

FILED
08-08-2023
CIRCUIT COURT
DANE COUNTY, WI
2023CV001900

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 12

DANE COUNTY

PRIORITIES USA, WISCONSIN ALLIANCE
 FOR RETIRED AMERICANS, and WILLIAM
 FRANKS, JR.,

Plaintiffs,

v.

WISCONSIN ELECTIONS COMMISSION,

Defendant,

REPUBLICAN NATIONAL COMMITTEE,
 REPUBLICAN PARTY OF WISCONSIN,
 REPUBLICAN PARTY OF ROCK COUNTY,
 and REPUBLICAN PARTY OF WALWORTH
 COUNTY,

Proposed Intervenor-Defendants.

Case No. 2023-CV-001900
 Case Code: 30701
 Declaratory Judgment

MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE

INTRODUCTION

When Democratic organizations such as Priorities USA file lawsuits challenging state election laws, the Republican Party has good cause to intervene. *See Priorities USA v. Nessel*, No. 2:19-cv-13341, 2020 WL 2615504, at *5 (E.D. Mich. May 22, 2020) (granting intervention to the Republican National Committee). When the shoe is on the other foot, courts allow Democratic organizations such as Priorities USA to intervene. *See Donald J. Trump for President, Inc. v. Northland Television, LLC*, No. 20-cv-385, 2020 WL 3425133, at *1 (W.D. Wis. June 23, 2020) (granting intervention to Priorities USA). Plaintiffs filed this lawsuit to invalidate Wisconsin's absentee ballot witness requirement, the drop box prohibition, the election-day cure deadline, and

the Legislature's determination that absentee voting is "a privilege exercised wholly outside the traditional safeguards of the polling place." Wis. Stat. § 6.84. Those laws protect Wisconsin's elections and allow voters, groups, and candidates alike to trust and navigate the democratic process. Movants have interests in the rules and procedures governing Wisconsin's elections, and they respectfully request that this Court allow them to intervene in this case so they may protect those interests.

BACKGROUND

The Wisconsin Elections Commission is a statewide agency tasked with administering Wisconsin's election and voting laws. Wis. Stat. § 5.05(1). Under this mandate, the Commission promulgated rules on absentee voting. *See* Wis. Stat. § 5.05(1)(f) (granting the Commission the authority to promulgate rules). Plaintiffs challenge several of these rules.

First, under Wisconsin law, an elector voting by absentee ballot must generally sign a certification in the presence of "one witness who is an adult U.S. citizen." Wis. Stat. § 6.87(4)(b). Enforcing this statute, the Commission requires that absentee ballots must be "witnessed by an adult U.S. Citizen, and mailed or delivered in person to the municipal clerk." Wis. Elections Comm'n, *Election Administration Manual* 98 (Sept. 14, 2022), <https://perma.cc/TC8G-Q6SN>; *see also* Wis. Elections Comm'n, *Uniform Instructions for Wisconsin Absentee Voters, Form EL-128* (Feb. 1, 2022), <https://perma.cc/GU44-QGJS> (An absentee voter "must vote ... in the presence of an adult witness.").

Second, Wisconsin law requires that the elector's completed ballot "shall be mailed by the elector, or delivered in person, to the municipal clerk issuing the ballot or ballots." Wis. Stat. § 6.87(4)(b)1. The Wisconsin Supreme Court has interpreted delivery "to the municipal clerk" to preclude delivery via drop box. *Teigen v. Wis. Elections Comm'n*, 2022 WI 64, ¶¶62-63, 403 Wis.

2d 607, 976 N.W.2d 519. Since then, the Commission has prohibited the use of ballot drop boxes. *See Uniform Instructions, supra.*

Third, Wisconsin law requires absentee voters to certify that (1) they are eligible to vote, and (2) they marked the ballot in the presence of a witness. Wis. Stat. § 6.87(2). Both the voter and the witness must sign the certification, *id.*, and the ballot “shall be returned so it is delivered to the polling place no later than 8 p.m. on election day,” *id.* § 6.87(6). If there is an issue with the certificate, the clerk “should contact the voter, if possible,” at which point the voter “has the option to correct the absentee certificate envelope in the clerk’s office, by mail, or at the polling place / central count location on Election Day.” *Election Administration Manual, supra*, at 99. If the voter elects to correct the certificate envelope at the polling place, the “original witness must be present.” *Id.* at 100.

Last, Wisconsin law distinguishes between in-person voting, which it recognizes is a “constitutional right,” and voting *absentee*, which is a “privilege exercised wholly outside the traditional safeguards of the polling place.” Wis. Stat. § 6.84(1). It thus requires certain statutes governing absentee voting to “be construed as mandatory.” *Id.* § 6.84(2).

On July 20, 2023, Plaintiffs filed this lawsuit to invalidate these laws. *See* Doc. 2. They argue that the Commission’s guidance impermissibly burdens the right to vote, and they seek a declaratory judgment that the guidance and underlying statutes are invalid. Movants wish to intervene to defend the rules and their own interests that are at stake.

Movants are political committees and parties who support Republicans in Wisconsin. The Republican National Committee (RNC) is a national committee, as defined by 52 U.S.C. § 30101, that manages the party’s business at the national level, supports Republican candidates for public office at all levels, coordinates fundraising and election strategy, and develops and promotes the

national Republican platform. (Echols Aff., ¶¶4-6.) The Republican Party of Wisconsin (RPW) is a state political committee that works to promote Republican principles and assist Republican candidates for federal, state, and local office. (Jefferson Aff., ¶4.) The RPW conducts fundraising and assists candidates with communication, strategy, and planning. (Id.) Likewise, the Republican Parties of Rock and Walworth Counties are committed to electing Republican candidates for office and also engage in fundraising to support Republican candidates and elected officials. (Id.) Movants have interests—their own and those of their members, candidates, and voters—in the rules and procedures governing Wisconsin’s elections for offices at all levels of state and federal government.

Plaintiffs demand that this Court nullify these election safeguards that Wisconsin has effectively employed. Plaintiffs claim these requirements unconstitutionally burden the right to vote. They are wrong.

Movants seek to intervene to defend the constitutionality of the Commission’s election guidance. These election rules serve “the integrity of [the] election process” and the “orderly administration” of elections. *Eu v. San Fran. Cty. Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989); *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 196 (2008) (op. of Stevens, J.). The Court should not set aside Wisconsin law, and it should not proceed without Movants’ participation.

LEGAL STANDARD

To intervene as of right, a proposed intervenor must satisfy the four criteria in Wis. Stat. § 803.09(1):

- (A) the proposed intervenor’s motion must be timely;
- (B) the proposed intervenor must claim an interest in the subject of the action;

(C) the disposition of the action may as a practical matter impair or impede the proposed intervenor's ability to protect that interest; and

(D) the existing parties do not adequately represent the proposed intervenor's interest.

City of Madison v. Wis. Emp. Rel. Comm'n, 2000 WI 39, ¶11, 234 Wis. 2d 550, 610 N.W.2d 94.

If the proposed intervenor "meets each of the requirements listed above, [the court] must allow him to intervene." *Armada Broad., Inc. v. Stirn*, 183 Wis. 2d 463, 471, 516 N.W.2d 357 (1994).

In the alternative, a proposed intervenor may seek permissive intervention "[u]pon timely motion," when the proposed intervenor's "claim or defense and the main action have a question of law or fact in common." Wis. Stat. § 803.09(2).

ARGUMENT

I. Movants are entitled to intervene as of right.

All four elements of intervention under section 803.09(1) are satisfied: (1) Movants filed this motion less than three weeks after this lawsuit began; (2) Movants organize and support party candidates and voters who are impacted by the guidance; (3) granting Plaintiffs' requested relief to invalidate these election laws and guidance would impair Movants' interests; and (4) the Commission does not adequately represent Movants' interests.

A. Movants timely filed their motion.

Movants filed their motion quickly. "The question of timeliness is left to the discretion of the circuit court." *Armada Broad.*, 183 Wis. 2d at 471. Though "there is no precise formula" to determining timeliness, courts generally consider two factors. *Olivarez v. Unitrin Prop. & Cas. Ins.*, 2006 WI App 189, ¶14, 296 Wis. 2d 337, 723 N.W.2d 131. "The 'critical factor' is whether, under the circumstances, the proposed intervenor acted promptly." *Id.* (citation omitted). The second factor is "whether the intervention will prejudice the original parties to the lawsuit." *Id.*

Movants' intervention is prompt. Plaintiffs filed their complaint just weeks ago on July 20. A motion is timely if it is filed before the first hearing in the case. *Armada Broad.*, 183 Wis. 2d at 472. No party has filed substantive motions, and the Court has held no trial or hearings. Movant's intervention is thus timely. *See Roth v. La Farge Sch. Dist. Bd. of Canvassers*, 2001 WI App 221, ¶¶17-18, 247 Wis. 2d 708, 634 N.W.2d 882 (intervention timely where party sought to intervene two weeks after plaintiffs filed the complaint and before defendants filed an answer). Moreover, Movants' prompt intervention in this new case will not prejudice any party. No party has yet filed substantive motions or responsive pleadings, and Movants' participation will not delay proceedings. But if Movants are not allowed to intervene, their interests could be irreparably harmed by an order overriding Wisconsin election rules, which could significantly alter the election rules under which Movants must operate. There are no unusual circumstances at play. This motion is timely.

B. Movants have interests closely related to the subject of the action.

Movants have several interests that are "sufficiently related to" Plaintiffs' suit. Wis. Stat. § 803.09(1). To satisfy the interest element, the proposed intervenor must have an "interest of such direct and immediate character that the intervenor will either gain or lose by the direct operation of the judgment." *City of Madison*, 234 Wis. 2d 550, ¶11 n.9 (citation omitted). "[C]ourts employ a 'broader, pragmatic approach to intervention as of right,' viewing 'the interest sufficient to allow the intervention practically rather than technically.'" *Helgeland v. Wis. Muns.*, 2008 WI 9, ¶43, 307 Wis. 2d 1, 24, 745 N.W.2d 1 (citation omitted). This pragmatic approach weighs the facts and circumstances of the case, the stated interest in intervention, and the speedy and economical resolution of controversies. *Id.* Courts view "the interest test as 'primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with

efficiency and due process.” *State ex rel. Bilder v. Delavan Twp.*, 112 Wis. 2d 539, 548-40, 334 N.W.2d 252 (1983).

As Republican Party organizations who represent members, candidates, and voters in every county in Wisconsin, Movants have “an interest sufficiently related to the subject of the action.” *Helgeland*, 307 Wis. 2d 1, ¶38. Specifically, Movants want Republican voters to vote, Republican candidates to win, elections to be conducted fairly, and Republican resources to be spent wisely rather than wasted on diversions. (Echols and Jefferson Affidavits); *Pavek v. Simon*, 467 F. Supp. 3d 718, 739-40 (D. Minn. 2020) (finding that Democratic organizations had standing based on the diversion of resources). If Plaintiffs have standing to file this suit, Movants have the mirror interest in opposing it. *See* Doc. 2, ¶8 (claiming the challenged laws require Priorities USA to “expend additional resources”), ¶9 (claiming the challenged laws require “the Alliance to divert its limited resources”). Indeed, given their inherent and intense interest in elections, usually “[n]o one disputes” that political parties “meet the impaired interest requirement for intervention as of right.” *Citizens United v. Gessler*, No. 14-cv-2266, 2014 WL 4549001, at *2 (D. Colo. Sept. 15, 2014).

Movants also have an interest in preserving the rules that ensure fair, efficient elections. The Supreme Court has explained that “[c]ourt orders affecting elections ... can themselves result in voter confusion and consequent incentive to remain away from the polls.” *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006). Preventing courts from enjoining election safeguards “promotes confidence in our electoral system—assuring voters that all will play by the same, *legislatively enacted* rules.” *New Ga. Project v. Raffensperger*, 976 F.3d 1278, 1284 (11th Cir. 2020) (emphasis added). Simply put, “[t]he RNC has a valid interest in the orderly administration of elections.” *Democratic Nat. Comm. v. Republican Nat. Comm.*, 671 F. Supp. 2d 575, 621 (D.N.J. 2009) (citing *Crawford*, 553 U.S. at 196), *aff’d*, 673 F.3d 192 (3d Cir. 2012).

In addition, public interest groups like the RNC and RPW are “uniquely qualified to represent the ‘mirror image’ interests of the plaintiffs.” *Democratic Nat’l Comm. v. Bostelmann*, No. 20-cv-249, 2020 WL 1505640, at *5 (W.D. Wis. Mar. 28, 2020), *modified on reconsideration*, 451 F. Supp. 3d 952 (W.D. Wis. 2020). Plaintiffs include “progressive advocacy” and “social welfare” organizations that pursue partisan objectives by filing lawsuits. Doc. 2 at 6. Priorities USA touts itself as “a leading Democratic organization” that is “fight[ing] to reelect President Biden in 2024 and win Democratic victories.” Priorities USA, *About*, <https://perma.cc/Q7DP-YFLK>. That explains why courts regularly grant intervention to Republican Party organizations in suits brought by their Democratic counterparts, and *vice versa*. *E.g.* *Priorities USA v. Nessel*, No. 2:19-cv-13341, 2020 WL 2615504, at *5 (E.D. Mich. May 22, 2020) (granting intervention to the RNC and Michigan Republican Party); *Ariz. Democratic Party v. Hobbs*, 2020 WL 6559160 (D. Ariz. June 26, 2020) (granting intervention to the RNC and Arizona Republican Party); *Donald J. Trump for President, Inc. v. Northland Television, LLC*, No. 20-cv-385, 2020 WL 3425133, at *1 (W.D. Wis. June 23, 2020) (granting intervention to Priorities USA); *Issa v. Newsom*, 2020 WL 3074351 (E.D. Cal. June 10, 2020) (granting intervention to Democratic organizations in suit by RNC Plaintiffs); *Donald J. Trump for President, Inc. v. Bullock*, Doc. 35 at 3, No. 6:20-cv-66 (D. Mont. Sept. 8, 2020) (same); *Donald J. Trump for President, Inc. v. Murphy*, Doc. 20, No. 3:20-cv-10753 (D.N.J. Sept. 1, 2020) (same); *Donald J. Trump for President, Inc. v. Cegavske*, Doc. 33, No. 2:20-cv-1445 (D. Nev. Aug. 21, 2020).

C. A ruling in Plaintiffs’ favor would impair Movants’ interests.

Movants are so situated that “the disposition of the action may as a practical matter impair or impede [their] ability to protect [their] interest.” Wis. Stat. § 803.09(1). Courts take a “pragmatic” approach to considering impairment of interests, weighing two factors. *Helgeland*,

2008 WI 9, ¶79. “First, a court considers the extent to which an adverse holding in the action would apply to the movant’s particular circumstances.” *Id.* at ¶80. “Second, a court considers the extent to which the action into which the movant seeks to intervene will result in a novel holding of law.” *Id.* at ¶81.

First, this action will directly affect Movants. Plaintiffs seek to alter the rules of the election, and thus Movants will “either gain or lose by the direct operation of the judgment.” *City of Madison*, 2000 WI 39, ¶11 n.9. Laws such as those challenged here serve “the integrity of [the] election process” and the “orderly administration” of elections. *Eu*, 489 U.S. at 231; *Crawford*, 553 U.S. at 196 (op. of Stevens, J.). An adverse decision thus would not only undercut democratically enacted laws that protect voters and candidates (including Movants’ members), but also change the “structur[e] of th[e] competitive environment” and “fundamentally alter the environment in which [Movants] defend their concrete interests (e.g. their interest in ... winning [election or] reelection).” *Shays v. FEC*, 414 F.3d 76, 85-86 (D.C. Cir. 2005). Movants are already well underway in developing their political and campaign strategies for the upcoming election, including for its absentee get-out-the-vote efforts which, for example, do not contemplate the usage of absentee ballot drop boxes. These changes could also confuse voters and undermine confidence in the electoral process, potentially making it less likely that Movants’ voters will vote. *See Crawford*, 553 U.S. at 197. And those changes would require Movants to spend substantial resources communicating to their voters any election process changes resulting from the litigation’s disposition on the eve of elections season and fighting confusion and galvanizing participation. *Id.*; *Pavek*, 467 F. Supp. 3d at 739-40; (Echols Aff., ¶¶10-13; Jefferson Aff., ¶¶6-11.)

In addition, any persuasive effect of an adverse ruling could further jeopardize Movants' interests. *See Helgeland*, 307 Wis. 2d 1, ¶58 (recognizing that “the effect of stare decisis is a consideration” when reviewing movant’s interests). A ruling in Plaintiffs’ favor here could undermine Movants’ ability to assert their rights and interests in future cases across the country. *See Stone v. First Union Corp.*, 371 F.3d 1305, 1310 (11th Cir. 2004) (holding that the “persuasive effects” of one court’s opinion on other courts can be significant and thus warrant intervention). Accordingly, “disposition of the action may as a practical matter impair or impede [Movants’] ability to protect [their] interest.” Wis. Stat. § 803.09(1)(c). “Intervention statutes should be liberally construed,” *Kornitz v. Com., Land Title Ins.*, 81 Wis. 2d 322, 332, 260 N.W.2d 680 (1978), to give “all parties with a real stake in a controversy ... an opportunity to be heard,” *Hodgson v. UMWA*, 473 F.2d 118, 130 (D.C. Cir. 1972). That includes Movants.

D. No party adequately represents Movants’ interests.

In order to intervene as of right, Movants must show that the existing parties do not adequately represent their interests. *Helgeland*, 307 Wis. 2d 1, ¶38. Although the State’s representation is presumptively adequate, Movants rebut that presumption because their interests are “in fact different from that of the state” and they “will not be represented by the state.” *Id.* ¶21.

Movants and the Commission have fundamentally different interests. An intervenor’s interest is not adequately represented simply because another party seeks the same result. The fact that Movants and the Commission may share a similar desired outcome does not mean both parties have “the same ultimate objective.” *See id.* ¶90. On the contrary, the Commission is concerned with “properly administer[ing Wisconsin’s] election laws,” while Movants “are concerned with ensuring their party members and the voters they represent have the opportunity to vote,” “advancing their overall electoral prospects,” and “allocating their limited resources to inform

voters about the election procedures.” *Issa*, 2020 WL 3074351 at *3. The Commission necessarily represents “the public interest” rather than Movants’ particular interests. *Id.* Those interests include “the expense of defending the current [laws] out of [state] coffers,” and “the social and political divisiveness of the election issue.” *Clark v. Putnam Cnty.*, 168 F.3d 458, 461 (11th Cir. 1999). And the Commission was on the side of the Democratic Party in *Teigen*, the very case that Plaintiffs are trying to overturn with this lawsuit. *See* Doc. 2 at 25 (arguing that “*Teigen* was incorrectly decided” and “the Wisconsin Supreme Court should revisit its decision in *Teigen*”).

The Commission is also charged with administering the State’s election laws—and doing so neutrally, without favoring Democrats or Republicans. The bipartisan Commission is led by an administrator who is “required by law to be nonpartisan,” and thus as a matter of law cannot defend the interests of the Republican Party. Wis. Elections Comm’n, *About the WEC*, <https://perma.cc/4JVZ-CUPQ>. In fact, “neither the WEC nor its members are charged with protecting the interests of individual voters,” let alone political parties, “beyond the voter’s interest in seeing Wisconsin’s election laws enforced.” *Feehan v. Wis. Elections Comm’n*, 506 F. Supp. 3d 640, 647 (E.D. Wis. 2020). Even if both Movants and the Commission shared an interest defending the voting rules, the Commission cannot be expected to defend the rules “with the vehemence of someone who is directly affected” by the result. *Armada Broad.*, 183 Wis. 2d at 476. For these reasons, Movants occupy an adversarial position in this case that no existing party serves. Their “intervention [is] vital to the defense of the law[s] at issue.” *Miracle v. Hobbs*, 333 F.R.D. 151, 155 (D. Ariz. 2019) (citing *Horne v. Flores*, 557 U.S. 433, 433 (2009)). Movants should be granted intervention as of right.

II. At a minimum, Movants should be granted permissive intervention.

If the Court declines to grant intervention as a matter of right, it should at least grant Movants permissive intervention as an exercise of the Court's discretion. "While intervention as a matter of right requires a person to be necessary to the adjudication of the action, permissive intervention requires a person to be merely a proper party." *City of Madison*, 2000 WI 39 ¶11 n.11. Under Wis. Stat. § 803.09(2), "[u]pon timely motion anyone may be permitted to intervene in an action when a movant's claim or defense and the main action have a question of law or fact in common." § 803.09(2). Federal courts have found this element met merely when movants "have defenses that share common questions of law and fact with the main action." *Trump v. Wis. Elections Comm'n*, No. 20-cv-1785, 2020 WL 7230960, at *3 (E.D. Wis. Dec. 8, 2020). In exercising its discretion, a court should consider whether intervention will "prejudice the parties" by, for example, "making the lawsuit complex or unending." *C.L. v. Edson*, 140 Wis. 2d 168, 177, 409 N.W.2d 417, 420 (Ct. App. 1987).

Movants satisfy the requirements of Wis. Stat. § 803.09(2). As discussed, Movants have filed a timely motion that will neither delay the case nor prejudice the parties. And Movants will raise defenses likely to share many common questions with the parties' claims and defenses. Plaintiffs allege that the challenged laws are unconstitutional and must be invalidated. Movants will argue that the laws are valid, that a declaration is unwarranted, and that Plaintiffs' desired relief would undermine Movants' interests. This inevitable clash is why courts allow political parties to intervene in defense of state election laws. *See, e.g., Edwards v. Vos*, No. 20-cv-340, 2020 WL 6741325, at *1 (W.D. Wis. June 23, 2020) ("[T]he RNC/RPW have a defense that shares common questions of law and fact with the main action; namely, they seek to defend the challenged election laws to protect their and their members' stated interests—among other things, interest in

the integrity of Wisconsin's elections."); *Priorities USA*, 2020 WL 2615504, at *5 (granting permissive intervention where the RNC "demonstrate[d] that they seek to defend the constitutionality of Michigan's [election] laws, the same laws which the plaintiffs allege are unconstitutional").

Movants' intervention will not delay this litigation or prejudice anyone. Movants swiftly moved to intervene at this case's earliest stage, and their participation will add no delay beyond the norm for multiparty litigation. Movants also commit to complying with all deadlines that govern the parties, working to prevent duplicative briefing, and coordinating with the parties on discovery, "which is a promise" that undermines claims of undue delay, *Emerson Hall Assocs. v. Travelers Cas. Ins.*, No. 3:15-cv-447, 2016 WL 223794, at *2 (W.D. Wis. Jan. 19, 2016); *see also Nielsen v. DeSantis*, No. 4:20-cv-236, 2020 WL 6589656, at *1 (N.D. Fla. May 28, 2020). While Plaintiffs may be burdened by responding to "novel arguments against plaintiffs' requested relief, plaintiffs 'can hardly be said to be prejudiced by having to prove a lawsuit it chose to initiate.'" *Swenson*, 2020 WL 8872099, at *2 (quoting *Sec. Ins. Co. of Hartford v. Schipporeit, Inc.*, 69 F.3d 1377, 1381 (7th Cir. 1995)).

Allowing Movants to intervene will promote consistency and fairness in the law, as well as efficiency in this case. *See id.* It will allow "the Court ... to profit from a diversity of viewpoints as [Movants] illuminate the ultimate questions posed by the parties." *Franconia Minerals (US) LLC v. United States*, 319 F.R.D. 261, 268 (D. Minn. 2017). Any prejudice from granting intervention would be no greater than the prejudice from denying intervention. *See League of Women Voters of Fla. v. Lee*, No. 4:21-cv-186, 2021 WL 5278735, at *2 (N.D. Fla. June 4, 2021) (noting that denying the motion "will open the door to delaying the adjudication of this case's merits for months, while Proposed Intervenors appeal this Court's decision." (cleaned up)).

This Court should not consider whether to change Wisconsin's election rules without giving one of the two major political parties a seat at the table. Republican Party organizations "are not marginally affected individuals; they are substantial organizations with experienced attorneys who might well bring perspective that others miss or choose not to provide." *Nielsen*, 2020 WL 6589656, at *1. Movants respectfully submit that they have at least as much at stake in Wisconsin's elections and at least as much expertise on the relevant issues as Plaintiffs or the Commission. Allowing Movants to intervene here would thus serve "the interest of a full exposition of the issues." *S. Carolina v. N. Carolina*, 558 U.S. 256, 272 (2010) (citation omitted).

CONCLUSION

For these reasons, Movants' motion to intervene should be granted. A proposed order and Movants' proposed answer accompany this motion.

Dated this 8th day of August, 2023.

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Attorneys for Proposed Intervenors,

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2. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

3. The cited legal authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

4. The cited legal authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

5. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

6. Proposed Intervenors deny that the Wisconsin Legislature has “has improperly erected multiple barriers to absentee voting that make it unnecessarily difficult for many Wisconsin electors to cast ballots and that disenfranchise many qualified voters based on mere technical violations of unnecessary rules.” This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

PARTIES

7. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

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14. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

15. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

JURISDICTION AND VENUE

16. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

17. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

18. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

19. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

20. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

21. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

BACKGROUND

22. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

23. Proposed Intervenors deny that “the Wisconsin Legislature has erected unjustifiable barriers” to voting. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

24. The cited authorities speak for themselves. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

25. The cited authorities speak for themselves. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

26. The cited authorities speak for themselves. Proposed Intervenors deny that Wisconsin’s voting rules “cannot be squared with Wisconsin’s constitutional commitment to the right to vote.” This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

27. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required.

28. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required.

29. The cited authorities speak for themselves. Proposed Intervenors deny that the witness requirement is “extremely burdensome.” Proposed Intervenors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

30. Proposed Intervenors deny that Wisconsin’s voting rules are “extremely burdensome” and “impractical.” Proposed Intervenors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

31. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

32. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

33. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

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36. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

37. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

38. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

39. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

40. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

41. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

42. The cited authorities speak for themselves. Proposed Intervenors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

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44. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

45. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

46. The cited authorities speak for themselves. Proposed Intervenors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

47. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

48. Proposed Intervenors deny that Wisconsin's drop box rules have "contributed to voter disenfranchisement." Proposed Intervenors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

49. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

50. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

51. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

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55. Proposed Intervenors lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

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57. The cited authorities speak for themselves. Proposed Intervenors otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph and therefore deny the allegations.

58. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

59. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

60. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

LEGAL PRINCIPLES

61. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

62. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

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69. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

FIRST CLAIM FOR RELIEF
Declaratory Judgment under Wis. Stat. §§ 806.04, 227.40
(Absentee Ballot Witness Requirement)

70. The preceding paragraphs are incorporated by reference.

71. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

72. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

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77. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

78. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

79. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

80. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

81. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

82. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

SECOND CLAIM FOR RELIEF
Declaratory Judgment under Wis. Stat. §§ 806.04, 227.40
(Drop Box Prohibition)

83. The preceding paragraphs are incorporated by reference.

84. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

85. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

86. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

87. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

88. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

89. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

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94. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

95. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

96. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

THIRD CLAIM FOR RELIEF
Declaratory Judgment under Wis. Stat. §§ 806.04, 227.40
(Election-Day Cure Deadline)

97. The preceding paragraphs are incorporated by reference.

98. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

99. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

100. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

101. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

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104. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

105. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

106. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

FOURTH CLAIM FOR RELIEF
Declaratory Judgment under Wis. Stat. § 806.04
(Wis. Stat. § 6.84)

107. The preceding paragraphs are incorporated by reference.

108. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

109. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

110. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

111. The cited authorities speak for themselves. This paragraph otherwise contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

112. This paragraph contains legal arguments and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

PRAYER FOR RELIEF

Paragraphs 1-3 characterize Plaintiffs' prayer for relief, to which no response is required. To the extent a response is required, Proposed Intervenor respond as follows:

1. Deny.
2. Deny.
3. Deny.

AFFIRMATIVE DEFENSES

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

1. Plaintiffs lack standing to assert their claims.
2. Plaintiffs' claims are not ripe.
3. Plaintiffs' complaint fails, in whole or in part, to state a claim upon which relief can be granted.
4. Plaintiffs have failed to exhaust their administrative remedies or allege satisfaction of certain conditions precedent to filing this present lawsuit, such as complying with Wis. Stat. § 5.06(2).
5. Plaintiffs' claims are barred by the doctrine of waiver.
6. Plaintiffs' claims are barred by the doctrine of laches.
7. Plaintiffs may have failed to name necessary and indispensable parties under Wis. Stat. § 803.03.
8. Proposed Intervenor reserve the right to assert any further defenses that may become evident during the pendency of this matter.

PROPOSED INTERVENORS' REQUEST FOR RELIEF

Having answered Plaintiffs' complaint, Proposed Intervenor request that the Court:

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

Dated this 8th day of August, 2023.

CONSOVOY MCCARTHY PLLC
Attorneys for Proposed Intervenors,

BY: Electronically signed by Thomas R. McCarthy
THOMAS R. MCCARTHY, *Pro Hac Vice* *
CONOR D. WOODFIN, *Pro Hac Vice**

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*Application for admission *pro hac vice* forthcoming

CRAMER MULTHAUF LLP
Attorneys for Proposed Intervenors,

BY: Electronically signed by Matthew M. Fernholz
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