

Richard Braun,

Plaintiff,

v.

Wisconsin Elections Commission,

Defendant.

Case No. 2022-CV-1336

VOTE.ORG'S ANSWER TO COMPLAINT

Proposed Intervenor-Defendant Vote.org (“Proposed Intervenor”), through its counsel, hereby submits the following answer to Plaintiff’s complaint.

INTRODUCTION

1. Proposed Intervenor admits that the National Mail Voter Registration Form is available at the United States Election Assistance Commission’s website. Paragraph 1 of Plaintiff’s complaint otherwise contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

2. Proposed Intervenor admits that the language quoted in Paragraph 2 of Plaintiff’s complaint appears on website of the United States Election Assistance Commission.

3. Proposed Intervenor admits that Wisconsin allows same day registration. Paragraph 3 of Plaintiff’s complaint otherwise contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

4. Proposed Intervenor admits that Wis. Stat. § 6.33(1) addresses the format and content of registration forms, among other issues. Paragraph 4 of Plaintiff's complaint otherwise contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

5. Paragraph 5 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

6. Proposed Intervenor admits that the quoted language appears in the statutory provision cited in paragraph 6 of Plaintiff's complaint. Paragraph 6 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

7. Proposed Intervenor admits that the quoted language appears in Wisconsin Elections Commission's Election Administration Manual cited in paragraph 7 of Plaintiff's complaint. Proposed Intervenor admits that WEC's Election Administration Manual indicates that the Form is approved for use for voter registration in Wisconsin. Paragraph 7 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

8. Proposed Intervenor admits there is a space for an elector to record their race on the federal voter registration form, if they so choose. Paragraph 8 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

9. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 227.01(13)(q), cited in paragraph 9 of Plaintiff's complaint. Paragraph 9 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

10. Paragraph 10 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

11. Paragraph 11 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

12. Paragraph 12 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

PARTIES

13. Proposed Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 13 of Plaintiff's complaint, and therefore denies the same.

14. Admit.

JURISDICTION AND VENUE

15. Paragraph 15 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

16. Paragraph 16 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

BACKGROUND

17. Admit.

18. Proposed Intervenor admits that Wisconsin residents have used the federal form to register to vote in Wisconsin. Proposed Intervenor otherwise lacks knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 18 of Plaintiff's complaint concerning Plaintiffs' record requests and correspondence with the Wisconsin Election Commission, and therefore denies the same.

19. Paragraph 19 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 19, and therefore denies the same.

20. Proposed Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 20 of Plaintiff's complaint, and therefore denies the same.

CAUSE OF ACTION

CLAIM I – Declaratory Judgment

21. Proposed Intervenor reincorporates by reference its response to the previously alleged paragraphs as if fully set forth herein.

22. Paragraph 22 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

23. Deny.

24. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 6.33(1), cited in paragraph 24 of Plaintiff's complaint. Paragraph 24 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

25. Deny.

26. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 6.33(1), cited in paragraph 26 of Plaintiff's complaint. Paragraph 26 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

27. Deny.

28. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 6.33(1), cited in paragraph 28 of Plaintiff's complaint. Paragraph 28 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

29. Proposed Intervenor admits that the quoted language does not appear verbatim on the federal voter registration form immediately below the space for the elector's signature. Proposed Intervenor otherwise denies that the federal voter registration form does not inform the voter that the provision of false information is punishable under the penalty of perjury, a felony, *see* Wis. Stat. § 946.31, which Plaintiffs' counsel has already stated is "substantially equivalent" to the language required under Wis. Stat. § 6.33, *see* Compl. Attachment A at 3.

30. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 6.33(1), cited in paragraph 30 of Plaintiff's complaint. Paragraph 30 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

31. Deny.

32. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 6.33(1), cited in paragraph 32 of Plaintiff's complaint. Paragraph 32 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

33. Deny.

34. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 6.33(1), cited in paragraph 34 of Plaintiff's complaint. Paragraph 34 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

35. Deny.

36. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 6.33(1), cited in paragraph 36 of Plaintiff's complaint. Paragraph 36 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

37. Deny.

38. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 6.33(1), cited in paragraph 38 of Plaintiff's complaint. Paragraph 38 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

39. Deny.

40. Paragraph 40 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

41. Paragraph 41 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

42. Proposed Intervenor admits the Wisconsin Elections Commission has approved the federal voter registration form for use in Wisconsin. Paragraph 42 of Plaintiff's complaint otherwise contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

43. Paragraph 43 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 43, and therefore denies the same.

CLAIM II – Declaratory Judgment

44. Proposed Intervenor reincorporates by reference its response to the previously alleged paragraphs as if fully set forth herein.

45. Admit.

46. Proposed Intervenor admits that the quoted language appears in Wis. Stat § 227.10(2m), cited in paragraph 46 of Plaintiff's complaint. Paragraph 46 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required.

47. Deny.

48. Paragraph 48 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

49. Proposed Intervenor admits that the quoted language appears in Wis. Stat. § 227.01(13)(q), cited in paragraph 49 of Plaintiff's complaint. Paragraph 49 otherwise contains mere characterizations, legal contentions, conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

50. Paragraph 50 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor denies the same.

51. Paragraph 51 of Plaintiff's complaint contains mere characterizations, legal conclusions, and opinions to which no response is required. To the extent a response is required, Proposed Intervenor lacks knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 51, and therefore denies the same.

AFFIRMATIVE DEFENSES

Proposed Intervenor asserts the following affirmative defenses without accepting any burdens regarding them:

1. Plaintiff lacks standing to assert his claim.
2. Plaintiff's complaint fails, in whole or in part, to state a claim upon which relief can be granted.
3. Plaintiff's claim is barred by laches.

Proposed Intervenor reserves the right to assert any further defenses that may become evident during the pendency of this matter.

PROPOSED INTERVENOR'S REQUEST FOR RELIEF

Having answered Plaintiff's complaint, Proposed Intervenor requests that the Court:

1. Deny Plaintiff any relief;
2. Dismiss Plaintiff's complaint with prejudice;
3. Award Proposed Intervenor its costs and attorneys' fees incurred in defending against Plaintiff's claim; and
4. Grant such other further relief as the Court deems just and proper.

Dated: September 28, 2022

Electronically signed by Diane M. Welsh

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*Motion for admission *pro hac vice*
forthcoming