximately twice as likely to have moved in the previous year compared to whites, and Latinos are more 50 percent as likely to have moved).

243. For the same reasons, requiring documentary proof of residence imposes severe burdens on homeless voters. Dkt. No. 95 (Lowe Dep.), at 29:12 - 34:2; Kaul Decl., Exs. 6-7 (Lowe Dep. Exs. 56-57).

244. Requiring documentary proof of residence also imposes particular burdens on elderly voters, whose documentation is often in the name of an adult child. Dkt. No. 94 (Kennedy Dep.), at 121:7 -20; Kaul Decl., Ex. 11 (Kennedy Dep. Ex. 11 at 11) (Kennedy testimony before the General Assembly that eliminating corroboration “could work a real hardship on the elderly and women. In many cases current identifying documents such as bank statements and utility bills are in the name of the husband or an adult child.”).

245. Moreover, voters in nursing homes often do not have the necessary documentation of their residence. Dkt. No. 94 (Kennedy Dep.), at 149:13 - 150:2.

246. As a consequence, this requirement, along with the elimination of corroboration as a means of providing residence, has made it virtually impossible for nursing home residents to register to vote. Dkt. No. 95 (Lowe Dep.), at 19:9 - 29:11; *id.* at 34-35:5; Kaul Decl., Exs. 9-10 (Lowe Dep. Exs. 54-55).

247. Requiring proof of residency burdens student voters, who also move more frequently and are therefore less likely to possess the necessary documentation. Dkt. No. 95

(Lowe Dep.), at 35:6 - 39:8; Kaul Decl., Ex. 11 (Lowe Dep. Ex. 58); Sundstrom Decl. ¶7; Gosey Decl. ¶7; Nelson Decl. ¶9.

248. Requiring proof-of-residency documentation also impairs the work of those engaged in off-site voter-registration drives as well by making the process more burdensome and confusing. Dkt. No. 94 (Kennedy Dep.), at 152:3 - 153:6; Kaul Decl., Ex. 12 (Kennedy Dep. Ex. 15.)

249. SRDs must verify that they were provided with a voter's proof of residence, a process that is both time consuming for the SRDs and has resulted in them being able to register fewer people. Dkt. No. 95 (Lowe Dep.), at 49:9 - 19; Sundstrom Decl. ¶6 ("Now, even off-site registration requires proof of residency. As a result, we turn away more people than we register because so many do not have the proper proof of residency with them. What is acceptable proof is arbitrary. For example, a bank statement is acceptable, but not a credit card statement; a residential lease is acceptable, but a mortgage statement is not. Having to stay apprised of these distinctions and educate potential voters is a very time consuming process. Although we give them information about what they do need to register, there is no way to know if they end up registering."); Gosey Decl. ¶7; Nelson Decl. ¶9; Tasse Decl. ¶12 ("In my experience the proof of residency requirement has significantly slowed down the registration process, making it more difficult to register voters on campus or where lots of students gather and even turning some students off from completing a voter registration form."); Johnson Decl. ¶15 ("The state's expanded proof-of-residency requirement for voter registration have substantially hindered my voter registration efforts as well. In my experience, the proof of residency requirement has significantly slowed the voter registration process and has caused numerous eligible voters who wanted to register to be unable to do so due to a lack of sufficient documentation. In my

experience this requirement has also made it more difficult to register voters in the African American community.”); Kaminski Decl. ¶¶9, 1213; Kaminski Decl. Ex. B at 2.

250. For those not registered as SRDs, they must now obtain a copy of the voter’s proof of residence, a requirement that has reduced the effectiveness of their voter registration efforts. Dkt. No. 94 (Kennedy Dep.), at 152:19 - 152:22 (“Q. So if it’s somebody doing the registration who’s not a special registration deputy, the form can only be submitted if they’re able to make a copy of proof of residence? A That’s right.”); Dkt. No. 95 (Lowe Dep.), at 49:20 - 51:9; Kaul Decl., Ex. 13 (Lowe Dep. Ex. 60) (email among GAB staff discussing how the proof-of-residency requirement will reduce the number of registration drives).

251. Indeed, requiring proof of residency at off-site registration is the biggest impediment SRDs face to registering new voters. Sundstrom Decl. ¶6 (“Requiring proof of residency at off-site registration is the biggest impediment to registering new voters.”).

252. And, those who are least likely to be able register during off-site registration drives are African Americans, Latinos, lower income, and students. Sundstrom Decl. ¶7; Gosey Decl. ¶7 (“Students seldom carry proof of residence with them, so when I register a student to vote they often have to access their school enrollment records online, using either on a computer or on a phone, to provide sufficient proof of residence. This extra step in the registration process makes each registration take longer than it otherwise would. As someone who registers students who are often in large groups, this added time causes me miss many perhaps otherwise interested students and likely keeps others from seeking to get registered.”); Johnson Decl. ¶15.

253. Because of these burdens and confusion, a number of the voter registrations that have been collected during voter registration drives have been ineffective because they lacked the necessary proof of residency. Dkt. No. 95 (Lowe Dep.), at 51:10 - 53:14; Kaul Decl., Ex. 14

(Lowe Dep. Ex. 61) (email from Town of Sheboygan clerk that nearly all of the voter-registration forms submitted by registrations groups lacked the required proof of residency).

254. In Milwaukee, more than half of the registrations by mail lacked the required proof of residence document after this law was enacted. Dkt. No. 95 (Lowe Dep.), at 42:21 - 45:17; Kaul Decl., Ex. 29 (Lowe Dep. Ex. 59) (email from Neil Albrecht to GAB staff that in Milwaukee 375 of the 565 registrations by mail did not include proof of residency); Albrecht Decl. ¶29.

255. Indeed, the confusion is so great that even county clerks, who train poll workers and who are presumed to know the law better than voters, have had difficulty understanding the law. Dkt. No. 95 (Lowe Dep.), at 53:15 - 55:15; Kaul Decl., Ex. 15 (Lowe Dep. Ex. 62) (email from Sheboygan County Clerk expressing confusion about the proof of residency requirements for registration versus photo ID).

256. In the words of Neil Albrecht, Executive Director of the City Election Commission in Milwaukee, “[t]he requirement that voter registrations be accompanied by proof of residence during the open registration period is a classic example of a solution looking for a problem.” Albrecht Decl. ¶30.

257. Before this law, when a person registered more than 20 days before an election, clerks mailed that person a confirmation postcard that would be returned as undeliverable if that person did not reside at that address, which the evidence shows was a sufficient amount of time for the verification process. Dkt. No. 94 (Kennedy Dep.), at 154:17 - 156:18 (discussing written testimony to the Wisconsin Senate that prior justify provided adequate safeguards and the requiring proof-of-residency created many problems with election administration); Kaul Decl.,

Ex. 12 (Kennedy Dep. Ex. 15 at 1-2) (testimony to Wisconsin Senate); Lowe Dep. Tr. 56:4 - 24; Albrecht Decl. ¶30.

258. Not only was the prior law sufficient to safeguard the State's interests, the new law has not made the voter registration process any more secure. Witzel-Behl Decl. ¶18 ("These changes to the voter registration laws do not make the voter registration process more secure. For example, while voters must now provide documentary proof of residence to register during open registration, that proof of residence can be the letter we send voters explaining that their proof of residence was missing. While parents can no longer corroborate the residence of their 18-year-old children, they can write out a lease to their children at the polls, and that lease can be used as proof of residence.").

259. Moreover, instead of making election administration more efficient, it has slowed down the process of registering voters for election workers and increases wait times for those voters who need to register at their polling location. Dkt. No. 94 (Kennedy Dep.), at 149:3 - 149:6; Witzel-Behl Decl. ¶17 ("This means more work for my staff, which attempts to follow up with these individuals who have unsuccessfully attempted to register. And if we do not receive documentary proof of residence, we are not allowed to register the voter. I also expect that this will increase lines for registration on Election Day, as an increased number of voters will need to register because their prior effort to register was rejected."); Trindl Decl. ¶12; Kaminski Decl. Ex. C at 3 ("These new laws make it more difficult to register before the election, and the new restrictions on proof-of-residence documentation can make registrations take longer, on average, to process. It is easy to see how this could result in more people needing to register at the polls on Election Day and longer lines at the registration table.").

260. From 2006 to October 2012, 35,332 Wisconsin citizens had registered using corroboration. Dkt. No. 72 (Burden Rpt.), at 39; Dkt. No. 75 (Lichtman Rpt.), at 40.

261. The Native American resident of Lac du Flambeaux discussed above who lived with his mother and therefore lacked documentary proof of his residence was well known in the community and could have registered with corroboration; indeed, the Chief Inspector at his polling location had been his teacher. Dannenberg Decl. ¶7.

262. In Waukesha, election officials had to turn away a woman whose residency documents were in the name of her husband. Trindl Decl. ¶13.

263. During the 2012 recall election, a young voter who lived with his girlfriend was unable to vote because he did not proof of residence, despite the fact that he lived next door to the Chief Inspector, who knew him personally and could have verified his residence. Kaminski Decl. ¶11; Kaminski Decl. Ex. B at 3.

264. Moreover, like the proof-of-residency requirement, the elimination of corroboration poses a particular burden on elderly, who often do not have documentary proof of residence because those documents are in the name of a child or because they reside in a nursing home. Dkt. No. 94 (Kennedy Dep.), at 121:7 - 20; Kaul Decl., Ex. 8 (Kennedy Dep. Ex. 11 at 11) (Kennedy testimony before the General Assembly that eliminating corroboration “could work a real hardship on the elderly and women. In many cases current identifying documents such as bank statements and utility bills are in the name of the husband or an adult child.”); Kaminski Decl. ¶10; Kaminski Decl. Ex. A at 2.

265. Combined with the proof-of-residency requirement, the elimination of corroboration has made it virtually impossible for elderly voters in nursing homes to vote. Dkt.

No. 95 (Lowe Dep.), at 19:9 - 29:11; *id.* at 34-35:5; Kaul Decl., Exs. 9-10 (Lowe Dep. Exs. 54-55).

266. The elimination of corroboration likewise disparately impacts women voters, whose residency documents are often in the name of their husband. Dkt. No. 94 (Kennedy Dep.), at 121:7 - 20; Kaul Decl., Ex. 8 (Kennedy Dep. Ex. 11) at 11 (Kennedy testimony before the General Assembly that eliminating corroboration “could work a real hardship on the elderly and women. In many cases current identifying documents such as bank statements and utility bills are in the name of the husband or an adult child.”); Trindl Decl. ¶13 (“Since the elimination of corroboration, I have had to refuse to register potential voters because they lacked any other means to prove their residency. One such instance was during the spring 2013 election, when a husband and wife came to the polling place I oversee. They both needed to register that day because they had moved into an apartment while their house was under construction. Although they each had proper forms of identification, the lease and all of the utilities were in the husband’s name. In their temporary location, they had neglected to put anything in the wife’s name. If corroboration were an available means, the husband could have vouched for his wife’s residency. As it were, she could neither register nor vote.”); Kaminski Decl. ¶10; Kaminsky Decl. Ex. A at 2.

267. And, like the documentary proof-of-residence requirement, the elimination of corroboration imposes particular burdens minority, lower-income, and homeless voters who suffer from higher rates of residential instability and are less likely to be able to show proof of their residence. Dkt. No. 72 (Burden Rpt.), at 39; Dkt. No. 75 (Lichtman Rpt.), at 40-41 (Lichtman Rpt.); Kaminski Decl. ¶10; Kaminski Decl. Ex. A at 2.

268. It similarly burdens the voting rights of young voters, many of whom live with their parents and do not have documents in their name. Witzel-Behl Decl. ¶18.

269. The elimination of corroboration has not reduced the likelihood of fraud, which the evidence shows was never a problem when corroboration was allowed. Witzel-Behl Decl. ¶19.

270. Instead, it has merely made election administration more difficult. Witzel-Behl Decl. ¶18.

271. Indeed, registration fraud is virtually non-existent in Wisconsin. Dkt. No. 74 (Minnite Rpt.), at 36 (only six charged cases of registration fraud between 2008 and 2013).

272. Some Wisconsin communities do not offer a special registration deputy (SRD) program at all, and eliminating statewide SRDs completely deprives those residents of the benefits provided by SRDs. Dannenberg Decl. ¶6; Trindl Decl. ¶8.

273. Eliminating SRDs also severely burdens the political and associational rights of those engaged in off-site voter-registration drives by restricting the scope of SRDs' activities and increasing administrative hurdles associated with being deputized in multiple municipalities. Nelson Decl. ¶8; Trindl Decl. ¶5, 8; Tasse Decl. ¶8; Witzel-Behl Decl. ¶24.

274. For example, this restriction has impeded the efforts of the League of Conservation Voters to register Native Americans, whose reservations and communities are spread across multiple municipalities. Dannenberg Decl. ¶6.

275. Similarly, it has hindered Plaintiff Citizen Action's ability register voters by sowing confusion among both voters and SRDs as to whether an SRD able to register a particular voter. Johnson Decl. ¶14 ("In my experience the current requirement for special registration deputies requiring them to get deputized by each municipality where they want to register voters,

without a statewide option, has caused significant confusion and hardship among voters seeking to register and deputies regarding whether or not a deputy is able to register a particular voter, particularly among groups of voters who move more often such as racial minorities, young voters, and poor voters.”).

276. And, it has severely restricted the League of Women Voters’ ability to register new citizens after naturalization ceremonies in Milwaukee, because those citizens travel from all over the state to attend the ceremony. Kaminski Decl. ¶14.

277. These burdens on these groups’ voter-registration activities are compounded by the proof-of-residency requirement and the elimination of corroboration as a means of proving residency, all of which make it more difficult and time consuming for voters to register. Gosey Decl. ¶7 (“The requirement to show proof of residency when registering to vote has hindered my ability to register my fellow students. Students seldom carry proof of residence with them, so when I register a student to vote they often have to access their school enrollment records online, using either on a computer or on a phone, to provide sufficient proof of residence. This extra step in the registration process makes each registration take longer than it otherwise would. As someone who registers students who are often in large groups, this added time causes me miss many perhaps otherwise interested students and likely keeps others from seeking to get registered.”); Johnson Decl. ¶15 (“The state’s expanded proof-of-residency requirement for voter registration have substantially hindered my voter registration efforts as well. In my experience, the proof of residency requirement has significantly slowed the voter registration process and has caused numerous eligible voters who wanted to register to be unable to do so due to a lack of sufficient documentation. In my experience this requirement has also made it more difficult to register voters in the African American community.”).

278. With fewer people able to register off-site as a result of the elimination of SRDs and other restrictions such as the proof-of-residency requirement, more people must go to their polling location to register, causing further congestion and strain on election workers. Kaminski Decl. ¶15-16; Kaminski Decl. Ex. C at 2, 5.

279. Wisconsin provided SRDs at high schools since the 1970s, and was in important means of engaging young people in the political process and habituating them to the process of voting and civic participation. Dkt. No. 94 (Kennedy Dep.), at 128:1 - 128:21.

280. GAB's Director could only "speculate" as to what election administration interests might be served by the elimination of high school SRDs. Dkt. No. 94 (Kennedy Dep.), at 128:1 - 128:21.

281. And, according to the City Clerk of Madison, the requirement was not burdensome. Witzel-Behl Decl. ¶23.

282. Under current law, students may use their IDs only if they also provide either 1) a fee receipt, or 2) a certified list of students who are U.S. citizens. 2011 Act 23, Wisconsin also § 33m; Wis. Stat. § 6.34(3)(a)7.b.

283. The federal Family Educational Rights Privacy Act prohibits the disclosure of some items on the list. Dkt. No. 94 (Kennedy Dep.), 138:1 - 140:25.

284. For this reason, GAB officials, including some of those that are defendants in this case, opposed this change. Dkt. No. 95 (Kennedy Dep.), at 248:3 - 248:21; Kaul Decl., Ex. 16 (Kennedy Dep. Ex. 33).

285. As a result of concerns about FERPA compliance, many colleges have stopped providing dormitory residence lists, eliminating one of the means students could prove their eligibility to vote. Dkt. No. 95 (Lowe Dep.), at 39:9 - 40:23; Witzel-Behl Decl. ¶21.

286. Neither the fee receipt nor any other form of proof residence requires proof citizenship. Witzel-Behl Decl. ¶21.

287. In 2012, Madison passed an ordinance requiring landlords to distribute voter registration forms to new tenants, however, in 2013, the legislature promptly struck this ordinance down by prohibiting local ordinances such as this. 2013 Wis. Act 76, § 2; Wis. Stat. § 66.0104(2)(d)1.a.

288. During the brief period when landlords in Madison were required to provide voter registration forms to their tenants, Madison registered about 500 voters who submitted the forms their landlords had provided to them. Witzel-Behl Decl. ¶ 25.

289. African Americans in Madison are 85 percent more likely to be renters in Madison than whites, and the percentage of Latinos renting rather than owning homes in Madison is 46 percent higher than whites. Dkt. No. 75 (Lichtman Rpt.), at 42.

290. *

291. African Americans and Latinos in Wisconsin are far more likely than whites to move. Dkt. No. 75 (Lichtman Rpt.), at 39.

292. The elimination of corroboration and the expansion of the documentary proof-of-residence requirement also have the effect of requiring voters to have some form of documentation to register. Dkt. No. 75 (Lichtman Rpt.), at 40 (expansion of the documentary proof of residence requirement “makes more onerous the elimination of corroboration by expanding the universe of potential voters required to present proof of residence when voting”); Kaminski Decl. ¶16 (the League of Women Voters found in the 2014 general election that “many people were unable to register due to a lack of documentation” and that providing proof of residence was a major obstacle for specific groups of voters, including the poor).

293. “Minority residents are also more likely to move and thus less likely to have identification that reflects current residency. Recent Census data shows that while only 12.5% of whites lived in a different household one year ago, 20.1% of Latinos and 26.1% of blacks did so.” Dkt. No. 72 (Burden Rpt.), at 21; see also Dkt. No. 75 (Lichtman Rpt.), at 41.

294. The documentary proof-of-residence requirement and the elimination of statewide SRDs also make voter-registration drives less common and less effective. *See* Kaminski Decl. ¶¶13-15; Albrecht Decl. ¶¶32-33; Sundstrom Decl. ¶¶6-8; Dkt. No. 95 (Lowe Dep.), at 49:9-51:9 & Ex. 60.

295. In addition, corroboration makes voter registration more difficult for groups of voters who, because of the economic disparities detailed above, are disproportionately likely to be minorities. *See, e.g.*, Dkt. No. 75 (Lichtman Rpt.), at 39 (“Homelessness is correlated with socioeconomic status which in turn is correlated with race . . .”).

296. Specifically, the evidence shows that the elimination of corroboration has imposed disparate burdens on poor, homeless, and transient voters. *See* Albrecht Decl. ¶27 (corroboration especially valuable for particular groups of voters, including “people in extreme poverty” and “people in transient situations”); Kaminski Decl. ¶10 (“elimination of corroboration has been especially burdensome” to particular groups of voters, including homeless voters); Dkt. No. 75 (Lichtman Rpt.), at 39 (“corroboration is most likely to benefit homeless persons and persons who recently moved and may not yet have the documentation necessary to prove residence”).

297. There is also direct evidence that African Americans and groups of voters who are disproportionately likely to be minorities have been disproportionately burdened by the documentary proof-of-residence requirement. *See* Johnson Decl. ¶15 (“In my experience [the

expanded proof-of-residence] requirement has also made it more difficult to register voters in the African American community.”); Sundstrom Decl. ¶7 (“In my experience registering voters at off-site locations, the voters who are more frequently turned away for lack of proof of residence are voters who rent, who move frequently, and who tend to be lower income. In my experience much of Milwaukee’s poverty is concentrated among Latino and African American populations, so those voters are disproportionately affected by the proof of residency requirement.”); Kaminski Decl. ¶ 12 & Ex. E (League of Women Voters warned that “the expansion of the documentary proof-of-registration requirement will impact many people who have recently moved or are temporarily living with family or friends and who do not have a document such as a Wisconsin driver’s license or bank statement with their own name and current address”) (internal quotation marks omitted).

298. Anita Johnson explains that the elimination of statewide SRDs “has caused significant confusion and hardship among voters seeking to register and deputies regarding whether or not a deputy is able to register a particular voter, particularly among groups of voters who move more often such as racial minorities, young voters, and poor voters.” Johnson Decl. ¶14.

299. Minorities and low-income people are more likely than other voters to move. Dkt. No. 72 (Burden Rpt.), at 26.

300. “Thus, these groups will disproportionately be required to find time and appropriate transportation to return to the previous voting location or make use of the absentee ballot process,” Dkt. No. 72 (Burden Rpt.), at 26, or the voters impacted by these changes simply will not vote. *See also* Dkt. No. 75 (Lichtman Rpt.), at 46 (“The increase in the residency requirement has a disparate effect on African Americans and Hispanics, who are more likely

than whites to move into Wisconsin from another state. . . . Similarly, the greater mobility of African Americans and Hispanics as compared to whites also indicates that the requirement that recent movers must only vote at their previous ward or election district places a disparate burden on members of these minority groups.”); Johnson Decl. ¶16 (“In my educational work I have noticed an increased sense of confusion among voters, particularly in the African American community, since the expanded residency requirements fall more heavily on voters who move more often, including racial minorities, young, and poor voters.”); Albrecht Decl. ¶34 (“The greatest impact from the change to the residency period is on people in poverty and transient people generally.”).

Invasive Poll Monitoring

301. In 2013, Wisconsin also permitted election observers to stand between three and eight feet from the area where voters check in and obtain their ballot 2013 Wis. Act 177, § 2 Wis. Stat. § 7.41(2).

302. Election observers have frequently caused disruption and delays in the voting process and engaged in abusive behavior toward poll workers and voters. Dkt. No. 94 (Kennedy Dep.), at 157:13 - 158:2; Sundstrom Decl. ¶¶18, 19; Johnson Decl. ¶17; Witzel-Behl Decl. ¶10 (“Madison has had problems with aggressive election observers from the Republican Party of Wisconsin and a group of women from Waukesha who carry binders that say, “We’re watching.”).

303. They have demanded to see proof of residence documents, which they are not entitled to see. Dkt. No. 94 (Kennedy Dep.), at 160:7 - 162: 9.

304. In Milwaukee, election observers deterred a first-time voter from voting and registering despite the fact that he had all of the required documentation. Dkt. No. 95 (Lowe

Dep.), at 71:19 - 73:6; Kaul Decl., Ex. 17 (Lowe Dep. Ex. 67) (GAB email detailing incident where first-time voter was deterred from voting by election observers); Kennedy Dep. Tr. 173:8 - 175:7; Kaul Decl., Ex. 18 (Kennedy Dep. Ex. 20) (letter from N. Albrecht to GAB detailing incident where voter was intimidated from voting by election observers).

305. Abusive and disruptive election observers disproportionately target high minority areas such as Racine and Milwaukee. Dkt. No. 95 (Lowe Dep.), at 75:3 - 75:20; Gagner Decl. ¶9 (“During the [2011 Milwaukee] senate election, I also engaged in poll watching. On election day, I was the poll watch lead. I organized people to watch the polls at certain locations. At one of the locations, there were individuals trying to intimidate voters and tell them they needed an ID when they did not. This was on the far north side in a heavily African American district.”); Kaminski Decl. ¶¶17-21; Kaminski Decl. Exs. B at 3; E at 1.

306. And, hostile out-of-town election observers have deterred Native Americans from voting in those communities. Dannenberg Decl. ¶15.

307. To deal with these problems, GAB issued an emergency administrative rule establishing that election observers not be permitted to be closer than 6 feet to the location where voters announce their presence and register to vote. Dkt. No. 94 (Kennedy Dep.), at 162:10 - 162:20.

308. GAB issued guidelines and press releases explaining to observers the rules for proper behavior. Dkt. No. 94 (Kennedy Dep.), at 163:5 - 164:8; Kaul Decl., Ex. 19 (Kennedy Dep. Ex. 16) (GAB memorandum to election observers detailing guidelines and regulations for observer behavior); Kaul Decl., Ex. 20 (Kennedy Dep. Ex. 17) (GAB press release reiterating that “[o]bservers may not speak to or intimidate voters. Poll workers do not have to put up with observers who bully them or questions their actions[.]”).

309. Moving poll workers farther away from the check-in table reduced interference by election observers. Dkt. No. 95 (Lowe Dep.), at 73:22 - 75:2.

310. Nevertheless, the Assembly enacted 2013 Wisconsin Act 177, which moves the buffer zone for election observers from six to 12 feet, as required previously by GAB's administration rule, to three to eight feet.

311. This change burdens voters by facilitating the disruptive behavior of election observers. Dkt. No. 95 (Lowe Dep.), at 73:22 - 75:2; Lowe Dep. Ex. 68 (email to GAB staff by city clerks complaining that "3 ft. is way too close based on our experience last year"); Sundstrom Decl. ¶19 ("The new law allows observers to be no closer than 3 feet away from the voter, which is close enough to be intimidating. In my experience the new law does not seem to serve any real purpose but only make it easier for those who would use the role to intimidate certain voters to do so.); Johnson Decl. ¶17 ("I have personally observed invasive poll monitoring during the 2012 gubernatorial recall election when a poll monitor was standing so close to a poll worker and just over the poll worker's shoulder that I felt compelled to tell him to stand further back. In my experience poll monitors do not need to be three feet away from a voter in a polling location to observe voting and can cause delays in voting, increasing wait times and potentially disenfranchising voters with limited time for voting.").

312. Election observers frequently disrupt and slow down the voting process. Dkt. No. 95 (Lowe Dep.), at 63:16 - 64:1; Kennedy Dep. Tr. 157:13 - 158:2.

313. They are often confused about the law, but nevertheless intimidate poll workers and cause them to make mistakes. Dkt. No. 95 (Lowe Dep.), at 64:2 - 65:19; Kaul Decl., Ex. 30 (Lowe Dep. Ex. 63) (email from GAB official discussing how election observers in Racine created "utter chaos").

314. In some areas, election observers has been so abusive that a number of poll workers have refused to serve again and some municipalities are unable to recruit a sufficient number of workers. Dkt. No. 95 (Lowe Dep.), at 66:18 67:1; Kaul Decl., Ex. 23 (Lowe Dep. Ex. 64) (GAB memorandum detailing poll workers in Racine who refused to work again as a result of disruptive behavior during the June 2012 recall election).

315. The problems in Racine were so bad that GAB asked the Racine Police Department to staff officers at polling locations to prevent disruptions. Dkt. No. 95 (Lowe Dep.), at 67:2 - 19; Kaul Decl., Ex. 24 (Lowe Dep. Ex. 65) (email from GAB official to Racine Police Department asking for assistance in preventing abuses by election observers).

316. The evidence shows that a large share of such harassing observer conduct has occurred in Milwaukee and Racine, cities with disproportionately large minority populations. Dkt. No. 95 (Lowe Dep.), at 75:3-20 (issues with observers “mostly occur in cities like Racine, Milwaukee. . . . “[T]hat seems to be where the observers want to go observe,” even though the observers are not usually from those cities); *see also id.* at 68:10-22 (Milwaukee and Racine have had problems with disruptive observers in several elections); Kaminsky Decl. ¶17 & Ex. B at 2-3 (describing particular problems with election observers in Milwaukee, Racine, and La Crosse in the 2012 recall elections and that some people left polling places without voting); *id.* ¶18 (many of the incidents of voter intimidation and harassment in the November 2012 election occurred in Milwaukee); Albrecht Decl. ¶¶37-38 (explaining that Milwaukee has had problems with election observers and repeat problems with particular observers).

317. Moreover, this inappropriate conduct has been especially likely to occur in predominantly African American precincts and during in-person absentee voting in Milwaukee (which is disproportionately used by African Americans). Albrecht Decl. ¶39 (“Based on calls I

have received from chief election inspectors who had questions about observer rules because they were being challenged by observers, problems with observers have been more likely to occur at polling places in African American communities than at other polling places. On more than one occasion, upon the arrival of individuals from African-American churches or community groups that provide transportation to the polls during in-person absentee voting, I have heard an observer say something along the lines of, ‘Here’s the busload of brown people coming up from Illinois.’); Gagner Decl. ¶9 (discussing efforts to intimidate voters at polling location in heavily African American district); Dkt. No. 95 (Lowe Dep.), at 75:3-20.

Changes to Straight-Ticket Voting

318. Act 23 also eliminated straight-ticket voting, whereby a voter could cast a ballot for all candidates of a single party. 2011 Wis. Act. 23, §6.

319. Plaintiffs’ evidence shows that this measure has burdened Wisconsin’s voters by making voting a lengthier and more confusing process. Gagner Decl. ¶16 (“Straight-ticket voting help streamline voting for those individuals who want to vote an entire party, especially during fall elections and presidential elections when there are many options on the ballot.”); Trindl Decl. ¶18 (“Not offering straight tick slows down the voting process for such people.”); Johnson Decl. ¶18 (“[T]he elimination of straight-ticket voting has caused confusion among some voters, leading to longer wait time for voters.”).

320. The result is even longer lines at the polls, exacerbating the long lines at polling locations resulting from the reductions in in-person absentee voting and the voter registration restrictions discussed above. Dkt. No. 75 (Lichtman Rpt.), at 44 (“The elimination of straight-ticket voting in Act 23 also has an adverse impact on waiting time since it makes voting lengthier for those who would otherwise use this option.”); Albrecht Decl. ¶50 (“[B]y forcing voters who

otherwise would have voted straight ticket to make more decisions when casting a ballot, the elimination of straight-ticket voting will increase the time that the average voters spends casting a ballot, which will in turn increase wait times for all voters.”).

321. Furthermore, the elimination of straight-ticket voting imposes particular burdens on voters with lower levels of educational attainment and limited English proficiency by complicating the process of reading and understanding the ballot. Albrecht Decl. ¶51 (“Second, the elimination of straight-ticket voting will make the act of voting more difficult for voters with low levels of literacy or who are not proficient in English or (in the case of Milwaukee voters) Spanish. Aside from creating a negative voting experience for such voters, the requirement that voters cast ballots in multiple races can lead to mistakes.”); Johnson Decl. ¶18 (“[B]ased on my work and interaction with voters in the African American community I believe that the elimination of straight-ticket voting has caused confusion among some voters, leading to longer wait time for voters. I also believe that language minorities are negatively impacted by the elimination of straight-ticket voting.”).

322. In 2012, over 1,000 overvotes were cast in Milwaukee in the presidential contest as a result of this measure. Albrecht Decl. ¶51.

Changes to Absentee Voting

Elimination of Option to Obtain Absentee Ballots by Fax or Email

323. Under current law, clerks’ offices are no longer permitted to fax or email absentee ballots to voters. 2011 Wis. Act 75, § 50; Wis. Stat. § 6.87(3)(d).

324. This provision unjustifiably burdens voters who are traveling but do not meet the definition of either a permanent overseas of military voter, a number of whom are college

students studying abroad. Witzel-Behl Decl. ¶27; Dkt. No. 94 (Kennedy Dep.), at 189:12 - 190:11.

325. Many voters have been unable to vote as a result of this law. Dkt. No. 95 (Lowe Dep.), at 199:10–24; Dkt. No. 94 (Kennedy Dep.), at 189:12–190:3; Albrecht Decl. ¶49 (“Since the change in the law that prevents Milwaukee from emailing absentee ballots to any voters who are not permanent overseas or military voters, there have been several instances in which the Election Commission has not been able to get a ballot to a voter temporarily residing overseas in time.”).

326. In particular, in Madison this restriction has prevented some voters from voting in every election since it went into place. Witzel-Behl Decl. 27.

327. For example, one Madison voter is currently in Ecuador, and there is not enough time between the 2016 spring primary on February 16, 2016, and the 2016 spring election on April 5, 2016, for that voter to receive and then return a ballot by mail in time for it to be counted. Witzel-Behl Decl. ¶27.

328. Another Madison voter, who is currently studying abroad in Vietnam, will not be able to vote in the upcoming spring primary because she cannot receive mail at her apartment in Vietnam, cannot obtain a post office box due to her visa status, and the U.S. embassy in Vietnam is not willing to receive the ballot on her behalf. Witzel-Behl Decl. ¶27.

329. Allowing clerks’ offices to fax or email absentee ballots would alleviate these and similar problems. Witzel-Behl Decl. ¶26; Gagner Decl. ¶14 (“I could have returned the ballot by email, I would have because it would have been a much simpler method for me.”); Albrecht Decl. ¶46.

330. It is far more expensive to mail a ballot to a different country than it is to email that ballot. Witzel-Behl Decl. ¶28.

331. And, GAB's Director could identify a single interest furthered by this prohibition. Dkt. No. 94 (Kennedy Dep.), at 190:7 - 190:11.

332. And, the evidence contradicts the State's suggestion that emailed or faxed ballots posed any difficulties for election officials. Albrecht Decl. ¶¶47-48 ("The Election Commission had no problems with these email kits. Returning the ballots was simple, and I am unaware of any instance in which a voter forwarded his or her ballot to another voter. Although the emailed ballot cannot be inserted directly into the tabulator after election officials receive it, it is simple to reconstruct these ballots and was not burdensome to do so. It certainly is much less work than working with a voter to attempt—sometimes unsuccessfully—to figure out a way to get a ballot to a remote location and back by mail in time for the ballot to be counted.").

Prohibition on Returning Absentee Ballots to Correct Certain Mistakes

333. With Act 227 in 2011, Wisconsin also prohibited clerks' offices from returning absentee ballots to voters to correct mistakes, such as over votes or improperly marked ballots, unless the ballots were spoiled or damaged or there was no certificate or an improperly completed certification. 2011 Wis. Act 227, § 4.

334. This provision disparately impacts those with lower levels of educational attainment— who are disproportionately African Americans and Latinos in Wisconsin—who are more likely to misunderstand the ballot and make mistakes. Dkt. No. 75 (Lichtman Rpt.), at 9, 48 ("By limiting options to correct an absentee ballot, Act 227 also places a disparate burden on African American and Hispanic voters, who have much lower levels of education and educational attainment in Wisconsin than do whites, as indicated in Table 2 above. This problem

is especially acute for Wisconsin Hispanics. According to the US Census American Community Survey 2010, 3-Year Estimates, 33.2 percent of Hispanics in Wisconsin speak English ‘less than very well.’”).

The Voter ID Law

335. DMV data demonstrate that 44% of all voters who have had to obtain “free” voter ID are either African-American or Hispanic. Dkt. No. 86, Expert Report of M.V. Hood (“Hood Rpt.”), Jan. 11, 2016, at 32.

336. Although African-Americans make up 5.6% of the voting age population in Wisconsin, they make up 35.6% of the group that has been forced to secure “free” ID in order to continue voting. Dkt. No. 86 (Hood Rpt.), at 32.

337. And although Hispanics represent 3.3% of the voting age population, they make up 8.3% of the group that has had to obtain voter ID. Dkt. No. 86 (Hood Rpt.), at 32.

Cumulative Impact of Challenged Provisions

338. “The ‘calculus of voting’ is the dominant theoretical framework used by scholars to study voter turnout.” Dkt. No. 72 (Burden Rpt.), at 3.

339. Under this framework, a voter is expected to cast a ballot if the benefits of doing so outweigh the costs for that voter. Dkt. No. 72 (Burden Rpt.), at 3.

340. “[F]or many individuals small changes in benefits or costs may alter the likelihood of voting dramatically. The decision to vote is sensitive enough to costs that even election day weather has been shown to depress turnout.” Dkt. No. 72 (Burden Rpt.), at 3.

341. Because the costs of voting “include the time, resources, and activity needed to overcome the administrative requirements and other barriers to registering to vote and

successfully casting a ballot,” election laws directly affect the costs of voting. Dkt. No. 72 (Burden Rpt.), at 3.

342. “Costs are especially consequential for individuals with less education, fewer resources, and less of a voting habit,” because, for such voters, “the complications of registering, finding the correct polling place, and making the time to vote are frequently quite costly.” Dkt. No. 72 (Burden Rpt.), at 3.

343. With respect to the habit of voting in particular, Dr. Burden explains that “[p]olitical science research demonstrates that voting participation is largely a product of habit,” that “[d]isruptions to voting habits raise costs and deter participation,” and that “a modest change to election procedures is enough to deter voting.” Dkt. No. 72 (Burden Rpt.), at 4-5 (emphasis in original).

344. Studies “demonstrate that removing options consistently reduces participation, especially among those with fewer resources to navigate the disruption,” and “[r]esearch has demonstrated how costs of voting depress turnout especially for racial and ethnic minorities.” Dkt. No. 72 (Burden Rpt.), at 4-5 (emphasis in original).

345. In the expert opinion of Dr. Burden, there has been a “dramatic disruption of voting practices resulting from the challenged provisions,” and this disruption is “likely to deter participation by groups of residents who have more fragile voting habits and fewer resources to overcome the disruptions to those habits,” including African Americans and Latinos. Dkt. No. 72 (Burden Rpt.), at 1, 6.

346. Dr. Burden therefore explains that it is his “considered opinion that the specific changes to Wisconsin election law challenged by plaintiffs in this litigation, both individually and jointly, implicate the Senate Report factors in ways that demonstrate how the state’s black

and Latino voters are more likely than other voters to be deterred or prevented from voting by the challenged provisions and thus have less opportunity to participate in the electoral process.”

Dkt. No. 72 (Burden Rpt.), at 1.

347. As set forth in his expert report, Dr. Kenneth Mayer conducted “[a]n individual level analysis of the probability of voting in 2014” and found “that registrants who are Black, Hispanic, . . . or do not possess an ID were significantly less likely than other voters to vote in 2014, even if they had voted in earlier elections.” Dkt. No. 71 (Mayer Rpt.), at 4; *see also id.* at 25 Tbl. 7, 27 Tbl. 8.

348. “A control analysis of voting in the 2010 election, prior to the voting and registration changes at issue in this case, showed either no effects or much smaller effects.” Dkt. No. 71 (Mayer Rpt.), at 4.

349. Based on his analysis, Dr. Mayer “conclude[s] that the changes to voting and registration enacted since 2011 impose substantial burdens on voters when registering or casting a ballot” and that “those burdens have the greatest effect on identifiable population subgroups, particularly racial minorities, young voters, students, and registrants without ID, depressing their turnout by making it significantly harder to register and vote.” Dkt. No. 71 (Mayer Rpt.), at 5.

350. Given that “[t]he negative impact is largest in 2014 and almost entirely absent in 2010,” there “is strong — even conclusive — evidence that the effects are the result of changes to voting and registration practices enacted after the 2010 elections.” Dkt. No. 71 (Mayer Rpt.), at 5.

351. “There is no doubt that the changes to voting enacted in Wisconsin since 2011 have significantly lowered the probability that a voter can cast a ballot in 2014, with the effects

falling particularly hard on racial minorities . . . and those without ID.” Dkt. No. 71 (Mayer Rpt.), at 38.

352. Current Population Survey data for Wisconsin indicate that, from 2008 to 2012 and from 2010 to 2014, white turnout in Wisconsin increased, while turnout among blacks and Latinos decreased. Dkt. No. 72 (Burden Rpt.), at 7.

353. Focusing on the differences from 2010 to 2014, Dr. Burden finds that, while these differences are not statistically significant, “it is more likely than not that black and Latino turnout fell and white turnout rose over the time period when the challenged provisions were enacted and (mostly) implemented.” Dkt. No. 72 (Burden Rpt.), at 7.

354. Milwaukee—where a majority of Wisconsin’s African American population and a disproportion share of the state’s Latino population lives—has had recurring problems with long wait times to vote. Deposition of Michael Haas (“Haas Dep.”), Jan. 22, 2016, at 179:24-180:12 (stating that “[t]here are places where lines have been longer in higher population areas” and that he had heard about lines in Madison, Milwaukee, and maybe Racine); Albrecht Decl. ¶11 (in-person absentee voters in Milwaukee “frequently face lines that extend for several blocks, forcing them to wait outside”).

355. Racine, which has African American and Latino populations that are more than three times larger than the state as a whole, also has had problems with long wait times. Dkt. No. 93 (Haas Dep. at 179:24-180:12).

356. In smaller municipalities, in contrast to Madison, Milwaukee, and Racine, long lines are uncommon. Dkt. No. 95, Deposition of Diane M. Lowe, Jan. 25, 2016, at 141:23-142:1; *see also* Kaul Decl., Ex. 3 (Kennedy Ex. 4, at 2 of 28) (2 million out of 5.6 million Wisconsinites live in municipalities with fewer than 5,000 residents).

357. Lower incomes of African Americans and Latinos in Wisconsin make it “comparably more burdensome for them to make time to [vote].” Dkt. No. 72 (Burden Rpt.), at 16-17.

358. The confusion that has resulted from the challenged provisions also disproportionately impacts African American and Latino voters. Johnson Decl. ¶¶14, 16 (describing confusion, particularly among African Americans and other groups, from voters seeking to register due to elimination of statewide SRDs and increased residency requirements); *see also id.* ¶ 18 (the elimination of straight-ticket voting has caused confusion among some voters based on her work and interactions with voters in the African American community).

359. League of Women Voters documented a significant improvement in polling place management after the GAB launched an intensive training program for local election officials. Declaration of Andrea Kaminski (“Kaminski Decl.”), Jan. 30, 2016, ¶28.

360. Taken together, the challenged provisions have, in the words of the Executive Director of the Milwaukee Election Commission, a “perfect storm.” Albrecht Decl. ¶52 (“The changes to Wisconsin’s election laws since the beginning of 2011 have created a perfect storm for across-the-board confusion for both voters and poll workers. In addition to the numerous changes in the law, there are now two separate lists of approved documentation to keep track of—one for proof of residence and another for voter ID. The sometimes arbitrary distinctions between the forms of ID that can be used to prove residence and those that can be used to prove identity only add to the confusion. For example, college students can use a fee receipt from their school along with a student ID to meet the proof-of-residence requirement, but this same combination typically does not meet the voter ID requirement even if the student ID has a photo of the student.”).

361. To begin with, the State passed one of the most onerous voter ID laws in the country. Dkt. No. 71 (Mayer Rpt.), at 16.

362. Those who did not possess a driver's license or ID were approximately 20 percent less likely to vote in 2014. Dkt. No. 71 (Mayer Rpt.), at 28.

363. And, the voter ID law results in longer lines at that polls by increasing by two-and-a-half times the time required to check in and obtain a ballot. Witzel-Behl Decl. ¶31 (“The voter ID law will also result in longer lines at the polls. In the fall of 2011, the Clerk’s Office conducted two mock elections to assess how the voter ID law would impact the voting process. The data we obtained showed that, with the voter ID and poll book-signature requirements in place, the process of checking in and obtaining and casting a ballot took two-and-a-half times as long as it did without those requirements. We also received feedback from poll workers, who were confused about the voter ID requirements and issuing provisional ballots. In addition, mock election data showed that it took election officials approximately six times longer to process a provisional ballot than it took to process a regular ballot. Because voters without an ID must cast provisional ballots (or not vote at all), the voter ID law will result in an increase in provisional voting.”); Dkt. No. 75 (Lichtman Rpt.), at 44.

364. The arbitrary distinctions between the types of documents that must be used to register and those required to cast a ballot have confused and confounded voters and poll workers alike. Albrecht Decl. ¶52 (“[T]here are now two separate lists of approved documentation to keep track of—one for proof of residence and another for voter ID. The sometimes arbitrary distinctions between the forms of ID that can be used to prove residence and those that can be used to prove identity only add to the confusion. For example, college students can use a fee receipt from their school along with a student ID to meet the proof-of-residence

requirement, but this same combination typically does not meet the voter ID requirement even if the student ID has a photo of the student.”).

365. As the evidence shows, the probability that a registered African American voter voted in 2014 decreased between 2.4 and 3.9 percent compared to 2010. Dkt. No. 71 (Mayer Rpt.), at 28.

366. The probability was between 7.1 and 9.6 percent lower for Latinos. Dkt. No. 71 (Mayer Rpt.), at 28.

367. And, for those living in student wards, it was between 4.5 and 6.7 percent lower. Dkt. No. 71 (Mayer Rpt.), at 28.

368. The sheer number of these laws makes them difficult to administer, leading to mistakes and diminished public confidence. Albrecht Decl. ¶53 (“These changes to the law have resulted in mistakes by poll workers and they are certain to result in more mistakes in the future. Both the confusing set of requirements now in place and mistakes by poll workers erode public confidence in the voting process and ultimately may impact voter participation.”); Lowe Dep. Tr. 64:17-65:19 (“Q. Yes, please. Thank you. We have somebody that knows how to run a deposition. All right. So this is an email exchange between you and Ms. Hongisto again, is that right? A. Yes. Q. And am I right in understanding that she is indicating that her poll workers were making mistakes with respect to proof of residence? A. Yes. Q. And she indicates that they were overwhelmed, is that right? A. I think that was her word. Maybe it was my word. Q. Well, let me actually focus on the final email, the one that you wrote at the top of Page 1. You indicate to Ms. Hongisto that even as an expert in this area as you are, you can’t remember all the changes that had come down within the last year as of July 2012, so it would be unreasonable to expect the poll workers to also remember all those, is that fair? A. Yes. Q. And you indicate that

in Racine, observers took over the polling place and created utter chaos, is that right? A. That's correct. Q. And are both of those statements accurate to your knowledge? A. To my knowledge."); Kaul Decl., Ex. 30 (Lowe Dep. Ex. 63).

369. The perverse result of all of this is that these laws have made it more difficult to recruit poll workers and volunteers, reducing even more greatly the resources election administrators have on hand. Dkt. No. 95 (Lowe Dep.), at 84:20-84:24 ("Q. All right. And you've also received communications that indicate that some poll workers quit working because they didn't want to have to administer the voter ID laws, is that right? A. Correct."); *id.* at 87:5 - 87:11 ("Q. By the way, I asked you before about cities losing poll workers who didn't want to implement the voter ID law. Cities have also reported to you that they've lost poll workers because of the multitude of laws that have been passed in the last several years, is that right? A. That's correct."); Kaul Decl., Ex. 27 (Lowe Dep. Ex. 74).

370. In sum, before these laws, Wisconsin was a national leader in voter participation and election administration. Albrecht Decl. ¶54.

Intent in Enacting Challenged Provisions

371. Wisconsin has a history of discrimination against African Americans and Hispanics that is reflected in current racial disparities on such socio-economic measures as income, unemployment, poverty, education, housing, the availability of vehicles and telephones, and health. Dkt. No. 75 (Lichtman Rpt.), at 4, 6-14.

372. This information was available to the legislature at the time of the enactment of the voting and registration measures analyzed in this report. Dkt. No. 75 (Lichtman Rpt.), at 4, 6-14.

373. Wisconsin is one of the most unequal states in the nation as gauged by disparities between African Americans and whites on socio-economic measures. Dkt. No. 75 (Lichtman Rpt.), at 4, 14.

374. Socio-economic disparities have implications for the opportunities of minorities relative to whites to vote and register in Wisconsin. Dkt. No. 75 (Lichtman Rpt.), at 4, 33-34, 39-42, 46-47.

375. The increase in the minority share of the vote in Wisconsin threatens Republicans' electoral prospects. Dkt. No. 75 (Lichtman Rpt.), at 4, 15-19, 48-49.

376. Absent any prospects of expanding the relative position of whites in the electorate, the Republican majority in the state legislature intentionally and deliberately through some 15 restrictive measures sought to impede the opportunities for African Americans and Hispanics to fully participate in the political process in Wisconsin and elect candidates of their choice. Dkt. No. 75 (Lichtman Rpt.), at 4, 20-21, 48-50.

377. The majority adopted these measures even though at the time Wisconsin had an exemplary electoral system. It was a national leader in voter turnout and the administration of elections. Dkt. No. 75 (Lichtman Rpt.), at 4, 22-23, 31.

378. The voter photo ID provision adopted in 2011 in Wisconsin was the most restrictive identification law in the nation at that time. Dkt. No. 75 (Lichtman Rpt.), at 4, 24-27, 47-48.

379. The Republican majority adopted this legislation despite information presented regarding the disparate impact of the law on minorities and despite a virtual absence of voter impersonation in the state. Dkt. No. 75 (Lichtman Rpt.), at 4, 21, 26-38.

380. The legislature rejected all amendments designed to alleviate the disparate burdens of the voter photo ID law on minorities, including provisions in place in other voter photo ID states. Dkt. No. 75 (Lichtman Rpt.), at 5, 32-33.

381. Other actions taken by the legislature further indicate the discriminatory intent of the voter photo ID law. Dkt. No. 75 (Lichtman Rpt.), at 5.

382. The legislature adopted numerous other restrictions on registration and voting in Wisconsin, such as limitations on early voting and tightened residency requirements, that based on information available at the time would most likely have a disparate impact of African American and Hispanic voters and potential voters. Dkt. No. 75 (Lichtman Rpt.), at 5, 38-47.

383. Wisconsin's adoption of a voter photo ID law in 2011 was consistent with decision-making by Republicans in other states faced with similar problems of declining white voter strength and racial polarization in the voting of whites and minorities. Dkt. No. 75 (Lichtman Rpt.), at 5, 48-51.

384. Wisconsin, however, exceeded all other states in the number of new restrictive voting and registration measures enacted between 2011 and 2014. Dkt. No. 75 (Lichtman Rpt.), at 5, 47-48.

385. There is rare direct evidence from a Republican decision-maker who initially voted for Act 23 that his Republican colleagues enacted this law and other measures discussed in this report to limit the voting opportunities for minorities in Wisconsin. Dkt. No. 75 (Lichtman Rpt.), at 5, 51.

386. Other justifications for this legislation presented by decision-makers are misleading, contradictory, and pretextual. Dkt. No. 75 (Lichtman Rpt.), at 5, 52-58.

387. Based on considerable evidence, and following the *Arlington Heights* procedures and standard historical causal analysis, I conclude that the majority Republicans deliberately and knowingly enacted a voter photo ID requirement and numerous other legislative measures that placed disparate burdens on the opportunities for African Americans and Hispanics to register and vote in Wisconsin. Dkt. No. 75 (Lichtman Rpt.), at 5, 58-59.

388. GAB has a statutory duty to “[e]ngage in outreach to identify and contact groups of electors who may need assistance in obtaining or renewing a document that constitutes proof of identification for voting ... and provide assistance to the electors in obtaining or renewing that document.” 2011 Wisconsin Act 23, § 95 (creating Wis. Stats. § 7.08(12)).

389. In addition, “[i]n conjunction with the first regularly scheduled primary *and election* at which the voter identification requirements of this act initially apply, the government accountability board *shall conduct a public informational campaign for the purpose of informing prospective voters of the voter identification requirements of this act.*” *Id.* § 144 (“Nonstatutory provisions”) (emphasis added).

390. Yet the Wisconsin Legislature has refused GAB’s repeated funding requests to carry out these duties; the Director of the GAB has acknowledged that, since the Legislature refuses to fund any public education program, GAB must depend on outside groups to undertake this difficult work. Dkt. No. 92, Deposition of Rule 30(b)(6) Government Accountability Board (“GAB 30(b)(6) Dep.”), Jan. 29, 2016, at 87-93.

391. Dr. Lichtman’s report “closely follows the methodological guidelines of the United States Supreme Court” in *Arlington Heights*, focusing on evidence of “(1) discriminatory impact; (2) historical background; (3) the sequence of events leading up to the challenged action; (4) procedural or substantive deviations from the normal decision-making process; and (5)

contemporaneous viewpoints expressed by the decision-makers.” Dkt. No. 75 (Lichtman Rpt.), at 3-4. *See also id.* at 4 (emphasizing that “[t]he purpose of this report is not to make legal conclusions, but to establish substantive findings about discriminatory intent”); *id.* at 59 (concluding that, “In sum, based on standard historical methods of analysis, the analysis of quantitative information, and my 45 years of experience in analyzing voting and elections, I reach the following conclusion: After Republicans achieved unified control of Wisconsin state government in 2011, the majority in the legislature enacted Act 23 and other measures relating to voting and registration with the intent and purpose of achieving partisan advantage through the limitation of African American and Hispanic voting and registration opportunities as compared to opportunities for whites in Wisconsin.”).

Challenged Provisions and the Youth Vote

392. Several thousand students registered at their high schools in the late 1970s. Dkt. No. 92 (GAB 30(b)(6) Dep.), at 25:14-24, 26:12-21.

393. The apparent state interest for eliminating the requirement that SRDs be appointed at high schools is that some high schools did not like to register voters. Dkt. No. 95 (Lowe Dep.), at 116:16-117:4; *see also* Witzel-Behl Decl. ¶23 (“The requirement that special registration deputies . . . be appointed at high schools was not burdensome to the Clerk’s Office.”).

394. Before the legislature required the citizenship certification, “many students used [the dorm list] option to prove their residency to register to vote. Albrecht Decl. ¶28.

395. Now, because a certification of students’ citizenship would create issues under federal law, nearly all colleges and universities in Wisconsin have stopped providing dorm lists, thereby eliminating this mode of registration for most students. *See* Albrecht Decl. ¶28

(Marquette, UW-Milwaukee, the Milwaukee School of Engineering, and the Milwaukee Institute of Art & Design have stopped providing dorm lists); Witzel-Behl Decl. ¶21 (UW-Madison and Edgewood College have stopped providing dorm lists); Dkt. No. 95 (Lowe Dep.), at 39:9-40:18; Dkt. No. 93 (Haas Dep.), at 200:11-201:19.

396. Tellingly, there is no other means proof of registration that requires a third party's certification of the registrant's citizenship. *See* Dkt. No. 95 (Lowe Dep.), at 40:19-23; Witzel-Behl Decl. ¶ 21; *see also* Dkt. No. 95 (Lowe Dep.), at 37:23-39:8; Kaul Decl., Ex. 11 (Dep. Ex. 58) (unfair that students using their IDs—and only such individuals—also have to come up with another document to prove residence, even if the student ID has an address on it).

397. Director Kennedy informed the legislature that it was highly unlikely that universities and colleges would adopt the standards set by the legislature because of student security concerns. Dkt. No. 94 (Kennedy Dep.), at 248:3-8; *See also* Dkt. No. 75 (Lichtman Rpt.), at 33 (in contrast to the laws in the three other states that had photo ID requirements at the time that Wisconsin enacted Act 23, “Wisconsin imposed more restrictions on the use of student identification cards”); Witzel-Behl Decl. ¶ 33 (“UW-Madison’s student IDs are not compliant with the voter ID law, and . . . approximately 14,000 students are from other states.”).

398. In addition, as with the use of student IDs for proof of residence, the voter ID “rules are different for the use of a student ID than they are for most IDs because they require two sets of documents,” including a document showing that the voter using a student ID is at that time enrolled as a student. Dkt. No. 94 (Kennedy Dep.), at 225:23-226:9.

399. Asked if this proof of enrollment requirement served any elections administration purpose, Director Kennedy said, “I can’t say. I think it was just the provision the Legislature put in because it saw student IDs as different.” Dkt. No. 94 (Kennedy Dep.), at 226:10-14.

400. Moreover, the GAB's current position is that colleges are not permitted mitigate these burdens on young voters by putting stickers on their ID cards to make them voter ID compliant, as "it's pretty clear from talking to the Legislature that they wouldn't sign off on that rule." Dkt. No. 94 (Kennedy Dep.), at 255:6-256:9.

401. Census data indicate that 18-24 year olds make up 9.66% of Wisconsin's population, 13.69% of Milwaukee's population, and 19.53% of Madison's population. Similarly, 18-29 year olds make up 16.21% of Wisconsin's population, 22.44% of Milwaukee's population, and 30.67% of Madison's population. Kaul Decl., Exs. 1-2.

402. The state legislature preempted an ordinance in place in Madison requiring landlords to provide voter-registration applications to new tenants and "provided a registration form to a very mobile population." Dkt. No. 94 (Kennedy Dep.), at 130:5-19.

403. That ordinance had resulted in about 500 registrations from voters who had received applications in the fall before a general election. Witzel-Behl Decl. ¶ 25.

404. In addition, bill author Glenn Grothman, speaking about the elimination of weekend in-person absentee voting, said he wanted to "nip this in the bud" before it spread beyond Madison and Milwaukee. Dkt. No. 75 (Lichtman Rpt.), at 58; *see also* Dkt. No. 94 (Kennedy Dep.), at 103:16-104:22 (statement cited in Amended Complaint "seems consistent with [Sen. Grothman's] approach").

405. The GAB's Lead Election Specialist testified that the changes to the voter registration laws since 2011 have created challenges for college students registering to vote. Dkt. No. 95 (Lowe Dep.), at 35:6-9.

406. Indeed, several witnesses explain that young voters were particularly likely to use corroboration and will be burdened by its elimination. Kaminski Decl. ¶¶10, 16 ("The

elimination of corroboration has been especially burdensome to young voters,” among others.); *id.* ¶11 (in the 2012 recall elections, the League of Women Voters “received a number of reports from around the state about individuals who did not have adequate documentation but did have one or more registered voters, including parents, who could have vouched for them”); Witzel-Behl Decl. ¶ 18 (“Corroboration was also frequently used by 18 year olds, many of whom live with their parents and do not have documents in their name. The parents of these individuals could corroborate their residence.”); Albrecht Decl. ¶ 27 (“Corroboration was particularly valuable for” particular groups of people, including “students in non-university housing who may have had their lease in the name of only one of several roommates.”).

407. As Director Kennedy explained to the legislature as part of his testimony on the voter ID law, many students do not carry a driver’s license because they live on campus, use public transportation, or do not drive. Dkt. No. 94 (Kennedy Dep.), at 151:3-7; *see also* Kaminski Decl. ¶13 (two registration drives at UW-Whitewater and one at a museum yielded 17 registrations and 23 voters who did not have documentary proof of residence; “registration effort at Madison Area Technical College resulted in the registration of 34 individuals, while 25 were turned away because they did not have documentary proof of residence with them”).

408. Moreover, the expansion of the documentary proof of residence requirement has slowed the registration process and thus made the voter-registration activities of student activists more difficult. Gosey Decl. ¶7 (registration process slowed, causing her to miss otherwise interested students); Tasse Decl. ¶12 (expanded documentary proof-of-resident requirement “significantly slowed down the registration process, making it more difficult to register voters on campus or where lots of students gather and even turning some students off from completing a voter registration form”).

409. The elimination of statewide SRDs also burdens young citizens in particular. *See* Johnson Decl. ¶14 (elimination of statewide SRDs has caused confusion and hardship, particularly among groups of voters who move more often than others, including young voters).

410. The statewide SRD program “facilitated voter registration . . . at rural high schools that serve multiple municipalities.” Kaminski Decl. ¶15.

411. And the absence of a statewide SRD program makes efforts to register voters at schools that serve multiple municipalities—including not only rural high schools but other types of schools as well—much more difficult. *See* Kaminski Decl. ¶15 (Northwoods League decided to do voter-education rather than voter-registration program, as its members otherwise “would either have to become SRDs in multiple municipalities or turn away potential registrants”); *cf.* Tasse Decl. ¶8 (“[G]iven the opportunity I would become a statewide registration deputy so I could expand my efforts to include high schools and technical colleges outside of Madison.”).

412. The one-location rule and the reductions to the in-person absentee voting period burden Milwaukee and Madison residents in particular. Witzel-Behl Decl. ¶ 9 (reductions in in-person absentee voting period create lines that are longer than they otherwise would be).

413. Moreover, Carmen Gosey, Chair of the Legislative Affairs Committee for the student government body at UW-Madison, states that these restrictions on in-person absentee voting have “made it harder for students to find time to vote.” Gosey Decl. ¶¶3, 8.

414. She explains that, between classes, extracurricular activities, and work, many students have little available time during the week and that, “[b]ased on [her] experience as a student and member of student government [she] believe[s] that more students would be able to vote if they were allowed to vote on the weekend during the in-person absentee voting period.” Gosey Decl. ¶8.

415. Several witnesses have explained that the changes to the residency requirements will disparately impact young voters. *See* Johnson Decl. ¶16 (“In my educational work I have noticed an increased sense of confusion among voters, particularly in the African American community, since the expanded residency requirements fall more heavily on voters who move more often, including racial minorities, young, and poor voters.”); Dkt. No. 94 (Kennedy Dep.), at 210:2-7 (in the 2012 recall election, “[t]here were certainly issues with students in terms of their qualifications to vote because of the 28” day residency period); Dkt. No. 95 (Lowe Dep.), at 96:15-97:3 (Lowe received a lot of questions about how the expanded residency requirement affected college students and one result of the change is that an increased number of college students have to vote absentee either from school or their parents’ residence or make a trip back to the other location); Dkt. No. 93 (Haas Dep.), at 120:11-121:7 (change to the residency period “could make it more challenging for some students to register at their campus address”); Trindl Decl. ¶15 (there have been instances in which the 28-day rule prevented college students from registering); Dkt. No. 94 (Kennedy Dep.), at 210:18-19 (a lot of people move in the summertime, “particularly students”).

416. The changes to the observer rules and the elimination of the faxing and emailing of absentee ballots disproportionately burdens young voters. *See* Kaminski Decl. ¶17 & Ex. B at 2 (in the 2012 recall election, “some polling sites [were] particularly vigilant about college students, at times to the point of being hostile to toward them,” and “[a]t some sites in La Crosse, Milwaukee, and Racine, there were a number of challenges to young people being able to register”); Witzel-Behl Decl. ¶10 (“Madison has had problems with aggressive election observers affiliated with the Republican Party or Republican candidates and a group of women from Waukesha who carry binders that say, ‘We’re watching.’”); Dkt. No. 72 (Burden Rpt.), at

26 (young people are more likely than older people to move); Witzel-Behl Decl. ¶¶26-27 (before change regarding emailing and faxing of ballots, “Madison sent more ballots via email to voters who were overseas than any other municipality in Wisconsin,” but now clerks’ offices are “no longer permitted to fax or email ballots to voters who are temporarily overseas, such as students participating in study-abroad programs”). *See generally* Dkt. No. 94 (Kennedy Dep.), at 27:23-28:7 (referring to “people who expect technology to serve them, meaning people my age and younger who are used to doing things” online, and noting that he has “had representatives of the University of Wisconsin-Madison tell us that their students probably haven’t gotten 10 pieces of mail in their lifetime”); Dkt. No. 72 (Burden Rpt.), at 25 (“Absentee voting procedures in Wisconsin prior to 2011 were often more challenging for . . . young people,” and “[t]hese disproportionate burdens have been exacerbated rather than alleviated by changes in election law since 2011.”); *see also id.* at 30-31 (young voters less likely than older voters to have their absentee ballots counted in 2014).

417. GAB Lead Elections Specialist Diane Lowe has “acknowledge[d] that the photo ID requirement will make it much more difficult for students to vote in the college town.” Dkt. No. 95 (Lowe Dep.), at 90:14-21; Kaul Decl., Ex. 25 (Dep. Ex. 76). This is

[b]ecause they not only need the college ID, but they need another document to go with it. . . . [I]f they do live in dorms, . . . in college housing, they aren’t going to have most likely some of . . . the regular forms of ID that people might have. They might have a driver’s license, they might not when they’re away from home. So most of them will rely on their ID, but they will also have to have another document that proves that they’re enrolled.

Id. at 90:22-91:12.

418. Lowe’s understanding based on her experience is that most college students in the University of Wisconsin system or at private colleges in Wisconsin do not have driver’s licenses. Dkt. No. 95 (Lowe Dep.), at 91:13-18.

419. In doing outreach related to voter ID in 2011 and 2012, the GAB targeted students, who it believed were less likely than others to have IDs. Dkt. No. 94 (Kennedy Dep.), at 234:18-20.

420. And, Dr. Mayer's analysis shows that, while 8.4% of registered voters in Wisconsin overall do not possess a driver's license or DOT photo ID, 21.4% of registrants who reside in student wards do not possess IDs. Dkt. No. 71 (Mayer Rep.), at 18.

421. While UW-Madison offers a form of ID—which is different from the regular student ID—that can be used for voting, it is not issued to students automatically and students must take affirmative action to obtain one. Tasse Decl. ¶15.

422. This has created confusion among students. Gosey Decl. ¶9 (she has “come across many new students and students from out-of-state who do not possess an acceptable ID for voting in Wisconsin and who are confused by the Wisconsin law,” and, in her experience, “students are confused as to whether their normal student ID is acceptable for voting, where to get a voting compliant ID, and hesitant to take the time needed to get another ID when they already have been issued one that works for all of their activities on campus”).

423. The GAB was informed in 2011 that the UW system intended to charge student segregated fees for the expense of creating voter ID-compliant student ID cards, leading one GAB staff member to write, “Charging for a voter ID for students? Can someone say poll tax!” Dkt. No. 94 (Kennedy Dep.), at 226:15-227:17; Kaul Decl., Ex. 26 (Dep. Ex. 29); *see also* Kennedy Dep. at 227:22-23 (“[O]ne of the concerns was that if it cost money to be able to participate in the process, does that constitute a poll tax.”).

424. Further, many college students in general “will not be able to produce proof of enrollment during the August elections” and, “for elections that are conducted in months outside

of the academic calendar, such as the primary elections this August, there is some confusion over whether students who are not currently enrolled will be unable to vote using their student IDs because they are not currently enrolled at the time of the election.” Sundstrom Decl. ¶16.

425. Dr. Mayer explains:

The new registration and voting requirements are likely to have a disproportionate effect on student populations, for three reasons. First, this population is disproportionately young, falling into the age brackets less likely to turn out than older voters, and therefore less likely to overcome barriers to voting. Second, this population is less likely to possess the identification documents required to comply with the photo ID requirements of Act 23. A significant number of students are from out of state and are less likely than other voters to possess a WI license or DOT photo ID. 19.8% of residents of student wards (compared to 7.2% of residents of non-student wards) do not link to the DOT file, indicating that they do not possess a WI driver’s license or DOT photo ID. Third, students who wish to use a qualifying college or university ID as their photo ID are required to bring proof of enrollment.

Dkt. No. 71 (Mayer Rpt.), at 13-14 (footnote omitted).

426. In Madison, in high-turnout elections, there have been “lines for early voting that stretch out the front door of Madison City Hall (where the Clerk’s Office is located), continue onto the sidewalk, and wrap around the block. At some points, the lines were over two city blocks long.” Witzel-Behl Decl. ¶ 4.

427. In the November 2014 election, the League of Women Voters “received calls from Milwaukee and Madison asking for additional trained SRDs to assist with voter registration.” Kaminski Decl. ¶21; *see generally* Dkt. No. 94 (Kennedy Dep.), at 45:24-46:1; Dkt. No. 93 (Haas Dep.), at 93:3-6, 180:9-11.

428. Dr. Burden explains that young voters generally have less well-established voting habits and that, “[a]s a result, disruptions to existing ways to participate in the political process have more significant effects on them.” Dkt. No. 72 (Burden Rpt.), at 1.

429. Indeed, “the changes to Wisconsin election law between 2011 and 2014 that are challenged by plaintiffs in this litigation will predictably have a disproportionate impact on voting participation by . . . young people.” Dkt. No. 72 (Burden Rpt.), at 31.

430. Analyzing data from Wisconsin’s statewide voter registration system (“SVRS”), Dr. Mayer found that “[t]urnout in students wards (. . . defined as wards that include or are nearby colleges and universities, and which have large concentrations of 18-24 year old registrants) dropped significantly between 2010 and 2014,” the period when most of the challenge provisions were implemented. Dkt. No. 71 (Mayer Rpt.), at 5.

431. In particular, Dr. Mayer found that, “[b]etween 2010 and 2014, overall turnout (among voters in the SVRS on the date of each election) declined by 2.5 percentage points. But the decline was not uniform. . . . Turnout among registrants who lived in student wards dropped precipitously, from 72.7% in 2010 to 54.5% in 2014 (a drop of 18.2 percentage points).” Dkt. No. 71 (Mayer Rpt.), at 23; *accord id.* at 21 Tbl. 6.

432. Using models that allowed him “to estimate the effect of different demographic characteristics on vote probability, conditional upon whether someone voted in the previous elections,” Dr. Mayer also found that residents who reside in students wards and registrants without an ID (a group disproportionately composed of young voters) “were significantly less likely than other registrants to vote in 2014.” Dkt. No. 71 (Mayer Rpt), at 26; *see also id.* at 32 (in 2014, “[s]tudent wards are . . . strongly and independently affected . . . , even after controlling for the ward level rate of ID possession”; “[i]n 2010, by contrast, there is . . . no relationship at all between student wards and turnout”).

433. Based on this analysis, Dr. Mayer concluded that the changes to Wisconsin election law since 2011 impose substantial burdens that fall particularly hard on specific groups of voters, including young and student voters. Dkt. No. 71 (Mayer Rpt.), at 5, 38.

434. Based on both on her work helping to provide information from GAB to the legislature and from having observed legislative proceedings, Diane Lowe has personal knowledge that virtually all of the concerns raised in an email from a poll worker at UW-Madison had been presented to the legislature—specifically, that depending upon the date of the February elections and the start of the second semester, students may not have been in their residences for the 28 days required by the expanded residency period; that if students “lived with parents or friends for those few [summer] months and had no individual bills or lease, they may not have adequate proof of residence and can no longer use a corroborating witness either”; that there would be “time and costs, especially on campuses, for all the additional re-registering” that will be done; and that there would likely be longer lines due to the voter ID law. Dkt. No. 95 (Lowe Dep.), at 88:6-89:18; Kaul Decl., Ex. 25 (Dep. Ex. 76).

435. Since 2011, the GAB has recommended that Wisconsin adopt online voter registration, which, according to Director Kennedy, “would cut down on the number of mistakes that are made when voter registration application forms are filled out It would increase the accuracy of those lists [and] enable people who expect technology to serve them, meaning people my age and younger who are used to doing things that way.” Dkt. No. 94 (Kennedy Dep.), at 27:12-28:1.

436. Director Kennedy added, “I’ve had representatives of the University of Wisconsin-Madison tell us that their students probably haven’t gotten 10 pieces of mail in their

lifetime, and so it's a recognition of just how you do business." Dkt. No. 94 (Kennedy Dep.), at 28:2-7.

437. Despite the State's insistence that it is ensuring the integrity of the electoral process and confidence in and the accuracy of the elections data when it is enacting legislation that makes it more difficult to vote. *See* Dkt. No. 94 (Kennedy Dep.), at 128:15-17 (stating, with respect to the elimination of the high school SRD requirement, that "the political climate has changed . . . to focus more on getting accurate, complete and not redundant voter registration forms").

438. The State has not adopted online voter registration. Dkt. No. 94 (Kennedy Dep.), at 28:12-14.

439. In addition, certain members of the legislature, including Senator Lazich, criticized the GAB's rule permitting electronic records to be used for voter registration. Dkt. No. 94 (Kennedy Dep.), at 257:23-259:2.

440. Permitting electronic records to be used for voter registration has been particularly beneficial to young voters. Dkt. No. 94 (Kennedy Dep.), at 259:12-42; Trindl Decl. ¶ 12 ("The ability to show an online or electronic bill helped a number of people, perhaps a few dozen and especially younger people, register to vote.").

441. The Republican majority in the legislature, under which the challenged provisions (with one exception) were enacted, has a strong electoral interest in suppressing the youth vote. In Wisconsin elections for President, U.S. Senate, and Governor between 2004 and 2014, voters age 18-29 were seven percentage points less likely than voters age 65+ to vote for the Republican candidate. *See* Dkt. No. 75 (Lichtman Rpt.), at 19, Tbl. 9.

442. In 2004, 18-29 year olds in Wisconsin were four percentage points *more* likely than those age 65+ to vote Republican in the presidential election in Wisconsin. Dkt. No. 75 (Lichtman Rpt.), at 19, Tbl. 9.

443. In the 2008 and 2012 presidential elections, however, the younger cohort in Wisconsin was 15 percentage points less likely to vote for the Republican candidate than was the older group. Dkt. No. 75 (Lichtman Rpt.), at 19, Tbl. 9.

Intentional Discrimination Against Democratic Voters

444. The challenged provisions impose disproportionate burdens on young voters, African Americans, and Latinos—all of which vote in higher rates for Democrats than Republicans. Dkt. No. 75 (Lichtman Rpt. Tables 8 & 9), at 19-20; *id.* at 59 (“African Americans in Wisconsin vote overwhelmingly for Democratic candidates and Hispanics vote in large measure for Democratic candidates. Thus Republican rely upon the voting strength of whites in Wisconsin.”); Dkt. No. 72 (Burden Rpt.), at 9 (“Exit polls for the 2012 presidential election in Wisconsin show that “support for the Democratic ticket was 94% among blacks, 66% among Latinos, and 48% among whites.”).

445. Furthermore, a number of these laws were enacted with the State’s knowledge that they would have these disparate impacts. Dkt. No. 75 (Lichtman Rpt.), at 4-5.

446. And, these laws were enacted against the backdrop of a shifting demographic landscape that disadvantaged Republicans, providing a clear motivation for discriminating against Democrats. Dkt. No. 75 (Lichtman Rpt.), at 16 (“It is Republicans in Wisconsin who are disadvantaged by this shift in the relative voting strength of whites and minorities and would therefore benefit from limitations on minority voting, especially African Americans and Hispanics who constitute the largest minority voting blocs in Wisconsin and are well-

documented Democratic voters. These features of turnout and voting patterns in Wisconsin help explain the panoply of restrictive voter legislation enacted by the Republican-controlled legislature and the Republican governor after the elections of 2010 in Wisconsin. Given the high degree of electoral competition in Wisconsin, even small changes in the relative turnout of whites and minorities can influence the outcomes of elections.”).

447. As Plaintiffs’ expert Dr. Lichtman explains, “[t]he failure to deal with electoral issues in Milwaukee is especially significant [with respect to intent] given that voters in Milwaukee County, which includes a substantial share of the state’s minority population, have experienced much longer waiting times at the polls than the rest of the state. In addition, African American and Hispanic voters across Wisconsin have experienced much longer waiting times than white voters.” Dkt. No. 75 (Lichtman Rpt.), at 44.

448. “After Republicans achieved unified control of Wisconsin state government in 2011, the majority in the legislature enacted Act 23 and other measures relating to voting and registration with the intent and purpose of achieving partisan advantage[.]” Dkt. No. 75 (Lichtman Rpt.), at 60.

Rational Basis

449. The purpose of the photo ID law is to confirm identity, and not residency. Dkt. No. 94 (Kennedy Dep.), at 210:21-211:12 (“Q. Okay. Let’s turn then to the voter identification law. From an election administration standpoint, the purpose of that law is to identify voters but not confirm their residence, is that right? A. One of the purposes of the law is to ensure that the person who's there is the person who’s entitled to vote by confirming their identity, yes. Q. The voter identification law doesn’t serve any purpose with respect to residency, does it? A. It doesn’t touch residency, no. I mean it’s all about identifying who you are. Q. And you can

actually vote with a form of identification that has an address that's different from the address at which you're registered, correct? A. That's right.”).

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Respectfully submitted,

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