

RISE, INC., *and* JASON RIVERA,

*Plaintiffs,*

*v.*

WISCONSIN ELECTIONS COMMISSION,  
*and* MARIBETH WITZEL-BEHL, *in her*  
*official capacity as City Clerk for the*  
*City of Madison, Wisconsin,*

Case No. 2022CV2446

*Defendants.*

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**PROPOSED ANSWER OF PROPOSED-INTERVENOR  
DEFENDANT THE WISCONSIN STATE LEGISLATURE**

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Proposed-Intervenor Defendant the Wisconsin State Legislature (the “Legislature”), by its undersigned attorneys at Troutman Pepper Hamilton Sanders LLP, hereby submit the following Answer to Plaintiffs’ Complaint:

**INTRODUCTION**

1. Paragraph 1 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 1. Specifically, the Legislature denies the allegation that Wisconsin’s system for evaluating and continuing absentee ballots “has been thrust suddenly into a state of disarray.” Paragraph 1 also references Defendant Wisconsin Elections Commission’s (“WEC”) guidance (the “2016 Guidance”), which speaks for itself. The

Legislature denies the allegations to the extent that they are inconsistent with that source. Finally, the Legislature also lacks knowledge or information to form a belief about the remaining allegations in Paragraph 1, and therefore denies them.

2. Paragraph 2 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 2. Specifically, the Legislature denies the allegations that local election officials are “without clear directives on whether certain absentee ballots can be counted,” and that, “[a]bsent guidance, scores of Wisconsinites are at risk of having their votes thrown out for no reason other than clerks’ misapplication of Wisconsin election law.” Further, Paragraph 2 references an injunction issued by the Waukesha County Circuit Court, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

3. The Legislature admits that this action seeks declaratory and injunctive relief under state election statutes governing requirements for absentee ballots, but denies that Plaintiffs are entitled to any such relief. That said, Paragraph 3 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 3. Finally, Paragraph 3 cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

4. The Legislature admits that this action seeks declaratory and injunctive relief under state election statutes governing requirements for absentee ballots, but denies that Plaintiffs are entitled to any such relief. The Legislature lacks knowledge

or information to form a belief about the remaining allegations in Paragraph 4, and therefore denies them.

5. Paragraph 5 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 5. Paragraph 5 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

6. Paragraph 6 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 6. Paragraph 6 also references the 2016 Guidance, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

7. The Legislature admits that on September 7, 2022, the Waukesha County Circuit Court enjoined WEC's enforcement of the 2016 Guidance as to its directing clerks to correct absentee ballot certificate envelopes ("September 7 injunction") and that the September 7 injunction did not enjoin WEC's definition of an absentee-ballot witness "address." Paragraph 7 also references the September 7 injunction, which speaks for itself. The Legislature denies the allegations in Paragraph 7 to the extent that they are inconsistent with that source.

8. The Legislature denies the allegation in Paragraph 8 that county and municipal election officials "lack guidance" regarding the witness address requirement following the September 7 injunction. Paragraph 8 also references the

September 7 injunction, which speaks for itself. The Legislature denies the allegations in Paragraph 8 to the extent that they are inconsistent with that source.

9. Paragraph 9 references the 2016 Guidance and subsequent WEC communications, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources. The Legislature lacks knowledge or information to form a belief about the remaining allegations in Paragraph 9, and therefore denies them.

10. Paragraph 10 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 10.

11. Paragraph 11 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 11. The Legislature lacks knowledge or information to form a belief about the remaining allegations in Paragraph 11, and therefore denies them.

12. Paragraph 12 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 12. The Legislature lacks knowledge or information to form a belief about the remaining allegations in Paragraph 12, and therefore denies them.

13. Paragraph 13 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 13. Paragraph 13 also cites state statutes, which speak for themselves.

The Legislature denies the allegations to the extent that they are inconsistent with those sources.

14. Paragraph 14 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 14. Paragraph 14 also cites a federal statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

### **PARTIES**

15. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 15, and therefore denies them.

16. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 16, and therefore denies them.

17. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 17, and therefore denies them.

18. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 18, and therefore denies them.

19. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 19, and therefore denies them.

20. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 20, and therefore denies them.

21. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 21, and therefore denies them.

22. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 22, and therefore denies them.

23. The Legislature admits that WEC is a governmental agency and is located at 201 West Washington Ave., Second Floor, Madison, Wisconsin 53703. Paragraph 23 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

24. The Legislature admits that Defendant Maribeth Witzel-Behl is the City Clerk for the City of Madison, named in her official capacity here. Further, the Legislature states that Ms. Witzel-Behl is an agent of the State when she enforces state law, including because she is a local election official with significant responsibility from the State. Further, Paragraph 24 cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

### **JURISDICTION AND VENUE**

25. Paragraph 25 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 25. Paragraph 25 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

26. Paragraph 26 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 26. Paragraph 26 also cites a state statute, which speaks for itself. The

Legislature denies the allegations to the extent that they are inconsistent with that source.

27. Paragraph 27 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 27. Paragraph 27 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

28. Paragraph 28 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 28. Paragraph 28 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

### **BACKGROUND FACTS**

29. Paragraph 29 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 29. Paragraph 29 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

30. The Legislature lacks knowledge or information to form a belief about the allegations in Paragraph 30, and therefore denies them. Paragraph 30 also references the 2016 Guidance, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

31. Paragraph 31 references the 2016 Guidance, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

32. Paragraph 32 references the September 7 injunction, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

33. Paragraph 33 references the September 7 injunction, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source. Further, the Legislature states that the 2016 Guidance as it pertains to the definition of “address” remains in place and is not displaced by the September 7 injunction, as the Waukesha County Circuit Court expressly confirmed in its final judgment entering its permanent injunction.

34. Paragraph 34 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 34. Paragraph 34 also references the September 7 injunction, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

35. Paragraph 35 references the WEC guidance issued on September 14, 2022, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

36. Paragraph 36 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in



Paragraph 36. Paragraph 36 also references the WEC guidance on September 14, 2022, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source. Further, the Legislature states that the 2016 Guidance as it pertains to the definition of “address” remains in place and is not displaced by the September 7 injunction, as the Waukesha County Circuit Court expressly confirmed in its final judgment entering its permanent injunction.

37. Paragraph 37 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 37. Paragraph 37 also references a report by the Legislative Audit Bureau, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

38. Paragraph 38 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 38. Paragraph 38 also cites a federal statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

### **LEGAL PRINCIPLES**

39. The Legislature admits that this action seeks declaratory relief, but denies that Plaintiffs are entitled to any such relief. Paragraph 39 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

40. Paragraph 40 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in

Paragraph 40. Paragraph 40 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

41. Paragraph 41 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 41.

42. Paragraph 42 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 42. Paragraph 42 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

43. Paragraph 43 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 43. Paragraph 43 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

44. Paragraph 44 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 44. Paragraph 44 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

45. Paragraph 45 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 45. Paragraph 45 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

46. Paragraph 46 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 46. Paragraph 46 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

47. Paragraph 47 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 47. Paragraph 47 also cites case law, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

48. Paragraph 48 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 48. Paragraph 48 also cites statute statutes and case law, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

49. Paragraph 49 cites a dictionary definition of “address,” which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent

with that source. To the extent the allegations set forth are legal conclusions, no response is required; however, if a response is required, the Legislature denies these allegations in Paragraph 49.

50. Paragraph 50 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 50. Paragraph 50 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

51. Paragraph 51 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 51. Paragraph 51 also cites the 2016 Guidance, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

52. Paragraph 52 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 52. Paragraph 52 also cites the federal constitution and a federal statute, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

53. Paragraph 53 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 53.

**FIRST CLAIM FOR RELIEF**  
**Declaratory Judgment Under Wis. Stat. § 806.04**  
**(Against All Defendants)**

54. The Legislature realleges and reincorporates by reference all prior answers to all prior Paragraphs as though fully set forth herein.

55. Paragraph 55 cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

56. Paragraph 56 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 56. Paragraph 56 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources. Further, the Legislature states that the 2016 Guidance as it pertains to the definition of “address” remains in place and is not displaced by the September 7 injunction, as the Waukesha County Circuit Court expressly confirmed in its final judgment entering its permanent injunction.

57. Paragraph 57 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 57. Paragraph 57 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources. Further, the Legislature the Legislature states that the 2016 Guidance as it pertains to the definition of “address” remains in place and is not displaced by the September 7 injunction, as the Waukesha County Circuit Court expressly confirmed in its final judgment entering its permanent injunction.

58. Paragraph 58 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 58. Paragraph 58 also cites state statutes, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

59. Paragraph 59 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 59. Paragraph 59 also cites a federal statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

60. Paragraph 60 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 60. Paragraph 60 also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

- a. Paragraph 60, subpart a, sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 60, subpart a.
- b. Paragraph 60, subpart b, sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 60, subpart b.
- c. Paragraph 60, subpart c, sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 60, subpart c. Paragraph 60, subpart c, also cites a state statute, which speaks for itself. The Legislature denies the allegations to the extent that they are inconsistent with that source.

**SECOND CLAIM FOR RELIEF**  
**Injunctive Relief Under Wis. Stat. § 806.04**  
**(Against Defendant WEC Only)**

61. The Legislature realleges and reincorporates by reference all prior answers to all prior Paragraphs as though fully set forth herein.

62. Paragraph 62 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 62. Paragraph 62 also cites state statutes and case law, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

63. Paragraph 63 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 63.

64. Paragraph 64 sets forth legal conclusions for which no response is required; however, if a response is required, the Legislature denies the allegations in Paragraph 64. Paragraph 64 also cites state statutes and case law, which speak for themselves. The Legislature denies the allegations to the extent that they are inconsistent with those sources.

**PRAYER FOR RELIEF**

The Legislature denies that Plaintiffs are entitled to any of the relief that they claim on page 21 of their Complaint. The Legislature also denies any allegations not otherwise answered in the prior Paragraphs, including any allegations in headings, to the extent such denials are consistent with the Legislature's prior answers.

## AFFIRMATIVE DEFENSES

1. Plaintiffs' Complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs' requests for temporary-injunctive relief are barred by the doctrine of laches and/or the doctrine articulated in *Purcell v. Gonzalez*, 549 U.S. 1 (2006).

WHEREFORE, the Legislature demands judgment in its favor and against Plaintiffs, dismissing Plaintiffs' Complaint, as well as ordering such other and further relief as this Court deems appropriate under the circumstances.

Dated: October 3, 2022.

Respectfully submitted,

Electronically signed by Kevin M. LeRoy

MISHA TSEYTLIN

State Bar No. 1102199

*Counsel of Record*

KEVIN M. LEROY

State Bar No. 1105053

EMILY A. O'BRIEN

State Bar No. 1115609

TROUTMAN PEPPER

HAMILTON SANDERS LLP

227 W. Monroe, Suite 3900

Chicago, Illinois 60606

(608) 999-1240 (MT)

(312) 759-1938 (KL)

(312) 759-5939 (EO)

(312) 759-1939 (fax)

misha.tseytlin@troutman.com

kevin.leroy@troutman.com

emily.obrien@troutman.com

*Attorneys for the Wisconsin State  
Legislature*