Nos. 16-3083, 16-3091

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

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

Plaintiffs-Appellees,
Cross-Appellants,

v.

MARK L. THOMSEN, *et al.*,

Defendants-Appellants,
Cross-Appellees.

On Appeal From The United States District Court
For The Western District Of Wisconsin, Case No. 3:15-cv-324
The Honorable Judge James D. Peterson, Presiding

PETITION FOR INITIAL EN BANC REVIEW

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APPEARANCE & CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No: 16-3083, 16-3091

Short Caption: One Wisconsin Institute, Inc., et al. v. Mark L. Thomsen, et al.

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Attorney's Signature: s/ Rhett P. Martin Date: 8/5/2016

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RULE 35(B) STATEMENT

This proceeding involves questions of exceptional importance, including whether Wisconsin's voter ID law should be invalidated; whether this Court should overrule *Frank v. Walker*, 768 F.3d 744 (7th Cir. 2014) ("*Frank I*"); and whether a host of voting restrictions enacted in Wisconsin from 2011 to 2014 were intended to discriminate against minority, young, and Democratic voters. Given the nature of these issues and the proximity of the general election, Plaintiffs respectfully petition this Court for initial hearing en banc.

INTRODUCTION

Dissenting from denial of rehearing en banc in *Frank I*, Judge Posner, on behalf of five judges of this Court, wrote that "the movement in a number of states including Wisconsin to require voters to prove eligibility by presenting a photo of themselves when they try to vote has placed an undue burden on the right to vote"; "photo identification voting laws also raise issues under Section 2 of the Voting Rights Act"; and "the case against a law requiring a photo ID as a condition of a registered voter's being permitted to vote that is as strict as Wisconsin's law is compelling." 773 F.3d 783, 783-84, 797 (7th Cir. 2014). "There is only one motivation for imposing burdens on voting that are ostensibly designed to discourage voter-impersonation fraud, if there is no actual danger of such fraud," Judge Posner added, "and that is to discourage voting by persons likely to vote against the party responsible for imposing the burdens." *Id.* at 796.

The record in this case confirms each of these points. Following a nearly two-week trial, the court below found that "[t]he Wisconsin experience demonstrates

that a preoccupation with mostly phantom election fraud leads to real incidents of disenfranchisement, which undermine rather than enhance confidence in elections, particularly in minority communities." Dist. Ct. Findings of Fact and Conclusions of Law ("Op.") 2, 4. "Wisconsin's strict version of voter ID law," the court continued, "is a cure worse than the disease." Op. 4. Further, based on the evidence presented at trial, "[t]he conclusion is hard to resist: the Republican leadership believed that voter ID would help the prospects of Republicans in future elections." Op. 36.

Despite these findings, the district court concluded that "*Crawford* and *Frank* effectively foreclose invalidating Wisconsin's voter ID law outright" and instead ordered more limited relief with respect to the process (known as the "ID petition process" or "IDPP") for individuals who lack the underlying documentation required to obtain a "free" ID. Op. 29, 118-19; *accord* Op. 3-4, 20. The trial court made clear, however, that "*Crawford* and *Frank* deserve reappraisal." Op. 20; *accord* Op. 3.

Several legal propositions announced in the *Frank I* panel decision should be reconsidered as well. As set forth below (and will be discussed in detail in the merits briefing), the many legal errors in that decision have narrowed the scope of this Circuit's protection of the fundamental right to vote and left the Seventh Circuit as an outlier among the courts of appeals on voting-rights issues.

Moreover, the evidence in this case demonstrates that from 2011 to 2014, Wisconsin enacted several bills, including the voter ID law (itself part of an omnibus bill), that were designed to achieve partisan advantage by reducing the turnout of minority and young voters. While the court below declined to find that

most of the challenged provisions were enacted with the intent to discriminate on the basis of race or age, it found that one of the challenged provisions—a 2013 law eliminating weekend and evening in-person absentee voting—"intentionally discriminates on the basis of race," as it "was specifically targeted to curtail voting in Milwaukee without any other legitimate purpose." Op. 6. The court also wrote that it "cannot easily dismiss" Plaintiffs' assertion "that Wisconsin's voter ID law was motivated, at least in part, by racial animus." Op. 22. And the court explained that "in light of the record of the case as a whole, the conclusion is nearly inescapable: the election laws passed between 2011 and 2014 were motivated in large part by the Republican majority's partisan interests." Op. 36-37.

Each of the issues discussed above implicates the fundamental right to vote and is therefore of exceptional importance. *See generally McCutcheon v. FEC*, 134 S. Ct. 1434, 1440-41 (2014) (Roberts, C.J., plurality op.) ("There is no right more basic in our democracy than the right to participate in electing our political leaders.").

PROCEDURAL HISTORY

This appeal arises out of a challenge to a series of recent laws that have overhauled voting in Wisconsin. Following trial, the district court enjoined several of the challenged provisions, ordered that changes be made to the ID petition process, and upheld certain provisions, including the voter ID law itself. Plaintiffs and Defendants have both appealed.

ARGUMENT

I. THIS CASE RAISES THE EXCEPTIONALLY IMPORTANT QUESTION WHETHER WISCONSIN'S VOTER ID LAW SHOULD BE INVALIDATED

Initial review of this case en banc is appropriate because *Frank I*'s decision to uphold Wisconsin's voter ID law should be overruled as far in advance of the 2016 general election as feasible. The record in this case demonstrates that Wisconsin's voter ID law severely burdens the right to vote, particularly for minority voters. Although the voter ID law has now gone into effect, approximately 5% of *registered voters* in Wisconsin lack ID, including disproportionately large shares of African-American and Latino voters. Op. 31-32; *see also id.* at 33 ("[T]he evidence here shows that patterns of ID possession are racially disparate, and that is likely to have a racially disparate effect on turnout."); *id.* ("both ID possession and the lack of qualifying documentation correlate strongly with race"). And the district court found that "[g]ood national research suggests that voter ID laws suppress turnout, and that they have a small, but demonstrable, disparate effect on minority groups." Op. 20; *see also* ECF No. 208 at 190-91. *But see Frank I*, 768 F.3d at 747, 751, 753.

These disparities do not exist, as *Frank I* suggested, 768 F.3d at 753, because minority voters have failed to use the opportunities available to obtain IDs. According to a *defense* expert, minorities are far *more* likely than whites in Wisconsin to seek "free" IDs for voting. Op. 32 ("African Americans accounted for 35.6 percent of free IDs, whereas they make up only 5.6 percent of the citizen voting age population. Latinos accounted for 8.3 percent of the free IDs, against only 3.3 percent of the citizen voting age population."). Two-thirds of voters entering the ID

petition process—the purported safety valve for those without the documentation required to obtain a free ID—are minorities, with "African Americans alone represent[ing] 55.9 percent of IDPP petitioners." Op. 39. Thus, minorities are far more likely than whites in Wisconsin to have undertaken special burdens in order to vote; and minorities are *still* more likely than whites to lack qualifying IDs.

Further, scores of voters who have subjected themselves to these burdens have nevertheless been denied their right to vote. The district court found that the ID petition process "disenfranchised about 100 qualified electors—the vast majority of whom were African American or Latino—who should have been given IDs to vote in the April 2016 primary." Op. 4. The State even formally denied IDs to 61 voters who attempted to use the IDPP, and "African Americans and Latinos represented 85 percent (52 out of 61) of all IDPP denials." Op. 39. As the trial court concluded, "the IDPP is a wretched failure: it has disenfranchised a number of citizens who are unquestionably qualified to vote, and these disenfranchised citizens are overwhelmingly African American and Latino." Op. 29. In addition, several hundred people who attempted to vote in April were forced to cast provisional ballots that were not counted because those voters did not present an ID; others who did not have qualifying ID did not go through the burdensome provisional ballot process; and the analysis of one of the experts in this case showed that voters without ID were far less likely to vote in 2014, when many voters believed the ID requirement was in effect, than they were in 2010. *See* ECF No. 208 at 116.

Exacerbating these burdens, the State, following *Frank I*, repeatedly refused to fund any additional outreach or education regarding the voter ID law. That changed only *after* the trial in this case, when the State agreed to fund a last-minute "limited public informational campaign." ECF No. 208 at 100-04. And, the voter ID law results in longer lines at the polls by more than doubling the time required to check in and obtain a ballot. *Id.* at 116.

These burdens are not justified by any material state interest. The evidence in this case has once again confirmed that "impersonation fraud is a truly isolated phenomenon" that "has not posed a significant threat to the integrity of Wisconsin's elections." Op. 21. The trial court pointed out, however, that "[t]he same cannot be said for Wisconsin's voter ID law," which "has disenfranchised more citizens than have ever been shown to have committed impersonation fraud." Op. 21-22.

The State's asserted interest in enhancing public confidence in elections also does not hold up to scrutiny. "The evidence in this case showed that portions of Wisconsin's population, especially those who live in minority communities, perceive voter ID laws as a means of suppressing voters. This means that they undermine rather than enhance confidence in our electoral system." Op. 20. Further, the willingness of Wisconsin legislators "to publically tout the partisan impact of those laws deepens the resentment and undermines belief in electoral fairness." *Id.* "In theory," the court explained, "the well-designed and easy-to-use registration and voting system imagined in *Crawford* and *Frank* facilitates public confidence without

eroding participation in elections. But in practice, Wisconsin's system bears little resemblance to that ideal." Op. 22.

For these and other reasons, including those set forth in the dissent from denial of rehearing en banc in *Frank I*, 773 F.3d at 783, 792-93, 795-97 (panel decision was a "serious mistake," "riven with weakness," based on "common misconception[s]," that "piles error on error," "is not troubled by the absence of evidence" supporting its conclusions, "mentions none of the pertinent academic and journalistic literature," and "conjures up a fact-free cocoon in which to lodge the federal judiciary"), Wisconsin's restrictive voter ID law violates the VRA and unconstitutionally burdens the right to vote. The panel's contrary decision in *Frank I* should be reevaluated by the full Court as far in advance of the presidential election as feasible.

II. THIS CASE RAISES THE EXCEPTIONALLY IMPORTANT QUESTION WHETHER *FRANK I* CONTAINS ERRORS OF LAW THAT UNDERMINE VOTING RIGHTS

Frank I should also be reconsidered because it is replete with legal errors that limit the VRA's and the Constitution's protections of the right to vote. For instance, *Frank I* asserted that "[i]t is better to understand § 2(b) [of the VRA] as an equal-treatment requirement (which is how it reads) than as an equal-outcome command (which is how the district court took it)." 768 F.3d at 754. But this ignores the fact that "[i]n 1982, Congress amended the Voting Rights Act to make clear that Section 2, unlike other federal legislation that prohibits racial discrimination, does not require proof of discriminatory intent. Instead, a plaintiff need only show that the challenged action or requirement has a discriminatory *effect* on members of a

protected group." *Ohio State Conf. of the NAACP v. Husted*, 768 F.3d 524, 550 (6th Cir. 2014) ("*NAACP*") (emphasis added; internal quotation marks omitted), *vacated on other grounds by* 2014 WL 10384647 (6th Cir. Oct. 1, 2014); *Veasey v. Abbott*, No. 14-41127, 2016 WL 3923868, at *16 (5th Cir. July 20, 2016) (en banc) ("Unlike discrimination claims brought pursuant to the Fourteenth Amendment, Congress has clarified that violations of Section 2(a) can be proved by showing discriminatory effect alone.") (internal quotation marks omitted); *see also* 52 U.S.C. § 10301(a) (proscribing voting measures that "*result[]* in a denial or abridgement of the right … to vote on account of race or color") (emphasis added).[1] The *Frank I* court's statement to the contrary was erroneous.

Frank I similarly erred in suggesting that Section 2 of the VRA only applies where voters have been denied the right to vote. To reach this conclusion, the court effectively wrote the word "abridgement" out of the statute. *Compare Frank I*, 768 F.3d at 752-53 (the district court's findings did not "show a 'denial' of anything by Wisconsin, as § 2(a) requires; unless Wisconsin makes it *needlessly* hard to get photo ID, it has not denied anything to any voter"), *with* 52 U.S.C. § 10301(a) ("results in a denial *or abridgement* of the right … to vote") (emphasis added). As the Act's use of that word demonstrates, "Section 2 applies to any 'standard, practice, or procedure' that makes it harder for an eligible voter to cast a ballot, not

[1] *See generally Allen v. State Bd. of Elections*, 393 U.S. 544, 565 (1969) ("The Voting Rights Act was aimed at the subtle, as well as the obvious, state regulations which have the effect of denying citizens their right to vote because of their race."); *Chisom v. Roemer*, 501 U.S. 380, 406 (1991) (Scalia, J., dissenting) ("This new 'results' criterion [from the 1982 amendments to the Voting Rights Act] provides a powerful, albeit sometimes blunt, weapon with which to attack even the most subtle forms of discrimination.").

just those that actually prevent individuals from voting." *NAACP*, 768 F.3d at 552.[2] "'If, for example, a county permitted voter registration for only three hours one day a week, and that made it more difficult for blacks to register than whites, blacks would have less opportunity 'to participate in the political process' than whites, and [Section] 2 would therefore be violated ….'" *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 246 (4th Cir. 2014) ("*LWV*") (quoting *Chisom v. Roemer*, 501 U.S. 380, 408 (1991) (Scalia, J., dissenting)).

To the extent that *Frank I* concluded that the Senate Factors that courts apply in VRA cases are irrelevant in vote-denial (as opposed to vote-dilution) cases, 768 F.3d at 754; Op. 106, that holding is mistaken as well. As the en banc Fifth Circuit recently noted, "[t]hese factors provide salient guidance from Congress and the Supreme Court on how to examine the current effects of past and current discrimination and how those effects interact with a challenged law. *Veasey*, 2016 WL 3923868, at *18. Moreover, *Frank I*'s reasoning relied on a plainly inaccurate reading of the decisions of other courts of appeals.[3]

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[2] *Accord LWV*, 769 F.3d at 243 ("[N]othing in Section 2 requires a showing that voters cannot register or vote under any circumstance."); *Veasey*, 2016 WL 3923868, at *24 ("If the State had its way, the Fifteenth Amendment and Section 2 would only prohibit outright *denial* of the right to vote and overtly purposeful discrimination. Yet, both the Fifteenth Amendment and Section 2 also expressly prohibit *abridgement* of the right to vote.") (citation omitted).

[3] *Compare Frank I*, 768 F.3d at 754 ("The Fourth Circuit and the Sixth Circuit … found *Gingles* unhelpful in voter-qualification cases (as do we) …."), *with LWV*, 769 F.3d at 240 (Senate Factors "may shed light on whether the two elements of a Section 2 claim are met"), *NAACP*, 768 F.3d at 554-55 (noting that Senate Factors are pertinent "particularly to vote dilution claims," but also finding "Senate factors one, three, five, and nine particularly relevant to a vote denial claim" and that "[a]ll of the factors … can still provide helpful background context to minorities' overall ability to engage effectively on an equal basis with other voters in the political process"), *and Veasey*, 2016 WL 3923868, at *18 ("As did the

Frank I went further astray in holding that courts should only consider discrimination by the jurisdiction whose election practice is at issue in determining whether that practice imposes a racially disparate burden that is in part caused by or linked to the ongoing effects of discrimination and thus violates the VRA. 768 F.3d at 753, 755. This narrow focus on state-sponsored discrimination cannot be squared "with Section 2's directive to address the 'totality of the circumstances,' and with the Supreme Court's admonitions to probe the interaction of the challenged practice 'with social and historical conditions'" and to "consider 'the extent to which minority group members bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process.'" *Veasey*, 2016 WL 3923868, at *43 (Higginson, J., concurring) (quoting *Gingles*, 478 U.S. at 45, 47). It is also at odds with the principle that "the Act should be interpreted in a manner that provides the broadest possible scope in combating racial discrimination." *Chisom*, 501 U.S. at 403 (citations and internal quotation marks omitted); *NAACP*, 768 F.3 at 553. It is thus unsurprising that no other court of appeals has gutted the VRA in this fashion.[4]

Fourth and Sixth Circuits, we conclude that the *Gingles* factors should be used to help determine whether there is a sufficient causal link between the disparate burden imposed and social and historical conditions produced by discrimination."). *See generally Gonzalez v. Arizon*a, 677 F.3d 383, 405-06 (9th Cir. 2012) (en banc), *aff'd on other grounds sub nom. Ariz. v. Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247 (2013); *Johnson v. Governor of Fla.*, 405 F.3d 1214, 1227 n.26 (11th Cir. 2005).

[4] *See Frank I*, 768 F.3d at 755 (court was "skeptical about" second step of two-part inquiry used by Fourth and Sixth Circuits "because it does not distinguish discrimination by the defendants from other persons' discrimination"); *Solomon v. Liberty Cty.*, 899 F.2d 1012, 1032 (11th Cir. 1990) (en banc) (Tjoflat, C.J., specially concurring) ("Congress … revised section 2 to prohibit election practices that accommodate or amplify the effect that private discrimination has in the voting process.") (citation omitted); *Gomez v. City of Watsonville*,

These and other legal errors in *Frank I* justify reconsideration of that decision by the full Court. And the district court's opinion in this case illustrates why correction of these errors is necessary. Notwithstanding the extreme racial disparities in the IDPP, the court wrote that the problems that voters had in that process "tend[ed] to result from historical conditions of discrimination in the petitioner's home state or country," that it could not "conclude that the burdens that the IDPP imposes are linked to historical conditions of discrimination in Wisconsin," and that it therefore could not find a VRA violation (though the court found that the law violated the First and Fourteenth Amendments). Op. 110-11. Such broad license for states to superimpose voting restrictions onto disparities resulting from discrimination and thereby place discriminatory burdens on minority voters is plainly inconsistent with the purpose of the VRA. *See also* Op. 111 ("Plaintiffs contend that this is an excessively narrow reading of the Voting Rights Act, because it would allow Wisconsin to ignore rank discrimination by other states. They may be right, but the result appears to follow from *Frank*.").

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863 F.2d 1407, 1418 (9th Cir. 1988) ("troubled" by the district court's apparent belief that, in assessing Senate Factors 1 and 5, "it was required to consider only the existence and effects of discrimination committed *by the City of Watsonville itself*"; "[t]his conclusion is incorrect"); *United States v. Marengo Cty. Comm'n*, 731 F.2d 1546, 1567 n.36 (11th Cir. 1984) (Wisdom, J.) ("[U]nder the results standard of section 2, pervasive private discrimination should be considered, because such discrimination can contribute to the inability of [minorities] to assert their political influence and to participate equally in public life."); *cf. Veasey*, 2016 WL 3923868, at *20 (unnecessary to decide the issue).

III. THIS CASE RAISES THE EXCEPTIONALLY IMPORTANT QUESTION WHETHER A SERIES OF ELECTION LAWS ENACTED FROM 2011 TO 2014 WERE INTENDED TO DISCRIMINATE ON THE BASIS OF RACE, AGE, OR PARTISAN AFFILIATION

This case also warrants initial en banc review because it involves powerful evidence of intentional discrimination in the voting context. "[B]efore 2011, Wisconsin had an exemplary election system." Op. 33. But that year, after Republicans took control of state government, the State enacted Act 23 (containing the voter ID bill and several other restrictions on voting), which was just "the first of eight laws enacted over the next four years that transformed Wisconsin's election system." Op. 2, 8. Many of the provisions of these laws are challenged in this case; and "none" of the challenged provisions "make[s] voting easier for anyone." Op. 2.

As Plaintiffs will detail in their merits briefing, the record here compels a finding that nearly all of these provisions were enacted with the intent of reducing the turnout of minority and/or young voters. Indeed, at the last meeting of the Republican Senate caucus prior to passage of Act 23, "the Republican leadership insisted that Republicans get in line to support the bill because it was important to future Republican electoral success." Op. 35. Senator Mary Lazich, the Chair of the Senate Committee on Transportation and Elections, "told the senate Republican caucus that they should support the bill because of what it 'could mean for the *neighborhoods of Milwaukee* and the *college campuses* across this state.'" Op. 47 (emphases added). Of course, Milwaukee is a majority-minority city in which approximately two-thirds of Wisconsin's minority population lives, Op. 22, and college students are overwhelmingly young. The public statements of two other

Republican state senators also "show[ed] that legislators believed that Act 23 would have a partisan impact on elections." Op. 36. The court thus wrote that "[t]he conclusion is hard to resist: the Republican leadership believed that voter ID would help the prospects of Republicans in future elections." Op. 36.

In addition, "[s]tatements by legislators show that Act 146 reduced the hours allowed for in-person absentee voting specifically to curtail voting in Milwaukee, and, secondarily, in Madison." Op. 42. "The legislature's ultimate objective was political: Republicans sought to maintain control of the state government." Op. 44. But "the methods that the legislature chose to achieve that result involved suppressing the votes of Milwaukee's residents, who are disproportionately African American and Latino," and that "constitutes race discrimination." Op. 44.

Other factors also support the conclusion that the legislative program at issue was intended to achieve partisan gain through the suppression of minority and youth voting. "Voting in Wisconsin is sharply polarized by race," and the white population has been declining while the minority population has been increasing. Op. 33. In recent elections, moreover, young voters in Wisconsin have supported Democratic candidates by wide margins. ECF No. 208 at 225-26. The Republican majority that enacted the challenged provisions accordingly had a strong incentive to suppress voting by minorities and young voters. *See generally N.C. State Conf. of NAACP v. McCrory*, No. 16-1468, 2016 WL 4053033, at *1 (4th Cir. July 29, 2016) ("*McCrory*") ("[T]he Supreme Court has explained that polarization renders

minority voters uniquely vulnerable to the inevitable tendency of elected officials to entrench themselves by targeting groups unlikely to vote for them.").

Additionally, the burdens from the challenged provisions fall (or are likely to fall) disparately on minority and young voters,[5] and regression analysis conducted by an expert witness "supports the conclusion that the probability of an African American voting, relative to an average voter, was less in 2014 than it was in 2010." Op. 98. "[T]he stated rationales for many provisions of Act 23, and for the election laws that followed it, were meager." Op. 37; *cf. McCrory*, 2016 WL 4053033, at *1 ("In response to claims that intentional racial discrimination animated its action, the State offered only meager justifications."). "[T]he challenged laws were passed by a process that allowed limited public input and little actual debate." Op. 34; *cf.*

[5] *See, e.g.*, Op. 38 (at the time the voter ID law was passed "the potential for a voter ID requirement to have a racially disparate impact had long been recognized," and "Democrats, private citizens, and the GAB repeatedly raised these types of concerns to the legislature"); Op. 40 ("It is also no surprise that minorities foundered at high rates in a process [the IDPP] that required documentary proof of identity, birthdate, and citizenship."); Op. 42 ("[B]ecause Milwaukee has a predominantly minority population, the one-location rule was all but guaranteed to have a disparate impact."); Op. 36-37 ("None of these laws made registration or voting easier for anyone, but they had only minimal effect on less transient, wealthier voters."); Op. 41 (several challenged provisions are "facially neutral, and the extra burdens that they impose would fall on anyone who is poorer, less educated, or more transient, regardless of race"); Op. 47 ("As a class, younger voters are poorer and less established. They are therefore less likely to have a driver license and documentary proof of residence. They are also more transient, and thus will likely face the burden of registration more often."); Op. 102 ("Wisconsin's minority populations are much more transient than its white population is, in terms of both moving into the state and moving within the state."); Op. 102 ("the increased durational residency requirement imposes disparate burdens on African Americans and Latinos"); Op. 103 ("the in-person absentee voting provisions disparately burden African Americans and Latinos"); Op. 9-10 (Wisconsin mandated that dorm lists used in connection with voter registration include a certification that the students on the list are citizens; eliminated the requirement that special registration deputies be appointed at high schools; and overturned an ordinance in Madison that required landlords to provide new tenants with voter-registration forms).

McCrory, 2016 WL 4053033, at *12 ("the legislature rushed it through the legislative process"). And, "the sheer number of restrictive provisions [at issue] distinguishes this case from others." *McCrory*, 2016 WL 4053033, at *16.

In light of this evidence, initial review by the full Court—as far in advance of the upcoming presidential election as possible—is appropriate in order to evaluate whether the challenged provisions are intentionally discriminatory. *See generally McCrory*, 2016 WL 4053033, at *1 (district court erred in not finding discriminatory intent in part because it ignored "the inextricable link between race and politics in North Carolina"); *see also id.* at *8 ("[L]egislatures cannot restrict voting access on the basis of race. (Nor, we note, can legislatures restrict access to the franchise based on the desire to benefit a certain political party.)").

CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that the Court grant their petition for initial hearing en banc.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2016, I caused the foregoing to be electronically filed with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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