

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

REPUBLICAN NATIONAL COMMITTEE,
310 First Street SE
Washington, DC 20003

Plaintiff,

v.

Case No.: 24-CV-_____

CITY OF MILWAUKEE
ELECTION COMMISSION
City Hall
200 E. Wells Street, Room 501,
Milwaukee, WI 53202

Code No.: 30704, 30701, 30952

Defendant.

SUMMONS

THE STATE OF WISCONSIN to each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Wis. Stat. Ch. 802, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the Statutes. The answer must be sent or delivered to the Court, whose address is Milwaukee County Circuit Courthouse, 901 N. 9th Street, Milwaukee, Wisconsin 53233, and to the Plaintiff's attorneys, the Law Office of Kevin M. Scott LLC, 2655 S. Moorland Road, Suite 200, New Berlin, Wisconsin 53151 and the Law Firm of Conway, Olejniczak & Jerry, S.C., 231 S. Adams Street, Green Bay, Wisconsin 54301. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 4th day of November, 2024.

LAW OFFICE OF KEVIN M. SCOTT LLC
Attorney for Plaintiff.

By: *Electronically signed by Kevin M. Scott*

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COMPLAINT

NOW COMES the above-named Plaintiff Republican National Committee by its attorneys, who and allege and state the following as a complaint against the above-named Defendant:

NATURE OF THIS ACTION

1. The Wisconsin Supreme Court has emphasized that “protecting the integrity and reliability of the electoral process, as well as promoting the public's confidence in elections . . . are always exceedingly important.” *Milwaukee Branch of NAACP v. Walker*, 2014 WI 98, ¶ 73, 357 Wis. 2d 469, 504–05, 851 N.W.2d 262, 279–80.

2. The Legislature for the State of Wisconsin has the sole authority to enact laws relating to suffrage. Wis. Const. art. III, § 2; art. IV, § 1.

3. As a vital means to ensure that our elections are administered in accordance with the law, the Legislature has expressly afforded members of the public with the unfettered right to, among other things, be present at “any polling place . . . for the purpose of observation of an election and the absentee ballot voting process” and, as a result, “observation areas shall be so

positioned” by the chief inspector or municipal clerk “to permit any election observer to readily observe all aspects of the voting process.” Wis. Stat. § 7.41(1) – (2).

4. Contrary to Wis. Stat. § 7.41, Defendant Milwaukee Elections Commission has been arbitrarily limiting and prohibiting members of the public from observing all aspects of the voting process at polling locations in the City of Milwaukee.

5. This is an action against Milwaukee Elections Commission (the “Commission”), seeking a temporary restraining order and injunction which requires the Commission to allow the public to observe all public aspects of the voting process in accordance with Wis. Stat. § 7.41, and an order of declaratory judgment regarding the proper construction of the Wisconsin Statutes requiring that the public be afforded the ability to observe all public aspects of the voting process at all polling locations in the City of Milwaukee.

6. While this action is being brought by Plaintiff Republican National Committee, Plaintiff emphasizes that the rights afforded by Wis. Stat. § 7.41 are public in nature, and the relief sought in this case inures to the benefit of all members of the public who seek to observe the election, whether they be Republicans, Democrats, members of another political party, or are politically unaffiliated.

7. Interest in this election is at unprecedented levels in American history, as that has generated corresponding interest in observing the voting process in the City of Milwaukee.

8. The major political parties, minor parties, as well as several large nonprofit organizations interested in suffrage issues such as the ACLU and the League of Women Voters have all expressed interest in observing election processes in Milwaukee.

9. A review of social media reveals that there are also unprecedented levels of excitement and interest in observing the voting process in the City of Milwaukee by independent groups and individual citizens.

10. The Wisconsin Legislature has guaranteed the right of any member of the public to “readily observe all public aspects of the voting process.”

11. This action is being brought so that not only will observers affiliated with the Plaintiff be able to observe the election process in the City of Milwaukee, but that all persons interested in doing so will not be denied their express right to do so under Wisconsin law.

PARTIES

12. Plaintiff is the primary political committee of the Republican Party of the United States.

13. Plaintiff works to ensure that elections are conducted in a free and open manner, seeks to assist and facilitate the electoral success of its candidates, and works to protect the fundamental constitutional right to vote of its members and all Americans and to promote their participation in the political process.

14. Plaintiff’s Chairman is Michael Whatley and its principal place of business is located at 310 First Street, SE, Washington, DC 20003.

15. Plaintiff has a direct, personal, and substantial interest in this litigation because its members vote in the wards at issue, and its members observe the voting process at polling locations in the City of Milwaukee (the “City”) and the manner in which elections are administered in the City.

16. Plaintiff has a substantial interest in ensuring that elections in which its candidates compete and voters vote are administered in accordance with the law. Plaintiff dedicates

substantial resources to recruiting, training, assigning, and communicating with poll observers to ensure that the election is being administered properly. Poll observers help ensure that ballots legally cast by Plaintiff's members are validly counted in accordance with the law.

17. Defendant City of Milwaukee Election Commission (the "Commission") is a municipal board of elections commissioners established by the City of Milwaukee pursuant to Wis. Stat. § 7.20.

18. Generally, in cities of greater than 500,000 population, all duties otherwise assigned to a municipal clerk under Chapters 5 to 12 of Wisconsin Statutes are to be carried out by the municipal elections commission established by law or its executive director.

19. The Commission oversees its executive director and all aspects of election administration in the City of Milwaukee.

20. The Commission's executive director reports to its commissioners who, according to former executive director Claire Woodall-Vogg as quoted in Urban [Milwaukee](#): "make sure that we are held accountable. They (the Commission) are who the public can contact with concerns, and they review and certify our election results."

FACTS

21. Under Wisconsin law, members of the public have a right to observe the public aspects of the voting process at polling locations on Election Day, pursuant to Wis. Stat. § 7.41(1), which provides that:

Any member of the public may be present at any polling place, in the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site under s. 6.855 on any day that absentee ballots may be cast at that site for the purpose of observation of an election and the absentee ballot voting process, except a candidate whose name appears on the ballot at the polling place or on an absentee ballot to be cast at the clerk's office or alternate site at that election.

Wis. Stat. § 7.41(1).

22. The chief inspector or municipal clerk may restrict the observers' location to certain areas. However, "[t]he observation areas shall not be less than 3 feet from nor more than 8 feet from the table at which electors announce their name and address to be issued a voter number" and "not less than 3 feet from nor more than 8 feet from the table at which a person may register to vote at the polling place, office, or alternate site." Id. § 7.41(2).

23. "The observation areas shall be so positioned to permit any election observer to readily observe all public aspects of the voting process." Id.

24. Voting in the City of Milwaukee will take place on November 5, 2024, but in-person absentee ballot voting has been underway since October 22, 2024.

25. Many individuals have volunteered to serve as observers at polling locations in the City of Milwaukee on behalf of Plaintiff, and they have done so throughout the current ongoing voting process.

26. Although a chief inspector may designate certain areas within the polling location for members of the public to observe voting, Wis. Stat. 7.41(2) expressly provides, among other things, that "[t]he observation areas shall be so positioned to permit any election observer to readily observe all public aspects of the voting process."

27. Further, while any member of the public has a right to be present at a polling location to observe the election and the absentee ballot voting process, "[t]he chief inspector or municipal clerk (in this case the Commission) may reasonably limit the number of persons representing the same organization who are permitted to observe under this subsection at the same time." Wis. Stat. § 7.41(1).

28. While a chief inspector may restrict access pursuant to Wis. Stat, §§ 7.41(1) and (2), chief inspectors in the City of Milwaukee are subject to the supervision of the Commission.

29. As a result, municipal clerks (or, in this case the Commission) are instructed by the Wisconsin Elections Commission (“WEC”) that observers must be given the opportunity to observe the public aspects of the in-person absentee voting process and that “additional observer areas may be established in other areas of the polling place to allow for observation of other public aspects of the voting process.” WEC, Election Day Manual, at 20-21, 79, located at: https://elections.wi.gov/sites/default/files/documents/ED%20Manual-August%202024_0.pdf (Aug. 2024) (last visited November 4, 2024).

30. Despite the mandate of Wis. Stat. § 7.41, the Commission has not provided the public with the ability to observe all public aspects of the voting process at several polling locations in the City during this election.

31. At three locations, the number of observers allowed was arbitrarily limited during in-person early voting:

- a. Serb Hall polling location;
- b. Good Hope Library polling location, and
- c. Capitol Drive Voting Center polling location.

32. At the Serb Hall location, despite the fact that it is a facility designed to serve up to 2,000 patrons at one time, only two observers were allowed access.

33. Similarly, at both the Good Hope Library and Capitol Drive Voting Center polling locations, space for observers was arbitrarily limited to a total of two and four, respectively, despite the fact that the actual facility can accommodate far more observers.

34. Upon information and belief there was also an arbitrary limit of two observers in place at two other polling locations—the Washington Park polling location and the Tippecanoe polling location (collectively, with the Good Hope Library, Capitol Drive Voting Center and Serb Hall locations, the “Polling Sites”).

35. Upon information and belief, the arbitrary limits placed upon the number of observers at the Polling Sites were in place throughout in-person early voting period, which ran from October 22, 2024 to November 3, 2024.

36. The Commission has issued guidance to the chief inspectors providing: “[w]hile most of our polling places are large enough to accommodate a few observers, there are a few that have very small voting rooms. These chief inspectors will limit the number of observers to two at a time, one from each political party.”

37. However, there was no legal basis for the chief inspector in any of the Polling Sites to limit the number of observers to two. There is ample space at these locations for more observers. It was an arbitrary decision.

38. Further, it violates the mandate of section 7.41 that “any member of the public” may be present to observe the voting process to arbitrarily limit the number of observers that may be present without taking into consideration the size of the facility.

39. Chief inspectors are required by law to establish observation **areas** at certain locations in the polling place so that an observer may “readily observe all public aspects of the voting process.”

40. The statute plainly states that chief inspectors must establish *multiple* areas for observation at the polling place.

41. A chief inspector is not permitted to limit access to one area containing an arbitrary number of observers as was done at the Polling Sites.

42. It is the Commission's job, through its executive director as necessary, to ensure that chief inspectors follow the tenets of section 7.41 and establish multiple areas for observation that will allow the public to observe the voting process.

43. While the Commission has made efforts to address the access of Republican observers when the total number of observers was limited to two (or four), that is not sufficient alone under the statute.

44. The issue is that when access is arbitrarily restricted, a situation is manufactured where access is meted out largely according to the whims of the chief inspector.

45. Section 7.41 provides that observer access can and should be provided in a way so that the major parties have an opportunity to be present in a balanced manner.

46. However, when access is arbitrarily restricted to two persons, it opens the door to fraudulent claims of party affiliation so as to "freeze out" one or the other major party.

47. After learning that certain chief inspectors were arbitrarily limiting observers, Michael Hoffman—Plaintiff's Election Integrity Director for Wisconsin—inquired of the Commission's Executive Director via email dated November 1, 2024 "[w]hat polling locations in Milwaukee have you instructed Chief Inspectors, and/or do you expect Chief Inspectors, to limit observers to one from each political party?"

48. The Executive Director's response was, "I am not able to provide a specific list of locations where we might need to limit observers to one person per party; however, it may occur anywhere the space, access, number of voters, and other prevailing circumstances would require it as a reasonable limitation."

49. Section 7.41 provides that observation areas must be established within a certain distance from voting activities, and must be positioned so that all aspects of the voting process may be readily observed.

50. The statutory criteria are mandatory when considering the establishment of observer areas at polling locations, and it is impermissible to establish an arbitrary number of observers that may be present.

51. Instead, Defendant arbitrarily limited the observers to one per party at the Polling Sites, did not afford the public the ability to observe all public aspects of the voting process, refused to allow additional observers at the polling locations, and refused to rearrange the voting or observation areas to afford the public the ability to observe the public aspects of the voting process at the Polling Sites.

52. For example, the Commission could have easily designated a second or third area for observers to see and hear the voting process in all of the above Polling Sites, easily allowing for additional observers at each Polling Site, but the Commission did not do so.

53. Defendant has indicated through its executive director that it will impose the same policy of arbitrarily limiting observers to one per political party at polling locations for election day voting.

54. The Commission's refusal to allow members of the public to view all aspects of the public voting process harms Plaintiff, as well as other members of the public.

55. If the Commission is allowed to continue to prohibit Plaintiff and the public from observing all public aspects of the voting process and in a manner contrary to law, it will only cast doubt on the administration of our elections and cause a lack of voter confidence in our electoral process.

COUNT I: INJUNCTIVE RELIEF

56. Plaintiff incorporates by reference the previously alleged paragraphs as if fully set forth herein.

57. The Commission has established policies and practices that promote the violation of Wis. Stat § 7.41, Specifically—

- a. Failing to properly supervise chief inspectors by allowing them to arbitrarily limit the number of observers present at polling locations;
- b. Failing to properly supervise chief inspectors by not requiring them to establish multiple observation areas within polling locations that allow an observer to readily observe the voting process;
- c. Issuing guidance that instructs chief inspectors to establish arbitrary numbers of observers at polling locations;

58. As a result, the Commission has violated, continues to violate, and has threatened to further violate Wis. Stat. § 7.41 by prohibiting members of the public from observing all public aspects of voting process at Polling Sites.

59. Plaintiff and others have requested that the Commission allow observers to view all aspects of the voting process, including those aspects that have thus far taken outside of the observers' ability to meaningfully hear or see, but such requests have not been granted by Defendant.

60. Defendant presently employs the above policies and practices that promote the violation of Wis. Stat § 7.41.

61. There is an election scheduled for Tuesday, November 5, 2024.

62. Plaintiff will suffer irreparable harm from the Commission's refusal to allow Plaintiff and members of the public to observe all public aspects of the voting process at the Polling Sites in violation of Wis. Stat. § 7.41.

63. If Defendant is allowed to continue to employ practices that promote the violation of section 7.41 Republican observers will be denied meaningful opportunity to observe the electoral process as is their statutory right.

64. As Plaintiff has no other adequate remedy at law, injunctive relief is appropriate.

COUNT II: DECLARATORY RELIEF

65. Plaintiff incorporates by reference the previously alleged paragraphs as if fully set forth herein.

66. The interests of Plaintiff and the Commission are adverse.

67. The controversy is ripe for a judicial determination as to whether the Commission's interpretation and application of Wis. Stat. § 7.41 is in accordance with the law.

68. Plaintiff is entitled to a declaration that the Commission has violated Wis. Stat. § 7.41 by arbitrarily prohibiting or restricting Plaintiff and/or members of the public from viewing all aspects of the voting process at the Polling Sites and, furthermore, that the Commission must allow members of the public the ability to observe all public aspects of the voting process that occur at the Polling Sites, and other polling locations in the City of Milwaukee.

69. Such judicial determination is necessary to terminate the controversy between the parties, and to clarify Wisconsin law in anticipation of future elections.

COUNT III: WRIT OF MANDAMUS

70. Plaintiff incorporates by reference the previously alleged paragraphs as if fully set forth herein.

71. Plaintiff has a clear legal right to observe all public aspects of the voting process undertaken at the Polling Sites and other polling locations in the City.

72. Defendant has a clear and unequivocal legal obligation to allow Plaintiff's observers and members of the public the ability to observe all public aspects of the voting process undertaken at polling locations in the City.

73. Plaintiff will suffer irreparable harm in the November 2024 election and beyond if the Commission fails to comply with its duties as prescribed by Wis. Stat. § 7.41.

74. A writ of mandamus is required to compel the Commission to adhere to their duties and administer the upcoming election in accordance with Wisconsin law.

RELIEF REQUESTED

The Plaintiff demands Judgment against the Commission as follows:

A. An immediate restraining order entered against the Commission and prohibiting the Commission from violating Wis. Stat. §7.41(1) and (2), and prohibiting the Commission from employing or enforcing any arbitrary restrictions on the number of observers that may be at polling locations.

B. A temporary and permanent injunction prohibiting the Commission from violating Wis. Stat. § 7.41(1) and (2) by employing any of the Policies identified above,

C. A temporary and permanent injunction prohibiting the Commission from precluding or restricting observers representing the Plaintiff and other members of the public from observing all public aspects of the voting process at the Polling Sites.

D. A declaration that the Commission violated Wis. Stat. § 7.41 by arbitrarily restricting or prohibiting members of the public from viewing all aspects of the voting process and, furthermore, an order or writ of mandamus providing that the Commission must allow Plaintiff

and other members of the public the ability to observe all public aspects of the voting process that occur at the Polling Sites and other polling locations in the City of Milwaukee.

E. An order directing the Commission to post a copy of the Court’s order and a notice on their website alerting electors and observers that the public has a right to observe all public aspects of the voting process that occur at the Polling Sites and other polling locations in the City of Milwaukee.

F. All statutory costs and disbursements incurred in pursuing this action.

G. Judgment for such other and further relief the Court may deem just and equitable.

Dated this 4th day of November, 2024.

LAW OFFICE OF KEVIN M. SCOTT LLC
Attorney for Plaintiff.

By: *Electronically signed by*

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