



Law Firm of
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Since 1976

October 27, 2022

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VIA E-FILING

Sheila T. Reiff, Clerk of Court
Wisconsin Court of Appeals, District II
110 East Main Street, Suite 215
P.O. Box 1688
Madison, WI 53701

Re: Nancy Kormanik v. Wisconsin Elections Commission, et al.
Wisconsin Supreme Court Case No. 2022AP001736-W
Appeal Nos. 2022AP1720 & 2022AP1727

Dear Ms. Reiff:

On October 7, 2022, Petitioner Nancy Kormanik obtained a judgment from the Waukesha County circuit court temporarily enjoining the Wisconsin Elections Commission from issuing guidance that conflicts with Wis. Stat. § 6.86(6). As a necessary step in issuing that injunction, the Circuit Court found that Petitioner would be irreparably harmed without it.

On October 8, the Democratic National Committee (DNC) and Rise, Inc. petitioned this Court for review of the circuit court's nonfinal order. The DNC and Rise also requested emergency ex parte stays of the injunction. The DNC then moved to designate appellate venue in District IV.

On October 10, the Court of Appeals administratively stayed the temporary injunction while considering a motion for stay pending appeal that Respondents filed in connection with their motion for leave to take an interlocutory appeal of the Waukesha injunction. Chief Judge Brash also entered an order designating venue in District IV.

On October 11, Petitioner petitioned the Supreme Court for a supervisory writ, arguing that venue is proper in District II, not District IV.

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On October 26, the Supreme Court granted the supervisory writ, vacated the October 11 Order designating venue in District IV, and ordered that the DNC's and Rise's petitions for review be heard in District II. *Kormanik v. William Brash et al.*, 2022 WI 67.

Under Petitioner's understanding, the DNC's and Rise's motions for a stay pending appeal are ripe for determination. On October 10, Petitioner filed a response in opposition to the DNC's motion for a stay, explaining in detail why the Court should deny the motion. To the extent it is necessary, Petitioner notes her opposition to Rise's motion for a stay and urges the Court to deny Rise's motion for the same reasons contained in Petitioner's response to the DNC's motion.

Finally, no Wisconsin court has actually considered and applied the traditional stay-pending-appeal analysis—much less concluded that such a stay is warranted. See *Waity v. LeMahieu*, 2022 WI 6, ¶ 49, 400 Wis. 2d 356, 969 N.W.2d 263. Yet the administrative stay—issued by the wrong District—has remained in place for sixteen days, thereby subjecting Petitioner to the very irreparable harm found by the circuit court. Petitioner opposes the administrative stay for the reasons stated in her response to the DNC's petition, and for the additional reason that it was issued by a District that had no authority to issue it.

Petitioner thus respectfully requests that the Court: (1) immediately lift the administrative stay to the temporary injunction to prevent further irreparable harm; (2) deny the pending motions for a stay as soon as practicable; and (3) deny the petitions for review. Petitioner will provide any additional materials necessary for resolution of the issues.

If you have any questions or concerns, please do not hesitate to contact me at kag@lcojlaw.com or (920) 437-0476.

Respectfully submitted,

LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.

By: *Electronically signed by Kurt A. Goehre*

Kurt A. Goehre

cc: Counsel of record (via e-file)

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