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2022CV002446



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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December 4, 2023

VIA ECF

The Honorable Ryan D. Nilsestuen  
Circuit Court Judge, Branch 10  
Dane County Courthouse  
215 South Hamilton Street, Room 7103  
Madison, WI 53703

Re: *Rise, Inc., et al. v. WEC, et al.*  
Case No. 22-CV-2446

Dear Judge Nilsestuen:

The brief filed on November 20, 2023, by Plaintiffs in the above-referenced case included an inaccurate characterization of the position taken by Defendant Wisconsin Elections Commission (the “Commission”) in this case and in the companion case of *League of Women Voters of Wisconsin v. WEC*, Case No. 22-CV-2472 (Dane Cnty.) (“*League*”). The Commission respectfully submits this letter for the limited purpose of correcting that inaccuracy.

Plaintiffs assert that the Commission has taken inconsistent positions in the two cases about what constitutes a satisfactory witness address on an absentee ballot certificate—specifically, that the Commission in *League* has accepted the kind of functional definition of a witness address that it opposes here. (Doc. 228:1, 5, 8.) That is incorrect.

The federal-law claim before the Court in *League* “does not challenge the Commission’s three-component definition of a witness address, but rather accepts that definition and builds upon it.” (*League* Doc. 137:12.) In three of the four absentee ballot categories discussed by the League of Women Voters of Wisconsin, the ballot certificate contains all three of the witness address components required by the Commission’s definition. (*League* Doc. 137:8, 18–19.) The disputed issues relate to the

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*location* of those components *on* the certificate—*i.e.*, to whether all three components must be set forth in the certificate’s witness address field.

Accordingly, when the Commission wrote, in *League*, that the witness address requirement is satisfied if “the certificate, on its face, includes information from which local election officials can determine a street number, street name, and municipality for the witness” (*League* Doc. 137:17), it clearly meant that the requirement is satisfied if those three components of the witness’s address are all present on the face of the certificate, even if some or all of the components are recorded in a location other than the witness address field, as long as the information on the certificate indicates that those components comprise the witness’s address.

Contrary to the assertions of Plaintiffs here, the Commission did not say that the witness address requirement could be satisfied by a certificate that did not contain the three components but did contain some other description of the witness’s location from which clerks might be able to determine the three components. For example, the Commission argued in *League* that the witness address requirement is not satisfied by certificates in a fourth category in which one of the three address components in the Commission’s definition is not contained anywhere on the face of the certificate. (*League* Doc. 137:19–20; 152:8–11.)

In sum, in both this case and *League*, the Commission has opposed a functional definition of witness address as any information that would enable election officials to identify and locate the witness. The Commission’s position is that the witness address requirement is satisfied if the information on the face of the certificate (1) includes all three components of the witness’s address; and (2) indicates that those components are the address of the witness.

Sincerely,

Electronically signed by:

Thomas C. Bellavia  
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Assistant Attorney General

TCB:ajl

cc: Counsel of Record (via ECF)