

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RUTHELLE FRANK, *et al.*,

Plaintiffs,

v.

Case No. 11-CV-1128

SCOTT WALKER, *et al.*,

Defendants.

**DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION
TO EXPEDITE BRIEFING ON PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION, LEAVE TO FILE
SUPPLEMENTAL PLEADINGS, AND CLASS CERTIFICATION**

There is no urgency that supports shortening the Defendants normal time to respond to the preliminary injunction request. The Plaintiffs argue that a shortened timeline is important because of approaching elections. (Dkt. 281:1.) They are presumably referring to the August 9, 2016 partisan primary and the November 8, 2016 general election. Any eligible voter can get a photo ID today that will be valid for both of those elections. Under current law, a person who applies for a state ID either (a) promptly gets an ID, or (b) if they do not have documentation available to promptly get a permanent ID, they get a photo receipt that is valid for voting, and which is automatically renewed for as long as the ID application is active, for a minimum of 180 days. Wis. EmR1618, §§ 8, 10.¹ 180 days from the

¹ Available at:

https://docs.legis.wisconsin.gov/code/register/2016/725A3/register/emr/emr1618_rule_text/emr1618_rule_text
(Last visited on June 14, 2016.)

filing of the preliminary injunction motion is December 7, 2016. So anyone that is potentially within the scope of the preliminary injunction motion can have an ID that will be valid for the August and November elections, even assuming the truth of the allegations in the injunction motion.

Furthermore, for the August election, clerks can begin sending absentee ballots on June 10, and must send them by June 23. (Wis. Stat. § 7.15(1)(cm). Even under the expedited schedule requested by the Plaintiffs, no decision could be reached in time to change procedures for the August election.

The Defendants need the normal response time to adequately respond to the preliminary injunction motion. The Plaintiffs' filed a 30-page brief and 75 exhibits in support of their preliminary injunction request. Their filings included a proposed Supplemental Complaint, 18 declarations, and an expert report that has never before been considered in this case. (Dkt. 280 ¶ 5–22, 75.) Reading, researching, and responding to these legal and factual arguments will take more than 14 days under the best of circumstances, and particularly after the Plaintiffs chose to file their material near the close of business on a Friday afternoon. (Dkt. 280) (EFC notification showing filing at 4:16 p.m.) Indeed, the normal 21-day response deadline will be a strain to adequately respond to this volume of facts and argument, and the request to further expedite the briefing should be denied.

Dated this 14th day of June, 2016.

BRAD D. SCHIMEL
Wisconsin Attorney General

/s/S. Michael Murphy
S. MICHAEL MURPHY
Assistant Attorney General
State Bar #1078149

CLAYTON P. KAWSKI
Assistant Attorney General
State Bar #1066228

GABE JOHNSON-KARP
Assistant Attorney General
State Bar #1084731

JODY J. SCHMELZER
Assistant Attorney General
State Bar #1027796

Attorneys for Defendants

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-5457 (Murphy)
(608) 266-7477 (Kawski)
(608) 267-8904 (Johnson-Karp)
(608) 266-3094 (Schmelzer)
(608) 267-2223 (Fax)
murphysm@doj.state.wi.us
kawskicp@doj.state.wi.us
johnsonkarp@doj.state.wi.us
schmelzerjj@doj.state.wi.us