

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY
BRANCH 2

J.B. VAN HOLLEN

In his official capacity as

Attorney General of the State of Wisconsin

17 West Main Street

Post Office Box 7857

Madison, WI 53707-7857,

Case No. 08-CV-004085

Judge Maryann J. Sumi

Plaintiff,

THE REPUBLICAN PARTY OF WISCONSIN

148 E. Johnson Street

Madison, WI 53703,

Intervenor-Plaintiff,

vs.

GOVERNMENT ACCOUNTABILITY BOARD

17 West Main Street, Suite 310

P.O. Box 2973

Madison, WI 53701-2973,

THOMAS CANE

In his official capacity

c/o Government Accountability Board

17 West Main Street, Suite 310

P.O. Box 2973

Madison, WI 53701-2973,

GERALD NICHOL

In his official capacity

c/o Government Accountability Board

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MICHAEL BRENNAN

In his official capacity

c/o Government Accountability Board

17 West Main Street, Suite 310

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WILLIAM EICH

In his official capacity
c/o Government Accountability Board
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VICTOR MANIAN

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NATHANIEL E. ROBINSON

In his official capacity
c/o Government Accountability Board
17 West Main Street, Suite 310
P. O. Box 2973
Madison, WI 53701-2973,

Defendants,

THE DEMOCRATIC PARTY OF WISCONSIN
222 W. Washington Ave. Suite 150
Madison, WI 53703,

MADISON TEACHERS, INC.
821 Williamson Street
Madison, WI 53703,

AMERICAN FEDERATION OF TEACHERS-WISCONSIN
6602 Normandy Lane
Madison, WI 53719,

MADISON FIREFIGHTERS LOCAL 311
821 Williamson Street
Madison, WI 53703,

THE MILWAUKEE BRANCH OF THE NAACP
2745 N. Martin Luther King, Jr. Drive, Suite 203
Milwaukee, WI 53212,

MILWAUKEE TEACHERS' EDUCATION ASSOCIATION
5130 W. Vliet Street
Milwaukee, WI 53208,

Intervenor-Defendants.

**NOTICE OF MOTION JOINING IN PLAINTIFF, J.B. VAN HOLLEN,
AS ATTORNEY GENERAL, MOTION FOR SUMMARY JUDGMENT
FOR A PEREMPTORY WRIT OF MANDAMUS,
OR ALTERNATIVELY DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF AND SEEKING ADDITIONAL RELIEF**

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PLEASE TAKE NOTICE that The Republican Party of Wisconsin ("RPW") joins the Plaintiff, J.B. Van Hollen, as Attorney General, Motion for Summary Judgment for a Peremptory Writ of Mandamus or Alternatively Declaratory and Injunctive Relief and Seeking Additional Relief against the following Defendants: Government Accountability Board, Thomas Cane, Gerald Nichol, Michael Brennan, William Eich, Victor Manian, Gordon Myse, Kevin J. Kennedy and Nathaniel E. Robinson ("Named Defendants"). In support of said Motion, RPW states as follows:

1. As requested by the Attorney General, an Order finding the State of Wisconsin, through its agency, or others, has violated HAVA is consistent with the law.

2. *WRIT FOR FULL HAVA COMPLIANCE*: If the Court determines that the Named Defendants are in violation of HAVA, the following writ of mandamus should be entered ordering full-compliance with HAVA:

a.) An order to the Named Defendants to conduct the HAVA checks on all new registration activity in the statewide voter registration system since January 1, 2006,

and further directing that the Named Defendants cause the HAVA checks to be completed on said registrations at the state level, and prohibit said Defendants from placing the burden of compliance with the checking procedure on local elected officials; and

b.) An order directing the Named Defendants to cause all reasonable steps be taken to ascertain the reason for any “non-match” resulting from the HAVA checks referenced in Paragraph 1 (a), and further, that for non-match registrations for which no corrective action can be taken, that such registrations remain on the voter registration list (the SVRS), but be flagged as needs “identification” on Election Day, and that the GAB direct that such registrants proceed as recommended by the GAB staff in the proposed emergency rule on which the Board of GAB cast a tie vote on July 16, 2008.

3. *ALTERNATIVE WRIT FOR HAVA COMPLIANCE DIRECTED AT AREAS OF KNOWN CRIMINAL ACTIVITY:* If the Court finds the Named Defendants are in violation of HAVA, but further concludes, in effect, that a Peremptory Writ Of Mandamus requiring full and comprehensive compliance with HAVA, with actual and substantive relief may not be entered, The Republican Party of Wisconsin hereby moves for additional relief by entry of the an Alternative Writ of Mandamus directed at the Named Defendants as follows:

a.) Ordering the Named Defendants to conduct the HAVA checks on all new registration activity completed through deputy registrars in the statewide voter registration system since January 1, 2006, and further directing that the Named Defendants cause the HAVA checks to be completed on said registrations at the state level, and prohibit said Defendants from placing the burden of compliance with the checking procedure on local elected officials; and

b.) A Writ of Mandamus directing the Named Defendants to cause all reasonable steps be taken to ascertain the reason for any “non-match” resulting from the HAVA checks referenced in Paragraph 3 (a) (limited to the registrations completed by deputy registrars), and that the resources of the State, GAB, and local elected officials be reasonably directed to the completion of that task, and further, that for non-match registrations for which no corrective action can be taken, that such registrations remain on the voter registration list (the SVRS), but be flagged as needs “identification” on Election Day, and that the GAB direct that such registrants proceed as recommended by the GAB staff in the proposed emergency rule on which the Board of GAB cast a tie vote on July 16, 2008¹.

4. The Court should consider such other and further relief as it may deem just and proper to insure the integrity of the November election.

5. The basis for this Motion is contained in the Memorandum in Support of Motion Joining in Plaintiff, J.B. Van Hollen, Attorney General, Motion for Summary Judgment for a Peremptory Writ of Mandamus, or Alternatively Declaratory and Injunctive Relief and Seeking Additional Relief filed herewith, as well as all other pleadings and matters of record.

¹ The RPW presents these alternatives solely in consideration of the practical and time limitations the Court may believe are now at issue. In presenting this possible practical alternative, the RPW stresses that full compliance with HAVA should be ordered, and GAB should be capable to achieve compliance. In presenting this alternative, the RPW in no manner waives any arguments or rights related to the GAB's HAVA violations which would continue to exist and occur even if the Alternative Writ of Mandamus were to be adopted.

Dated at Madison, Wisconsin, this 6th day of October, 2008.

Respectfully submitted,

MICHAEL BEST & FRIEDRICH LLP

By: 

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Wisconsin, Intervenor-Plaintiff