

FILED
10-25-2022
CIRCUIT COURT
DANE COUNTY, WI
2022CV002446

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 10

DANE COUNTY

RISE, INC., and
JASON RIVERA

Plaintiffs,

v.

Case No. 22-CV-2446
Declaratory Judgment
Case Code: 30701

WISCONSIN ELECTIONS COMMISSION, and
MARIBETH WITZEL-BEHL, in her official capacity,

Defendants,

WISCONSIN STATE LEGISLATURE,

Intervenor-Defendant.

NOTICE OF MOTION AND SECOND MOTION FOR A TEMPORARY INJUNCTION

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PLEASE TAKE NOTICE that Plaintiffs Rise, Inc. and Jason Rivera, by their attorneys, Diane M. Welsh and Leslie A. Freehill of Pines Bach LLP; John Geise, Spencer Klein, Samuel T. Ward-Packard, and Makeba Rutahindurwa of Elias Law Group; and Kathryn Ali and Elizabeth Lockwood of Ali & Lockwood LLP, hereby move the Court, pursuant to Wis. Stat. § 813.02(1), for a temporary injunction in this declaratory judgment action

The grounds for this motion are more fully set forth in Plaintiffs' Brief in Support of Second Motion for Temporary Injunction, which is filed herewith.

WHEREFORE, Plaintiffs ask that the Court grant this motion for temporary injunction, determine Plaintiffs are entitled to the relief described in Plaintiffs' brief, and issue the proposed order.

Respectfully submitted this 25th day of October, 2022.

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INTRODUCTION

Plaintiffs ask the Court to issue a temporary injunction compelling the Wisconsin Elections Commission (“WEC”) to instruct clerks that ballot certificates satisfying the standard for a witness address be deemed valid, and that the accompanying ballots be accepted and counted. Plaintiffs maintain their position that, consistent with Wisconsin Statutes and as applied in prior elections, witness “address” means “a place where the witness can be communicated with.” For purposes of this motion and to avoid confusion and legal challenges on and after election night, however, Plaintiffs urge the Court to choose between Plaintiffs’ definition and WEC’s three-component definition— “street number, street name, and municipality”—and then to order WEC to instruct clerks that absentee ballots that comport with the chosen definition should be accepted and counted.

Since Plaintiffs first asked this Court to enter a temporary injunction order declaring and resolving the meaning of witness “address” as that term is used in Wis. Stat. § 6.87(2) (and applied in Wis. Stat. §§ 6.87(6d), (9), and 6.88), new evidence has come to light—and continues to emerge on a near-daily basis—that clerks across Wisconsin are applying varying interpretations of the absentee ballot witness address requirement. In Dane County, for example, some clerks are applying a five-component definition of address (street number, street name, municipality, state, zip), and rejecting ballots that do not satisfy these criteria. Similarly, clerks in the City of Green Bay and Racine are rejecting ballots with witness addresses that contain only a street number, street name, and municipality. And Green Bay’s lawyers have said explicitly that while “WEC guidance indicates that a complete witness address contains ‘street number, street name, and name of municipality,’” the “City Clerk has determined that listing the city alone does not satisfy the ‘name of municipality’ requirement[.]” Clerks in other Wisconsin jurisdictions likewise appear to be requiring more than WEC’s proposed three-component address; in a survey of twenty-one

municipalities across the state, fifteen reported that they are requiring the five-component address—among them several of the state’s largest cities.

None of this evidence was in the record when this Court considered and denied Plaintiffs’ first request for a temporary injunction. And it fundamentally changes the calculus. As a threshold matter, the new evidence refutes the premise that WEC’s three-component definition is the current “status quo.” While some clerks may be applying that definition, others plainly are not. The “status quo,” therefore, is not WEC’s three-component definition, but rather WEC’s 2016 guidance. As Plaintiffs have explained in prior briefing, that guidance—which governed every statewide election from October 2016 through this year’s August primary—instructed local election officials that an absentee ballot certification containing sufficient information to enable an official to reasonably discern the witness’s complete address required no further action from the voter to be counted. This is functionally equivalent to Plaintiffs’ definition of “address,” and the Court accordingly should issue an injunction adopting Plaintiffs’ proposed definition.

But even if the Court disagrees and continues to maintain that WEC’s three-component definition “is the status quo,” Dkt. 79, the new evidence demonstrates that temporary injunctive relief is necessary to preserve that status quo, too. As it stands now, WEC’s three-component definition is not being applied in any sort of uniform or consistent way across the state. To the contrary, numerous clerks have said expressly that they are *not* following WEC’s definition, and it appears many others are following suit. So, whichever status quo the Court believes is the proper baseline (and whichever definition of “address” the Court deems correct), immediate temporary injunctive relief is imperative.

And it is appropriate. Plaintiffs satisfy the other requirements for a temporary injunction: they have a reasonable probability of success on the merits, no adequate remedy at law, and face

irreparable harm absent temporary injunctive relief. Accordingly, Plaintiffs ask the Court to (1) enter a temporary injunction construing “address” to mean “a place where the witness can be communicated with” and compelling WEC to instruct clerks that ballot certificates satisfying that standard are valid; or (2) in the alternative, if the Court continues to find that WEC’s three-component address definition is the status quo, enter an injunction construing “address” to mean “street number, street name, and municipality,” and compelling WEC to instruct clerks that ballot certificates satisfying that standard are valid.

* * *

This motion is not an attempt to circumvent the Court’s prior rulings. Plaintiffs seek only to ensure the consistent, fair, and uniform application of Wisconsin’s elections based on information that was unavailable to Plaintiffs or this Court when it considered Plaintiffs’ first request. Wisconsin voters should not be disenfranchised based on the arbitrary fact of where they happen to cast their vote, but that is what will happen absent immediate action: a ballot that will be counted by clerks in La Crosse or Eau Claire may not be counted by clerks in Janesville or Racine. Plaintiffs’ sole motivation for this second request is their desire to avoid this certain—and preventable—harm. Only an order by this Court before election day will do so.

BACKGROUND¹

Plaintiffs filed this lawsuit on September 27, 2022, seeking declaratory and injunctive relief to ensure that absentee voters would not be wrongly disenfranchised due to the withdrawal of WEC’s 2016 guidance just two months before the upcoming November election. Dkt. 3; *see also*

¹ Given other recent briefing in this matter, Plaintiffs presume this Court is familiar with the relevant background. Plaintiffs accordingly provide only a brief summary of recent events in this litigation and incorporate by reference the more fulsome backgrounds provided in their Brief in Support of their Motion for Temporary Injunction, Dkt. 8, and Brief in Support of their Motion for Summary Judgment, Dkt. 87.

Dkt 8 (motion for a temporary injunction). On October 7, this Court denied Plaintiffs' request for a temporary injunction after determining that (i) the witness "address" definition "contained in the October 18, 2016 Wisconsin Elections Commission memorandum and the September 14, 2022 memorandum to clerks from the Elections Commission"—*i.e.*, that "an address is sufficient if it contains a street number, street name and name of municipality"—"is the status quo," and (ii) Plaintiffs' requested temporary injunction was "unnecessary to preserve the status quo." Dkt. 79.

Since Plaintiffs first sought a temporary injunction, however, substantial new evidence has emerged that many clerks around Wisconsin are not employing the three-component definition of address that this Court found to be "the status quo" on October 7. This includes the following:

- In a sworn affidavit dated October 15, Dane County Clerk Scott McDonell—the county's chief elections officer—reported that municipal clerks "are not all currently applying a consistent definition of 'address.'" Dkt. 89 at 2, ¶3. Clerk McDonell explained that some clerks in Dane County "are accepting absentee ballot witness certificates where the witness address information is adequate for the witness to be contacted, such as when the witness certificate contains only a street number, street name, and zip code." *Id.* ¶4. Others are accepting ballots "when the witness certificate contains only a street number street name, and municipality." *Id.* ¶5. And still others are rejecting ballots "if the witness certificate does not include all five witness address components (street number, street name, municipality, state, and zip code)." *Id.* ¶6. Notably, a survey conducted on October 14 corroborated Clerk McDonell's concerns, finding that both Middleton and Fitchburg—the only two Dane municipalities surveyed—reported using a five-component definition. Dkt. 91 at 3–4, ¶9.
- In a letter dated October 18, the City Attorney for the City of Green Bay reported that the city's local election officials are requiring that a witness address include a street number, street name, municipality, and "state and/or zip code." Dkt. 94 at 3. The letter explained that while "WEC guidance indicates that a complete witness address contains 'street number, street name, and name of municipality' . . . [t]he City Clerk has determined that listing the city alone does not satisfy the 'name of municipality' requirement, and therefore must be accompanied by either state or zip code, or both." *Id.* Green Bay officials believe that "[s]tate and zip code cannot be presumed, particularly because numerous cities within Wisconsin share names with cities in other states (Madison, Columbus, Cleveland, Franklin, etc.)." *Id.*
- In its October 20 edition, the Milwaukee Journal Sentinel reported on the Green Bay letter described above and on allegations that the City of Racine has adopted a similar policy. Molly Beck, *Green Bay and Racine Election Clerks Receive Cease and Desist*

Letters Over the Returning of Absentee Ballot, Milwaukee Journal Sentinel (last updated Oct. 20, 2022, 8:43 am CT).² The Journal Sentinel further reported that “[i]n Milwaukee, absentee voters receive with their ballots instructions that explicitly tell voters to include the state and ZIP code with their addresses.” *Id.* The article did not make clear whether that instruction extended to witness addresses. *See id.*

- In a survey conducted on October 14, fifteen of twenty-one municipalities surveyed reported that they were requiring a five-component address (street number, street name, municipality, state, zip) on witness certificates. Dkt. 91 ¶¶8–10. Among these were several of the state’s largest cities, including Milwaukee, Appleton, Janesville, and Racine. *Id.* In the same survey, two other municipalities, Ashland and Fond du Lac, indicated that, although five-component addresses were not required for a ballot to be accepted, clerks were urging voters to include all five because of confusion surrounding and potential election day-challenges to the definition of address. *Id.* Only four municipalities indicated that they were unconditionally applying the three-component definition that this Court previously determined was “the status quo.” *Id.*
- In a sworn affidavit dated October 4 and filed in the *League of Women Voters v. WEC* case, the City Clerk for the City of Racine stated that her office is returning absentee ballots to voters “[f]or any omission in the witness address field on an absentee ballot certificate envelope, even if it is just the state name or the zip code” and that the City of Racine is doing this “even for ballots that have a street number, street name, and municipality name in the witness address field, out of an abundance of caution lest a later court ruling require state name and zip code be placed on the ballot certificate and those voters would thereby be disenfranchised.” Aff. of Tara McMenamin, *League of Women Voters of Wisconsin v. WEC*, Dane County Case No. 2022CV002473, Dkt. 17 ¶12.
- At an October 14th hearing in *League of Women Voters v. WEC*, WEC’s counsel represented in open court that while a three-component address on a witness certificate (one containing a street number, street name, and municipality) was sufficient, it was not necessary for a ballot to be counted. Dkt. 90 at 2–3, ¶7. In other words, WEC took the position—contrary to the position it has taken in this litigation—that a witness address certificate may sometimes be sufficient even when it does not contain the three-component address.

Based on much of this new evidence, Plaintiffs moved for summary judgment. Dkt. 84.

Plaintiffs also requested expedited briefing and decision on that motion, which the Court denied

² Available at <https://www.jsonline.com/story/news/politics/2022/10/20/green-bay-racine-wisconsin-election-clerks-receive-cease-desist-letters-over-absentee-ballots/10531082002/>.

because it determined that it could not rule on a motion for summary judgment until the pleadings stage had closed. Dkt. 102. This motion follows.

LEGAL STANDARD

A temporary injunction is appropriate where “(1) the movant is likely to suffer irreparable harm if a temporary injunction is not issued; (2) the movant has no other adequate remedy at law; (3) a temporary injunction is necessary to preserve the status quo; and (4) the movant has a reasonable probability of success on the merits.” *Milwaukee Deputy Sheriffs’ Ass’n v. Milwaukee County*, 2016 WI App 56, ¶20, 370 Wis. 2d 644, 883 N.W.2d 154. A temporary injunction may be granted if at any point “during the litigation it shall appear that a party is ... suffering [*i.e.*, allowing] some act to be done in violation of the rights of another party.” Wis. Stat. § 813.02(1)(a); *see also Zinda v. Krause*, 191 Wis. 2d 154, 164, 528 N.W.2d 55, 58 (Ct. App. 1995) (explaining that trial court considered and granted a “second motion for a temporary injunction”).³

ARGUMENT

This Court’s denial of Plaintiffs’ first temporary injunction motion followed from its

³ In the event the Court concludes that a second temporary injunction motion is procedurally improper for any reason, Plaintiffs respectfully request that the Court treat this brief and the accompanying motion as a request for reconsideration of its denial of Plaintiffs’ first motion for a temporary injunction. *See Gauger v. Ludwig*, 56 Wis. 2d 492, 496, 202 N.W.2d 233, 235 (1972) (explaining that courts should construe motions to “put substance above form” rather than relying only on “the label given by the parties”); *Andruss v. Divine Savior Healthcare Inc.*, 2022 WI 27, ¶20, 401 Wis. 2d 368, 379, 973 N.W.2d 435, 440 (noting that “circuit courts must properly identify the motion that is before them and structure their analysis under the correct, applicable standard”). This Court has authority to reconsider any nonfinal ruling at any time prior to the entry of the final order or judgment. *Teff v. Unity Health Plans Ins. Corp.*, 2003 WI App 115, ¶57, 265 Wis. 2d 703, 666 N.W.2d 38. To prevail on a motion for reconsideration, a movant must show either a “manifest error” or present “newly discovered evidence.” *Koepsell’s Olde Popcorn Wagons, Inc. v. Koepsell’s Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, ¶44, 275 Wis. 2d 397, 416–17, 685 N.W.2d 853, 862. The evidence described in the Background section here, *supra* pp. 5–6, readily satisfies that standard.

determinations that the “status quo” definition of “address” was “street number, street name and name of municipality,” and that there was insufficient evidence to conclude that clerks across Wisconsin were not faithfully applying that three-component definition. Dkt. 79. Since then, new evidence has come to light which demonstrates that local elections officials are not applying any uniform definition of “witness address.” Rather, municipalities throughout the state—including here in Dane County—are applying widely different standards, with some municipalities requiring far more information for a witness “address” to be sufficient than even any party to this litigation has ever argued is required by Wisconsin law. Thus, Wisconsin municipalities are not being consistent about whether and when absentee ballots should be returned to voters for corrections rather than accepted and counted.

Plaintiffs submit, then, that the “status quo” is not WEC’s proposed three-component definition of “address,” but rather the WEC guidance that clerks across Wisconsin have applied in every election since 2016—namely, that an absentee ballot certification containing sufficient information to enable a clerk to reasonably discern the witness’s complete address requires no further action from the voter to be counted. But whatever the Court determines the “status quo” to be is immaterial to *whether* an injunction should issue. Even if this Court believes that WEC’s (and the Legislature’s) proposed definition is the correct pre-litigation status quo, this determination dictates only the content of the relief this Court should enter. The new evidence Plaintiffs have adduced demonstrates that there is currently no uniform definition of “address” being applied in Wisconsin, and thus that immediate injunctive relief is necessary to preserve the status quo (whatever the Court determines it to be) until Plaintiffs can be heard on their motion for summary judgment in the ordinary course. Swift judicial action is the only available mechanism to ensure consistent application of Wisconsin law and prevent scores of Wisconsin voters from

being unlawfully disenfranchised in the upcoming election.

I. This Court's immediate action is needed to maintain the status quo, whatever the Court determines it to be.

The newly discovered evidence detailed above, which was not available to this Court when it ruled on Plaintiffs' initial motion for a temporary injunction, demonstrates the absence of any uniform statewide status quo regarding the definition of witness "address." *See supra* pp. 5–6. The Court must therefore identify the last statewide status before this litigation commenced. *See Gahl ex rel. Zingsheim v. Aurora Health Care, Inc.*, 2022 WI App 29, ¶61, 403 Wis. 2d 539, 583, 977 N.W.2d 756, 778 (holding the relevant consideration for the Court in issuing a temporary injunction is "[t]he status quo before the litigation").

The last statewide status quo is the instruction contained in WEC's recently withdrawn 2016 guidance, which is that a ballot must be counted without any further action by the voter so long as a clerk can reasonably discern where the witness may be communicated with. This is the standard clerks across Wisconsin have applied in the last twelve statewide elections, including the recent August 2022 primary. And it is consistent with Plaintiffs' proffered definition of "address." *See* Dkt. 8 at 15. (It also appears to be consistent with the position WEC's counsel took at the *League of Women Voters* temporary injunction hearing on October 14, *see supra* p. 6). Plaintiffs thus submit that an injunction defining "address" consistent with Plaintiffs' requested definition—"a place where a person may be communicated with"—would most effectively maintain the last status quo before litigation.

But to the extent the Court disagrees and maintains (consistent with its prior order) that the statewide status quo prior to the commencement of litigation was that a witness "address" requires street number, street name and name of municipality, the Court's intervention is still required. It is now plain that clerks are not consistently applying this definition. *See supra* pp. 5–6. To take

just one example, Green Bay's clerk has said explicitly that her office understands that WEC's guidance defines a witness address to mean street number, street name, and municipality, but has nonetheless decided not to follow that definition or WEC's guidance. Other jurisdictions are taking a similar approach. *Supra* p. 5; *see also* Dkt. 91 at 4, ¶11.

Thus, regardless of what the Court determines the status quo to be, a temporary injunction is necessary to preserve that status quo and ensure that clerks across the state apply a uniform interpretation of Wisconsin law when counting absentee ballots. Plaintiffs accordingly request the following relief:

1. If the Court agrees that the last statewide status quo was WEC's 2016 guidance stating that an absentee ballot certification containing sufficient information to enable an official to reasonably discern the witness's complete address required no further action from the voter to be counted, Plaintiffs request a temporary injunction construing "address" to mean "a place where the witness can be communicated with" and compelling WEC to instruct clerks that ballot certificates satisfying that standard are valid and should not be returned to voters; or
2. In the alternative, if the Court maintains that WEC's and the Legislature's proffered definition is the last statewide status quo, Plaintiffs ask the Court to issue a temporary injunction construing address to mean "street number, street name, and municipality" for purposes of this general election only, and compelling WEC to instruct clerks that ballot certificates satisfying that standard are valid.

II. Plaintiffs satisfy the remaining temporary injunction factors.

A temporary injunction is necessary to maintain the status quo, and Plaintiffs satisfy the other requirements for temporary injunctive relief: they have a "reasonable probability" of success on the merits, will suffer irreparable harm if a temporary injunction is not issued (as will Wisconsin voters writ large), and have no adequate remedy at law. *See Milwaukee Deputy Sheriffs' Ass'n*, 2016 WI App 56, ¶20.

Likelihood of success on the merits. Plaintiffs' merits arguments have been briefed at length, *see* Dkt. 8 at 7–17, Dkt. 75 at 2–7, and Dkt. 87 at 9–14, so Plaintiffs incorporate them by

reference without further repetition. The key point at this stage is that Plaintiffs need not convince the Court that their merits arguments are certain to succeed—only that they have “a reasonable probability” of doing so. *Werner v. A.L. Grootemaat & Sons, Inc.*, 80 Wis. 2d 513, 520, 259 N.W.2d 310, 313 (1977). That standard has been met. Rise and Mr. Rivera have justiciable claims for declaratory and permanent injunctive relief, and their proposed reading of Wis. Stat. § 6.87 is more than colorable.

Irreparable harm and inadequate remedies at law. Both Plaintiffs are suffering ongoing irreparable harms that have no remedy at law. Rise is trying to engage in get-out-the-vote activities around the state amidst widespread uncertainty about the legal requirements for witness addresses. The rules vary widely across municipalities and are changing even within municipalities as the election draws closer. *See supra* pp. 5–6. The only way to determine each municipality’s interpretation is to call every clerk’s office, then to call back regularly to confirm that the operative definition has not changed. That is not a practical option for a nonprofit organization with 16 paid staffers operating in a state with 1850 election-operating municipalities. Thus, if the prevailing confusion is left unaddressed, some of Rise’s target voters will have their votes counted, and others will not—even when those voters included the exact same information on witness address certificates. This is textbook irreparable harm. *See One Wis. Inst., Inc. v. Thomsen*, 490 F. Supp. 3d 1338, 1342 (W.D. Wis. 2020) (“missing the chance to vote in the election” constitutes irreparable harm). And it cannot be repaired by post-election relief or remedies at law.

Mr. Rivera is suffering a similar harm. His fellow absentee voters are having their ballots rejected for technical noncompliance with widely disparate standards. And on election night, many of those voters are going to have their ballots disqualified on that basis. That will not be an election “conducted according to law,” *Teigen v. Wis. Elections Comm’n*, 2022 WI 64, ¶ 22, 403 Wis. 2d

607, 627, 976 N.W.2d 519, 529, but rather according to arbitrary local differences in interpretation. *Teigen* entitles Mr. Rivera to a lawful election, *id.*, and post-election remedies or remedies at law will do nothing at all to satisfy that entitlement.

Only an injunction requiring WEC and local officials to apply the proper interpretation of “address”—a place where the witness may be communicated with—will eliminate the risk of irreparable harm to Plaintiffs and voters across Wisconsin. And, as set out above, such an injunction would also preserve the status quo, properly understood.

In the alternative—if Court determines that WEC’s three-component definition is the status quo but agrees it is not being followed—an injunction requiring WEC to promulgate what it claims is its own definition would mitigate Plaintiffs’ irreparable harms considerably. While an injunction endorsing WEC’s proposed definition for this election would not afford Plaintiffs all of the relief they seek, it would at least ensure uniform administration of absentee ballots. That would in turn allow Rise to inform voters of a single, consistent definition of witness “address” and assure Mr. Rivera that the election laws of Wisconsin will be applied consistently in the upcoming election. Accordingly—regardless of how the Court resolves the status quo question—a temporary injunction is appropriate and necessary.⁴

CONCLUSION

For the reasons stated herein, Plaintiffs request that this Court grant Plaintiffs’ motion and issue a temporary injunction consistent with its determination of the status quo. Specifically, Plaintiffs request the following relief:

1. If the Court agrees that the last statewide status quo was WEC’s 2016 guidance

⁴ WEC has declined to issue the guidance Plaintiffs seek and has made clear that it opposes this Court declaring that “address” means what WEC say it does, so it is adverse to the present motion. And WEC is adverse to Plaintiffs in the underlying action because it favors a definition of “address” different from that proposed by the Complaint.

stating that an absentee ballot certification containing sufficient information to enable an official to reasonably discern the witness's complete address required no further action from the voter to be counted, Plaintiffs request a temporary injunction construing "address" to mean "a place where the witness can be communicated with" and compelling WEC to instruct clerks that ballot certificates satisfying that standard are valid and should not be returned to voters; or

2. In the alternative, if the Court maintains that WEC's and the Legislature's proffered definition is the last statewide status quo, Plaintiffs ask the Court to issue a temporary injunction construing address to mean "street number, street name, and municipality" for purposes of this general election only, and compelling WEC to instruct clerks that ballot certificates satisfying that standard are valid.

Dated this 25th day of October, 2022.

Respectfully submitted,

Electronically signed by Diane M. Welsh

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WISCONSIN ELECTIONS COMMISSION, and
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Defendants,

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Intervenor-Defendant.

ORDER FOR TEMPORARY INJUNCTION

The above-captioned matter having come before the Court, the Honorable Juan Colás, presiding, for a hearing on Plaintiffs’ Second Motion for a Temporary Injunction. The Court, having reviewed the briefs submitted by counsel and having heard arguments of counsel, and making findings and conclusions on the record, which is hereby incorporated by reference, hereby enters the following:

IT IS HEREBY ORDERED:

The term “address,” as the term is used for the witness address requirement under Wis. Stat. § 6.87(2), means information sufficient for a clerk to reasonably discern the location where the clerk could communicate with the witness. For the 2022 general election, an absentee ballot containing sufficient information for a clerk to reasonably discern the location where the clerk could communicate with the witness is not “improperly completed” under Wis. Stat. § 6.87(9) and must be counted if it is otherwise lawful.

IT IS HEREBY ORDERED:

1. That Defendant, Wisconsin Elections Commission (“WEC”), is directed to notify all Wisconsin municipal clerks and local election officials that this Court has defined the term “address,” as that term is used in Wis. Stat. § 6.87(2), to mean information sufficient for a clerk to reasonably discern the location where the clerk could communicate with the witness.

2. That Defendant WEC is directed to notify all Wisconsin municipal clerks and local election officials that this Court has ordered that for the 2022 general election an absentee ballot containing sufficient information for a clerk to reasonably discern the location where the clerk could communicate with the witness is not “improperly completed” under Wis. Stat. § 6.87(9) and must be counted if the ballot is otherwise lawful.

3. That Defendant WEC is directed to notify all Wisconsin municipal clerks and local election officials of this Court’s declarations by or before 4 p.m. on Thursday, November 3, 2022.

4. That the foregoing temporary injunction shall remain in effect until further notice from the Court.