

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

RUTHELLE FRANK, et al., on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

SCOTT WALKER, in his official capacity as  
Governor of the State of Wisconsin, et al.,

Defendants.

Civil Action No. 2:11-cv-01128 (LA)

**MOTION FOR PRELIMINARY INJUNCTION**

Plaintiffs, through their counsel, respectfully move this Court pursuant to Fed. R. Civ. P. 65(a) to enter an order enjoining enforcement of the Wisconsin photo ID law, 2011 Wisconsin Act 23 (“the photo ID law”) on the grounds that Act 23, as written and currently implemented, has created a system that denies Wisconsin voters Equal Protection and Due Process under the Fourteenth Amendment to the U.S. Constitution. Plaintiffs further request that at a minimum this Court enjoin enforcement of Act 23 in Milwaukee County, Wisconsin, on the grounds that the law violates the Voting Rights Act, 42 U.S.C. § 1973.

In the alternative, Plaintiffs request that they, and the classes of voters they represent, be allowed to vote by providing an affidavit of identity at the polling place or with an absentee ballot as a substitute for a photo ID requirement. Plaintiffs Bulmer, Ellis, and Harmon alternatively request that they, and the class of veterans they represent, be allowed to vote using their Veterans Identification Cards (“VICs”).

In support of this Motion, Plaintiffs concurrently submit a Memorandum in Support of the Motion and Declarations and Exhibits thereto, which are hereby incorporated within this Motion by reference.

Respectfully submitted this 23<sup>rd</sup> day of April, 2012,

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**PROPOSED FINDINGS AND ORDER GRANTING PRELIMINARY INJUNCTION**

1. Plaintiffs have demonstrated that they are likely to succeed on the merits. Specifically, Plaintiffs are likely to demonstrate the following at trial:

(1) Act 23, by applying the Wisconsin Department of Transportation, Division of Motor Vehicles (DMV) requirements to Wisconsin voters who lack accepted photo ID imposes unreasonable and unnecessary legal, systemic practical, and financial barriers on the members of Classes 1 and 2, respectively, in violation of the Fourteenth Amendment to the U.S. Constitution, while allowing the use of an affidavit of identity at the polls for those voters would address the state's asserted interests in deterring and preventing voter fraud without imposing undue burdens on these voters.

(2) Act 23, by applying DMV's requirements to Wisconsin voters who lack accepted photo ID; who also lack one or more documents DMV requires they produce to obtain photo ID such as birth certificates, certifications of no birth, marriage certificates, name change orders, and other such documents; and who must pay money to obtain those documents before they can obtain the "free" photo ID card, constitutes a poll tax as

applied to the members of Class 5, in violation of the Twenty Fourth and Fourteenth Amendments to the U.S. Constitution. Allowing the use of an affidavit of identity at the polls for such voters in lieu of photo ID would not represent a poll tax or other material burden for those voters.

(3) The refusal to permit the use of Veterans Identification Cards is arbitrary and capricious as applied to the members of Class 6.

(4) The DMV Defendants subject applicants for photo ID cards and drivers licenses, forms of identification that Act 23 requires many voters to obtain in order to vote, to arbitrary and standardless exercise of its discretion, in violation of the Equal Protection Clause of the Fourteenth Amendment.

(5) Defendants have created a fundamentally unfair scheme which, as currently implemented, lacks uniform implementation, adequate training and supervision of those administering the law, and meaningful public notice or education, in violation of the Due Process Clause of the Fourteenth Amendment.

(6) Act 23 disproportionately denies the right to vote to African-American and Latino voters in Milwaukee County, and unfairly dilutes the votes of these voters, in violation of the Voting Rights Act, 42 U.S.C. §1973.

2. Plaintiffs have no adequate remedy at law. Only injunctive relief will alleviate the risk of disfranchisement at which they are placed by Defendants' acts and omissions.

3. If the Motion for Preliminary Injunction is denied, Plaintiffs will suffer irreparable harm in the form of the loss of the right to vote in one or more upcoming elections.

4. Given Plaintiffs' likelihood of success on the merits, the irreparable harm caused by denying Plaintiffs' Motion for Preliminary Injunction outweighs any irreparable harm experienced by Defendants as a result of complying with the terms of this Order.

5. The public has a strong interest in ensuring that eligible Wisconsin voters are not deprived of the right to vote in Wisconsin elections. This public interest argues in favor of granting the Motion for Preliminary Injunction.

**WHEREFORE, IT IS HEREBY ORDERED THAT:**

1. Plaintiffs' Motion for a Preliminary Injunction is GRANTED as to their request that this Court enjoin implementation of Act 23 unless and until Defendants develop a plan, approved by this Court, to administer and implement Act 23 with clear and uniform standards, known to the public and enforced both by DMV staff and employees and state and local elections officials.

2. Plaintiffs' Motion for a Preliminary Injunction is further GRANTED as to their request that this Court enjoin implementation of Act 23 in Milwaukee County, Wisconsin, on the basis that it disproportionately denies the right to vote to, and dilutes the votes of, African-American and Latino voters in the County.

3. Plaintiffs' Motion for a Preliminary Injunction is GRANTED as to their request that this Court require that Defendants permit voters who lack accepted photo ID to execute an affidavit of identity at the polling place.

4. Plaintiffs' Motion for a Preliminary Injunction is GRANTED as to their request that this Court require that Defendants accept U.S. Veterans Administration-issued Veterans Identification Cards as accepted photo ID.

**IT IS SO ORDERED.**