

FILED
09-28-2022
CIRCUIT COURT
DANE COUNTY, WI
2022CV002446

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

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

Defendants.

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

**AFFIDAVIT OF MAXWELL LUBIN IN SUPPORT OF PLAINTIFFS' MOTION FOR
TEMPORARY INJUNCTION**

I, Maxwell Lubin, being duly sworn, depose and say:

1. My name is Maxwell Lubin. I am the founder and the Chief Executive Officer of Rise, Inc.

2. Rise, Inc. is a student-led 501(c)(4) nonprofit public benefit corporation. Rise's mission is to empower college students to advocate for policies that put higher education within reach for all. In particular, we work on efforts to eliminate tuition and fees at public colleges and universities and end homelessness, housing insecurity, and food insecurity among college students. Our north star goal is restoring state and federal funding for public higher education to make public colleges and universities free for all students.

3. Our efforts to empower and mobilize students as participants in the political process, including as organizers and voters, are critical to our mission. Rise cannot achieve its policy goals without building political power within the student population. Rise strongly believes—as I also do, based on my experience in politics, government, and advocacy work—that candidates, officeholders, and their staffs take students’ interests more seriously when students are active and engaged in the political process. This political engagement encompasses not only direct advocacy with lawmakers (such as lobbying in state capitols), but also efforts to indirectly amplify students’ political voices by encourage college students to exercise their right to vote. Without student engagement and voting, we will never get policymakers to invest in college students and public higher education to accomplish our mission.

4. Rise is a student-driven organization. Our leadership consists of students, as does our corps of organizers, partners, and volunteers. Students set our agenda, including our spending priorities. Students build grassroots efforts and we cultivate, support, and fund those efforts.

5. Rise operates both nationwide and through state-specific campaigns. One of Rise’s state-specific campaigns operates in Wisconsin. Rise employs a Wisconsin State Director, two Deputy Directors, and sixteen paid organizing fellows around the state. The fellows are based in Madison, Milwaukee, and Oshkosh. They have organized in those cities and in many of Wisconsin’s other college towns, such as Eau Claire, as well as at colleges around the state.

6. Rise’s Wisconsin campaign is conducting an extensive relational get-out-the-vote (GOTV) campaign in Wisconsin in advance of this November’s general election. Relational GOTV is a strategy that leverages organizers’ existing social relationships and networks to encourage voting. As of September 23, 2022, Rise organizers have contacted between 12,000 and 15,000 young voters in Wisconsin and have helped 3,826 voters make a “plan to vote”—a common

GOTV strategy. Organizers help voters make “a plan to vote” by asking voters to determine things like when they will vote, where, whether they will vote by mail or at the polls, how they will get to the polls, what ID if any is required to vote, and what steps they must take to prepare a valid absentee ballot, among other details. Social science and Rise’s past experience both confirm that making a plan to vote increase voter turnout among the target population, and therefore are an effective GOTV strategy.

7. I expect that many of the Wisconsin voters Rise has targeted in its GOTV effort will vote absentee in the 2022 general election. Rise’s records indicate that 1,446 of the nearly 4,000 voters in Rise’s GOTV universe in Wisconsin have voted absentee in a past election, and that 1,246 of them voted absentee in the 2020 general election.

8. I am aware of the Wisconsin law that requires absentee voters to submit a witness certificate that includes the witness’s “address” and that describes the steps a local election official is to take upon receiving an “improperly completed certificate.” Wis. Stat. §§ 6.87(2), (9). I am also aware that in guidance promulgated in 2016, the Wisconsin Elections Commission instructed clerks that missing witness-address information on certificates which could be reasonably discerned did not require further action from the voter for the ballot to be counted. And I am aware of the September 7, 2022 decision of the Waukesha County Circuit Court enjoining the 2016 guidance. *White, et al., v. Wisconsin Elections Commission*, No. 2022CV1008, unpub. order (Dkt. 167) (Sept. 7, 2022).

9. I am extremely concerned that the current confusion regarding what is required for a witness “address” will negatively impact Rise’s GOTV efforts around Wisconsin. Absentee voters in Wisconsin face a significant risk that their ballots will be rejected because of this confusion. Clerks in some counties, for example, may now reject ballots because the

accompanying certificates lack the witnesses' zip codes or states of residence. Rise's target voters, many of whom I expect to vote absentee, are among those who may be disenfranchised. Rise's meticulously planned relational GOTV efforts would be undermined by this inappropriate rejection of absentee ballots. So far in 2022, Rise has relied on the long-settled understanding that Wisconsin voters would not be disenfranchised because of trivial omissions from their absentee ballot witness certifications. Rise has not been communicating to voters that they must, for example, include witness zip codes on the certificate. And absentee balloting has already started in Wisconsin. As a direct result of the lack of guidance around the meaning of "address," Rise is therefore likely to have its efforts to mobilize substantial numbers of voters rendered futile.

10. The lack of clarity surrounding the necessary components of a witness address—if left unremedied—will cause Rise to divert resources in two ways. First, Rise has built its GOTV efforts in the present election cycle around the assumption that absentee voting in Wisconsin will be as straightforward as it has been previously. This means that Rise organizers have not sought to push voters towards in-person voting if they qualify for absentee voting and would prefer to absentee vote. The sudden confusion surrounding witness addresses will force Rise to shift its focus towards getting as many voters as possible to vote in person. Rise organizers will have to spend their time reconnecting with voters who have already developed a voting plan and convincing them to shift that plan to in-person voting if possible. This will compromise Rise organizer's ability to connect with new potential voters. Rise's organizational mission will be harmed by this unforeseen reallocation of staff time and resources.

11. Second, Rise will have to spend both staff time and money developing and distributing new training materials specifying the witness address requirement for use with those voters who, due to either preference or necessity, still plan to vote absentee. Rise will either have

to inform all absentee voters to include every possible component of a witness address—street name, street number, municipality, state, and zip code—or seek to determine what components each of Wisconsin’s 1,850 municipal clerks will require. The time and money spent on this endeavor is, again, time and money that could otherwise go towards additional GOTV efforts contacting new potential voters to advance Rise’s mission and ultimate policy goals.

12. I declare under penalty of perjury that the foregoing is true and correct.

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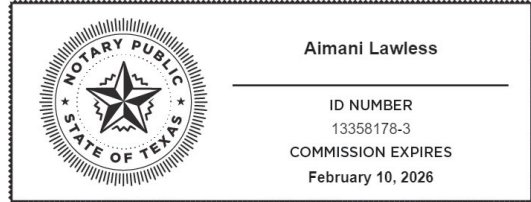
Dated this 27th day of September, 2022

Maxwell Lubin

Maxwell Lubin

Subscribed and sworn to before me
this 27th day of September, 2022

Aimani Lawless
Notary Public Aimani Lawless
My commission expires: 02/10/2026



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Notarized online using audio-video communication