

DENNIS EUCKE et al.,
Plaintiffs,

v.

WISCONSIN ELECTIONS
COMMISSION et al.,
Defendants.

Case No. 2024CV007822
Case Code: 30952

**[PROPOSED] NOTICE OF MOTION AND MOTION TO DISMISS OF
BLACK LEADERS ORGANIZING FOR COMMUNITIES, SOULS TO THE POLLS,
AND WISDOM**

PLEASE TAKE NOTICE THAT, pursuant to Wis. Stat. § 802.06, Proposed Intervenor-Defendants Black Leaders Organizing for Communities, Souls to the Polls, and WISDOM hereby move to dismiss this action and to oppose Plaintiffs’ request for expedited relief. Proposed Intervenor-Defendants ask the Court to consider their motion at the earliest convenient opportunity.

In support of this motion, Proposed Intervenor-Defendants are filing a companion brief, an exhibit in support of their motion in opposition to Plaintiffs’ request for expedited relief, and a proposed order.

Accordingly, and for the reasons set forth in the accompanying materials, Proposed Intervenor-Defendants respectfully move the Court to dismiss this matter.

Date: October 15, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that, in compliance with Wis. Stat. § 801.18(6), I am electronically filing this Notice of Motion and Motion to Intervene of Proposed Intervenor-Defendants BLOC and Souls to the Polls (and the accompanying brief, exhibits, and proposed order) with the Clerk of Court using the Wisconsin Circuit Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users, and by electronic and certified mail to parties who are not registered users.

Respectfully submitted this 15th day of October, 2024.

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INTRODUCTION AND SUMMARY OF THE ARGUMENT

Proposed Intervenor-Defendants Black Leaders Organizing for Communities (“BLOC”), Souls to the Polls, and WISDOM move to dismiss Plaintiffs’ complaint, which is riddled with substantive and procedural failings. Plaintiffs implore this Court to force election officials to initiate a purge of tens of thousands of voters just weeks before Election Day on the basis of an unreliable data dump. Their request flunks the reliability measure of the statute they invoke, and the relief they request flouts basic jurisdictional and procedural requirements.

On the merits, the pleadings establish that Plaintiffs have failed to state a claim. Section 6.50(3) of the Wisconsin Statutes—the source of the purported legal duty that Plaintiffs ask this Court to enforce via injunction or mandamus—instructs the Milwaukee Election Commission (“MEC”) to undertake certain list-maintenance activities upon the “receipt of reliable information that a registered elector has changed his or her residence.” Wis. Stat. § 6.50(3). Plaintiffs’ complaint, the materials they incorporate by reference, and judicial precedent across the country combine to make plain that the only identifiable source of information Plaintiffs provided to MEC is not a reliable indicator that a registered elector has changed his or her residence. Plaintiffs’ claim that Defendants had any obligation to begin the process of removing tens of thousands of Milwaukeeans from the voter rolls based on this unreliable information fails as a matter of law.

Plaintiffs’ claims also fail for a host of other reasons, including their failure to exhaust administrative remedies and their inability to satisfy the requisite elements to obtain a writ of mandamus. This Court should dismiss Plaintiffs’ claims with prejudice.

This Court should also deny Plaintiffs’ request for expedited relief. Expedited relief in advance of Election Day is incompatible with the statute they seek to enforce. And no relief in Plaintiffs’ favor should issue before this Court has an opportunity to hear testimony and evidence

about the nature of the information Plaintiffs presented to MEC, which would further demonstrate that Plaintiffs' sources are an insufficiently reliable indication of a change in residency and that Plaintiffs' claims should fail.

ARGUMENT

I. Plaintiffs fail to state a claim, because they did not present the Milwaukee Election Commission with the "reliable information" necessary to trigger any list-maintenance obligations under Section 6.50(3) of the Wisconsin Statutes.

Any list-maintenance duties that exist under Section 6.50(3) are triggered by the "receipt of reliable information that a registered elector has changed his or her residence." Wis. Stat. § 6.50(3). Yet the only identifiable source of data that Plaintiffs provided to MEC was the National Change of Address ("NCOA") database—a database that, standing alone, is "substantially overinclusive" and "unreliab[le]." *Common Cause/New York v. Brehm*, 432 F. Supp. 3d 285, 295–98 (S.D.N.Y. 2020). Plaintiffs fail to state a claim that transmitting this unreliable data to MEC triggered any duty to begin the process of removing registered Milwaukee voters from the rolls.

A. The National Change of Address registry is the only identifiable source of information in Plaintiffs' correspondence with MEC that can be assessed for reliability.

Exhibit A to Plaintiffs' Complaint shows that Plaintiffs sent an email to MEC on June 7, 2024, to which they attached the spreadsheet containing the more than 50,000 so-called "anomalous registrations." In providing the basis for their conclusion that these registrations were anomalous, Plaintiffs' email offered the following explanation: The "Actives" (271,962 voters who are on Milwaukee's active voter rolls) were "run through TITAN, and we found an astounding number with issues of one type or another." Compl., Ex. A at 1. But methodology and documentation reflected in the exhibit incorporated into Plaintiffs' complaint raise significant questions as to the accuracy, reliability, and even basic relevance of their assertions to the assessment election officials must make under Section 6.50(3).

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To start, consider the “types of issues” Plaintiffs purport to have identified. Tabs 6–10 of their spreadsheet purport to address whether the voter’s address is “vacant” or whether the voter “moved.” Compl., Ex. A at 3. The remaining “types of issues” include assertions that (1) the voter lives at a “commercial address,” (2) the voter’s address is missing an “apartment, unit, or suite” number, (3) the voter’s residence has “no place to put/deliver mail,” (4) the voter’s address “is not in the USPS database,” and (5) the voter is registered at “the physical address of a US Post Office location,” *id.* at 2—none of which provide *any* information about whether “a registered elector has changed his or her residence,” as required to trigger any action under Section 6.50(3).

Next, consider the sourcing. Plaintiffs’ only explanation of what “TITAN” is reads as follows: “Our TITAN system screens voter registrations for various issues.” Compl., Ex. A at 1. Plaintiffs did not explain who created or maintains the TITAN system, from what sources it derives its data, or whether the database is publicly available or has been reviewed for accuracy. The only identifiable source of data referenced in the entire email is the “US Postal Service’s National Change of Address,” to which Plaintiffs assert they “have a subscription and access to their national database.” *Id.* It is unclear from Plaintiffs’ communications to MEC whether “TITAN” contains the data from the NCOA database, or whether the NCOA database was consulted separately.

Finally, Plaintiffs represented that “[e]ach name and address were submitted through the USPS CASS® (Coding Accuracy Support System) evaluation system,” and directed MEC to a website that explains “[m]ore on CASS.” Compl., Ex. A at 1. But the website to which Plaintiffs’

email directs the reader only introduces more questions about Plaintiffs’ methodology and the steps they took to compile the list of allegedly anomalous registrations.¹

As the website in Plaintiffs’ email establishes, the USPS CASS evaluation system is a certification process that provides “a common measure by which to test the quality of address-matching software.”² Vendors who develop address-matching software can attain “CASS certification” by obtaining a required score on the CASS “Stage II test.”³ When a vendor obtains CASS certification for its software, then USPS has approved that CASS-certified software for use to check a set of mailing addresses for accuracy against U.S. Postal Service data.⁴ USPS maintains a publicly available list of vendors and software whose CASS certification is current.⁵

That brings us back to the information Plaintiffs provided to MEC. None of the vendors or software company or product names on the list of currently certified CASS products are named “TITAN,”⁶ and Plaintiffs provide no other indication of which CASS-certified software or vendor they purportedly used. Indeed, the specific webpage to which Plaintiffs directed MEC linked to an *expired* version of the CASS certification process.⁷

¹ See USPS PostalPro, *CASS™ Technical Guide for Cycle N* (Feb. 16, 2018), https://postalpro.usps.com/CASS/CASSTECH_N.

² *Id.* at 1.

³ *Id.* at 4.

⁴ *Id.* at 1; see also USPS.com, *Business Mail 101*, <https://perma.cc/6KXA-HLYA> (last accessed Oct. 15, 2024).

⁵ USPS Postal Pro, *CASS™/MASS™ Certified Products Guide - All Sections Data Files Cycle O - (Expires July 31, 2028)*, <https://postalpro.usps.com/cass/AllSectionsDataFilesCurrentCycle>.

⁶ See *id.*

⁷ Compl., Ex. A at 1 (citing USPS PostalPro, *CASS™ Technical Guide for Cycle N* (Feb. 16, 2018), https://postalpro.usps.com/CASS/CASSTECH_N, which describes Cycle N as the “2011-2019 cycle”); see also USPS Postal Pro, *CASS™/MASS™ Certified Products Guide - All Sections Data Files Cycle N - (Expires July 31, 2023)*, <https://postalpro.usps.com/node/1096> (confirming Cycle N CASS certification expired in 2023); USPS Postal Pro, *CASS™/MASS™ Certified*

At bottom, having parsed the vague information that Plaintiffs relayed to MEC, the only identifiable source of data that MEC could have assessed for reliability was the NCOA database.

B. NCOA data alone does not constitute reliable information that a registered elector has changed his or her residence.

The NCOA database—which comprises “data obtained from requests for changes in address with the United States Postal Service,” *Fair Fight Inc. v. True the Vote*, 710 F. Supp. 3d 1237, 1251 (N.D. Ga. 2024)—is both overinclusive and unreliable for purposes of determining whether a voter has moved to a new address with an intention of remaining there indefinitely. A slew of courts across the country have already determined that “someone would need more information than the NCOA change of address application to know about a voter’s permanent move to another voting location.” *Fair Fight Inc.*, 710 F. Supp. 3d at 1255 n.21.⁸

Products Guide - All Sections Data Files Cycle O - (Expires July 31, 2028), <https://postalpro.usps.com/cass/AllSectionsDataFilesCurrentCycle> (confirming Cycle O CASS Certification is now in effect).

⁸ See also, e.g., *id.* at 1251 (finding “there could be a variety of reasons someone might make a change of address request without having permanently moved for purposes of their voting residency”); *id.* at 1269 (“Not only has the NCOA file been criticized as carrying a high risk of false positives ... it also lacks any unique identifier—‘some data field or combination of data fields that uniquely identifies an individual, such that when we see those values in those fields, that we can be certain or very confident that any other time you see those fields we’re talking about the same person.’”); *id.* at 1270 (crediting expert testimony that “specified a number of categories of people who might be on a NCOA list but still eligible to vote at their prior address, such as people in the military and students away at college or university”); *Gibson v. Frederick Cnty.*, No. 22-cv-1642, 2022 WL 17068095, at *4 (D. Md. Nov. 16, 2022) (“Even assuming this data is accurate, the fact that a voter submitted a change of mailing address does not demonstrate that the voter is ineligible to vote in Maryland. An individual may forward mail to a new address for a variety of reasons aside from a change of permanent address, and may still be entitled to vote lawfully in Maryland while receiving mail in another location.”); *Majority Forward v. Ben Hill Cnty. Bd. of Elections*, 512 F. Supp. 3d 1354, 1369 (N.D. Ga. 2021) (finding that basing mass challenges based on NCOA data was likely to constitute a systematic challenge under NVRA Section 8(c) because “the appearance of the voter’s name in the NCOA registry,” alone, “is not sufficient to recommend a finding of probable cause” that the voter is unlawfully registered); *id.* at 1375 (enjoining board of elections “from upholding a challenge to any voter’s eligibility solely on the basis of information in the NCOA registry”); *Common Cause/New York*, 432 F. Supp. 3d at 295 (referring to Postal

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Common Cause/New York v. Brehm provides an instructive example. There, the court found that “tens of thousands of New York voters” had been “placed on the inactive list even though they have not moved” and “continue to reside at their address of registration.” 432 F. Supp. 3d at 293. The court then determined “the root of this problem: inaccurate data from the United States Postal Service and the National Change of Address registry.” *Id.* The court further found that these databases “are substantially overinclusive” and that reliance upon them can “lead the State to incorrectly move these voters to inactive status” to the tune of tens of thousands of improper removals of voters. *Id.* at 293-94. Time and again, courts have found that the NCOA database does not provide accurate information for Plaintiffs’ purported purpose: to identify individuals who have moved out of state and intend to remain for an indefinite period of time.

The unreliability of NCOA data in confirming voter eligibility is no surprise, as NCOA information was not designed to be used for election- and voter-related purposes. USPS provides the NCOA database to mailing companies for use in “process[ing] mailing lists and updat[ing] lists with new addresses prior to mailing,” and its “benefits” are described as, among other things, including “reduc[ing] mailer costs” and “provid[ing] faster produce/service marketing.” USPS PostalPro, *NCOALink*®, <https://postalpro.usps.com/mailing-and-shipping-services/NCOALink> (last accessed Oct. 15, 2024) (making no reference to determining residency or any other election-related use). Because the NCOA registry is designed to improve commercial mailing, it “does not

Service and NCOA data as “error-prone and cast[ing] too wide a net” for list maintenance purposes); *id.* at 297 (crediting testimony that “[e]rrors in matching registration records to the NCOA registry can also incorrectly identify a registrant as having moved”); *Majority Forward v. Ben Hill Cnty. Bd. of Elections*, 509 F. Supp. 3d 1348, 1358 (M.D. Ga. 2020) (granting injunction to enjoin defendants from “removing any challenged voters from registration lists,” preventing any challenged voters “from casting a regular ballot,” or requiring any voters “to cast a provisional ballot or to present any additional evidence of eligibility” on “the basis of NCOA data.”).

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collect certain data, like the date of birth, that would help election officials to link the NCOA data to registration records.” *Common Cause/New York*, 432 F. Supp. 3d at 297–98.

The unreliability of NCOA for purposes of tracking voter residency has been further confirmed through government auditing. The U.S. Government Accountability Office conducted a study and produced a report on sources that “election officials may use to maintain their voter registration lists” and “identify ineligible registrants who should be removed from voter registration lists,” including NCOA data. U.S. Gov’t Accountability Office, *Voter Registration: Information on Federal Enforcement Efforts and State and Local List Management* at i, 42, 45 (June 2019), <https://perma.cc/TH6U-D3FX>. The U.S. Government Accountability Office report emphasized that NCOA data “consist[s] of administrative records collected for purposes other than voter registration, which can present some challenges when election officials use these sources to maintain their voter registration lists”—including that “such data sources may inaccurately indicate that registrants moved unless election officials conduct additional work to verify the information.” *Id.* at 42-43.

There are myriad reasons why NCOA does not reliably establish a change in residency absent additional vetting. As an initial matter, “an indication of a change in *address* in NCOA data does not necessarily reflect a change in *residence*, which is what determines the eligibility of a registrant to vote in a given election jurisdiction.” *Id.* at 48 (emphasis added). “According to U.S. Postal Service officials, the main purpose of the NCOA database is to maintain current and updated addresses for mail delivery and a change of address form may reflect a change in mailing address rather than a permanent change in residence.” *Id.* Elections officials across the country have experienced difficulties with the NCOA’s lack of precision on this point: “Nebraska, Oregon, and Virginia state officials and officials from three local jurisdictions reported that they have difficulty

determining whether a registrant’s change in address as indicated in the NCOA data is a permanent change in residence or a change in mailing address due to a temporary move or other mailing needs.” *Id.* at 48. In particular, election officials reported that military personnel, college students, and registrants who had vacation homes outside the jurisdiction in the summer or winter months could all be “identified as registrants who potentially changed residences on a permanent basis using the NCOA data” and “inaccurately flagged” as ineligible. *Id.*

Even beyond the substantive difference between changes of address and residence, efforts to match NCOA data with active voter data “may result in improper indications of a match when a non-match should be indicated (false positives),” which “pos[es] risks that election officials may improperly remove registrants from voter registration lists.” *Id.* at 44. False positives can result from “data entry errors such as address errors or typographical errors in the spelling of a registrant’s name.” *Id.* Other “variations in data matching procedures, such as differences in the type and number of data fields used to determine whether a voter registration record is a match to a record from another data source—such as first name, last name, middle name, suffix, date of birth, Social Security number, driver’s license number, among other fields—will likely affect the precision of the match” as well. *Id.* And the risk of these false positives is magnified when data is matched across “a limited number of fields”—for example, matching “first name and last name only, is likely to lead to more false positives than requiring matches on first name, last name, and date of birth”—as is necessary when comparing NCOA data with data from the voter rolls. *Id.*

For this reason, in states that are subject to the National Voter Registration Act (“NVRA”), NCOA data is used only “to identify registrants whose addresses *may* have changed,” 52 U.S.C. § 20507(c)(1)(A) (emphasis added), and cannot be used to remove a voter from the registration list unless: (A) the voter confirms in writing that they are no longer a resident of the same

jurisdiction; or (B) the voter does not respond to election officials' mailing of a prepaid and pre-addressed return card designed to confirm the voter's residency *and* does not vote or otherwise update the voter's registration through two general federal elections, *id.* § 20507(d)(1). This provision, known as the NVRA's "safe-harbor," *see, e.g., Jud. Watch, Inc. v. Griswold*, 554 F. Supp. 3d 1091, 1096 (D. Colo. 2021), recognizes the limitations of NCOA data and offsets the inaccuracies introduced by its use: it allows states to use sources like NCOA data only as a starting point to send confirmation mailers to voters, while requiring states to wait for two full election cycles of inactivity before taking any action to purge a voter.

C. Wisconsin law prohibits purging voters on the basis of information like the NCOA that is not sufficiently reliable.

In Wisconsin, where the NVRA's safe-harbor protections do not apply, the legislature instead opted to prescribed heightened safeguards around the types of information on which election officials can use to begin conducting list maintenance procedures in the first place. Only "the receipt of *reliable* information that a registered elector has changed his or her residence" can trigger the list maintenance process. Wis. Stat. § 6.50(3). For the reasons explained above, absent additional investigation into the accuracy of the NCOA data as to each individual voter, NCOA data alone cannot satisfy Wisconsin's reliability requirement.

Placing heightened safeguards on the types of information that can justify removing a voter from the rolls is entirely consistent with the threshold that Wisconsin law establishes for voter-residency challenges more broadly. "No person may be disqualified as an elector unless the municipal clerk, board of election commissioners or a challenging elector under s. 6.48 demonstrates *beyond a reasonable doubt* that the person does not qualify as an elector or is not properly registered." Wis. Stat. § 6.325; *see also* Wis. Stat. § 6.56(3), (4), & (6) (municipal clerks must satisfy the same "beyond a reasonable doubt" standard set forth in Wis. Stat. § 6.325 before

disqualifying any elector during their voter-eligibility audits, even when the “municipal clerk has good reason to believe that a person has voted more than once in an election” or “the clerk, board of election commissioners, or elections commission is informed of a different address than the one specified by the elector [who registered at their polling place or on election day] which was apparently improper on the day of the election”); Wis. Stat. § 6.95 (applying the same standard for determining the validity of challenged ballots under Wis. Stat. §§ 6.92–6.94). Though Section 6.50(3) contains no definition of “reliable,” the legislature’s application of this highest threshold to voter-residency challenges elsewhere in the Wisconsin Statutes provides support for requiring a high standard of reliability.

II. Wisconsin law bars Plaintiffs from obtaining the relief they seek for myriad other reasons.

Proposed Intervenor-Defendants adopt the arguments made by the Democratic National Committee as to the equitable doctrines that bar Plaintiffs from obtaining relief and Plaintiffs’ failure to demonstrate standing, exhaust administrative remedies, state a claim, or satisfy the requirements for injunctive or mandamus relief. To avoid burdening this Court with duplicative briefing, Proposed Intervenor-Defendants provide limited, additional argumentation on these issues that have not yet been raised by other parties.

A. Plaintiffs failed to first file a complaint with the Wisconsin Elections Commission.

Wisconsin law directs that Wisconsin voters cannot “commence an action or proceeding to test the validity of any decision, action or failure to act on the part of any election official” with respect to “any matter concerning . . . voting qualifications, including residence” without first filing a complaint with (and having that complaint disposed of by) the Wisconsin Elections Commission. Wis. Stat. § 5.06. Because Plaintiffs did not file any such complaint, this Court should dismiss Plaintiffs’ complaint for this reason alone.

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Plaintiffs offer two excuses for their failure to file a complaint with the Wisconsin Elections Commission. Neither holds water.

First, Plaintiffs argue that they “cannot file an administrative complaint with the WEC against the Milwaukee Commission because the statute only allows such complaints to be filed against human individuals.” Compl. ¶ 37. Nothing in the relevant statutes limit Section 5.06’s applicability to complaints against “human individuals,” *see* Wis. Stat. §§ 5.02(6), 5.02(4e). Contrary to Plaintiffs’ assertion, the Wisconsin Elections Commission routinely handles cases involving non-human respondents,⁹ and has expressly concluded that identifying the Milwaukee Election Commission as a respondent “is permissible under the administrative rules governing § 5.06 complaints.” Decision Letter, *In the Matter of Susan Trojan v. Claire Woodall-Vogg* (EL 22-63) at 1, <https://perma.cc/4MS5-THZC> (citing Wis. Admin. Code EL § 20.02(5)).

Second, Plaintiffs argue that “filing an administrative complaint with the WEC about the WEC itself would be futile,” because WEC cannot hear complaints against itself. Compl. ¶ 38. That argument is a red herring, because the Wisconsin Supreme Court has already determined—in cases cited in Plaintiffs’ own complaint, no less (Compl. ¶ 19)—that WEC is not a proper defendant in this lawsuit. “The Commission has no mandatory duties under § 6.50(3), and therefore cannot be compelled to act under this subsection.” *State ex rel. Zignego v. Wisconsin Elections Comm’n*, 2021 WI 32, ¶ 29, 396 Wis. 2d 391, 407, 957 N.W.2d 208, 215. And none of the other statutes Plaintiffs cite create a mandatory duty that (a) WEC has failed to comply with or (b) would fix the purported problem they identify. Indeed, the Wisconsin Supreme Court has already held as

⁹ *See, e.g.*, Decision Letter, *In the Matter of Terry Johnson v. Town Board of Westfield* (EL 24-86), <https://perma.cc/67PK-DB6Y>; Decision Letter, *In the Matter of Gloria Smith v. City of Milwaukee Election Commission* (EL 23-10), <https://perma.cc/Z5LF-4EC6>; Decision Letter, *Ieshuh Griffin v. City of Milwaukee Election Commission* (EL 23-03), <https://perma.cc/SYQ6-7RCR>.

much. *Compare* Compl. ¶ 20 (citing Wis. Stat. §§ 5.05 & 6.36 as sources of WEC’s duties), *with Zignego*, 2021 WI 32, ¶ 21 (explicitly addressing WEC’s authority under §§ 5.05 and 6.36 and still concluding WEC had no duty to remove voters in line with the procedures specified in § 6.50(3)). Plaintiffs cannot make an end-run around Wisconsin state law’s requirement to file an administrative complaint against a permissible respondent by improperly listing WEC as a respondent despite the Wisconsin Supreme Court’s clear determination that WEC has no enforceable duties in this context.

B. Plaintiffs cannot satisfy the requirements to obtain a writ of mandamus.

“For a writ of mandamus to issue, the petitioner for the writ must establish that: (1) he possesses a clear legal right to the relief sought; (2) the duty he seeks to enforce is positive and plain; (3) he will be substantially damaged by nonperformance of such duty; and (4) there is no other adequate remedy at law.” *In re Doe*, 2009 WI 46, ¶ 10, 317 Wis. 2d 364, 372–73, 766 N.W.2d 542, 546.

Plaintiffs cannot demonstrate that they are “substantially damaged” by the list maintenance issue being challenged here. Courts have repeatedly rejected plaintiffs’ “assert[ions] that their own lawfully cast vote will, by comparison, count for less, or be diluted” if “another person engages in voter fraud” as overly speculative and insufficiently concrete to create Article III standing. *Donald J. Trump for President, Inc. v. Boockvar*, 493 F. Supp. 3d 331, 342 (W.D. Pa. 2020); *see also, e.g., Lutostanski v. Brown*, 88 F.4th 582, 586 (5th Cir. 2023) (vote-dilution injuries arise only “[i]n the context of the right to vote” such as where a voter is “denied the right to cast a ballot” or when voters’ votes are “mathematically diluted by the method of election.”) (quotation marks and citations omitted). The same is true of assertions about subjective loss of confidence in the electoral process. *See, e.g., Thielman v. Fagan*, No. 3:22-CV-01516-SB, 2023 WL 4267434, at *4 (D. Or.

June 29, 2023) (“Plaintiffs’ lack of confidence in Oregon’s voting systems is a generalized grievance . . . and too speculative to qualify as a concrete injury.”), *aff’d sub nom. Thielman v. Griffin-Valade*, No. 23-35452, 2023 WL 8594389 (9th Cir. Dec. 12, 2023), *cert. denied*, 144 S. Ct. 2562 (2024); *Am. C.R. Union v. Martinez-Rivera*, 166 F. Supp. 3d 779, 789 (W.D. Tex. 2015) (affirming conclusion that injuries such as “undermined voter confidence and the risk of vote dilution” are “speculative” and do not constitute an injury in fact). Because these theories of harm do not amount to even the “identifiable trifle” required to establish Article III standing, *see Sierra Club v. Franklin Cnty. Power of Ill., LLC*, 546 F.3d 918, 925 (7th Cir. 2008) (“injury-in-fact necessary for standing need not be large, an identifiable trifle will suffice”) (quotation marks and citations omitted), they surely do not rise to the level of *substantial* damage.

III. Plaintiffs’ request for expedited relief cannot be squared with the statutory requirements they seek to enforce and should be rejected.

Even if Plaintiffs’ claims could succeed on the merits (and they cannot), the expedited relief they seek is in basic tension with the statute they seek to enforce and should be rejected. Section 6.50(3) provides a timeline for the list maintenance process: “[i]f the elector no longer resides in the municipality or fails to apply for continuation of registration *within 30 days of the date the notice is mailed*, the clerk or board of election commissioners shall change the elector’s registration from eligible to ineligible status.” Wis. Stat. § 6.50(3) (emphasis added).

Plaintiffs filed suit barely more than 30 days before the election. And as of the date this motion is filed—25 days out from the election—the notices Plaintiffs ask this Court to compel have not yet been issued. Thus, even if the Court were to act today, electors would not be given the prescribed time to respond to any mailed change-of-address form, which prevents MEC from changing any voter’s registration status from eligible to ineligible until *after* Election Day. As a result, Plaintiffs’ request that this Court should (a) order MEC to “change any registrations for

which no response has been received from active to inactive status” and (b) order “**compliance in full prior to the November 5, 2024 election,**” Compl. at 17 (emphasis in original), is incompatible with the terms of the statute they seek to enforce. Because the relief Plaintiffs seek cannot be issued on the timeline they request and because Plaintiffs provide no authority for the court to alter the text of the statute to require a shorter period (nor could they), this Court should deny their request for expedited relief.

Proposed Intervenor-Defendants further oppose any effort to expedite relief that would preclude consideration of critical evidence that further establishes why linking NCOA data with voter files is, by itself, not a “reliable” indicator that “a registered elector has changed his or her residence.” Wis. Stat. § 6.50(3). In particular, Dr. Kenneth Mayer—a Professor Emeritus of Political Science at the University of Wisconsin-Madison whose expert opinions about the unreliability of linking NCOA records to voter files for the purpose of establishing residency have been credited by other courts¹⁰—is prepared to submit a report (and testify) in the event the Court holds a hearing. *See* Ex. 1, Decl. of Dr. Kenneth Mayer.

CONCLUSION

This Court should dismiss Plaintiffs’ complaint with prejudice.

Date: October 15, 2024

Respectfully submitted,

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¹⁰ *See, e.g., Fair Fight Inc.*, 710 F. Supp. 3d at 1268–72.

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Exhibit 1:

Declaration of
Dr. Kenneth Mayer

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

DENNIS EUCKE et al.,
Plaintiffs,

v.

WISCONSIN ELECTIONS
COMMISSION et al.,
Defendants.

Case No. 2024CV007822
Case Code: 30952

DECLARATION OF DR. KENNETH MAYER

Pursuant to Wis. Stat. § 887.015, I, Dr. Kenneth Mayer, declare as follows:

1. My name is Kenneth Mayer. I am over the age of 18 and competent to make this declaration.

2. I have been asked by counsel in this matter to analyze the claims made by plaintiffs concerning whether the voter list maintenance process used by election officials in the City of Milwaukee and elsewhere in Wisconsin poses a threat to election integrity, and whether their requested relief would harm potential Milwaukee voters or subsets of those voters. Specifically, I examine the plaintiffs' assertions:

- a. That a match between a registrant in the Wisconsin statewide voter file and the USPS National Change of Address (NCOA) data indicates that a registrant's registered address has become "invalid," "anomalous," "incorrect," or "outdated" (complaint, paragraphs 31-32, 35, 39).
- b. That incomplete or missing address data in the voter file indicate that a registrant's registered address is "invalid," "anomalous," "incorrect," or "outdated" (complaint, paragraphs 31-32, 35, 39).

- c. That challenging a registrant's eligibility is harmless, since voters can either verify their address information or reregister on election day or during the early voting period (complaint, paragraph 45).
3. My conclusion, based on the analysis below, is that every one of these claims is incorrect. In fact, the entire complaint is based on a false premise, which is that linking the voter file to the NCOA database by itself provides a reliable or sufficient basis for challenging a voter's eligibility.

I. Summary

4. My conclusions are:
 - a. The NCOA linking process is known to produce "false positives" (meaning that individuals are incorrectly identified as submitting a change of address form), and is insufficient, on its own, to question a voter's eligibility. Voters can file an NCOA form, check either the temporary or permanent box, and even move while retaining their eligibility to vote at a previous address (college students and military personnel are classic examples of legitimate absentee voters).
 - b. The method plaintiffs claim to use to conduct the NCOA matching process is opaque, and relies on vague and ambiguous descriptions and unknown processes. This, alone, renders the results unreliable and invalid.
 - c. Even if the plaintiffs' method was 100% accurate in identifying registrants who appear in the NCOA database, and in identifying registration records with address information that appears to be incomplete or erroneous, it still is insufficient to challenge a voter's eligibility because clerical errors are a known feature of large-scale databases, including voter files.

- d. The plaintiffs materially misrepresent the voter list maintenance process in Wisconsin, asserting falsely that it occurs only once every four years. In fact, the “four year maintenance process” occurs every two years, and is based on voter inactivity over the previous four years.
 - e. Voter challenges are not harmless; in fact, they create burdens that eligible voters must overcome, and can deter eligible voters from casting ballots because of perceived risks.
 - f. Improper and erroneous removals during voter maintenance processes are known to disproportionately affect minority voters, who are more likely to be incorrectly removed from voter files. The plaintiffs’ singling out of voters in the City of Milwaukee exacerbates this effect. Milwaukee has the largest concentrations of minority voters in the state.
 - g. In contrast, there is no evidence of material levels of voter fraud in Wisconsin, with only a handful of cases over the last 20 years involving false registration or ineligible voters, over a period in which more than 60 million votes have been cast.
5. In short, the plaintiffs rely on a false premise, use unreliable methods, mischaracterize how the list maintenance process operates in Wisconsin, and incorrectly claim that the remedy they seek poses no harm to voters.

II. Qualifications and Expertise

6. I have a Ph.D. in political science from Yale University, where my graduate training included courses in econometrics and statistics. My undergraduate degree is from the University of California, San Diego, where I majored in political science and minored in applied mathematics. I am Professor Emeritus of Political Science at the University of Wisconsin-

Madison, and retired in May 2024 after 35 years on the faculty and 24 years as a Full Professor. My CV is attached to this report as Appendix A.

7. All publications that I have authored and published in the past ten years appear in my CV (*see* Appendix A). Those publications include the following peer-reviewed journals: *Journal of Politics*, *American Journal of Political Science*, *Election Law Journal*, *Legislative Studies Quarterly*, *Presidential Studies Quarterly*, *American Politics Research*, *Congress and the Presidency*, *Public Administration Review*, *Political Research Quarterly*, and *PS: Political Science and Politics*. I have also published in law reviews, including the *Richmond Law Review*, the *UCLA Pacific Basin Law Journal*, and the *University of Utah Law Review*. My work on campaign finance has been published in *Legislative Studies Quarterly*, *Regulation*, *PS: Political Science and Politics*, *Richmond Law Review*, the *Democratic Audit of Australia*, and in an edited volume on electoral competitiveness published by the Brookings Institution Press. My research on campaign finance has been cited by the U.S. Government Accountability Office, and by legislative research offices in Connecticut and Wisconsin. I have analyzed NCOA data in my own research (DeCrescenzo and Mayer 2019).

8. My work on election administration has been published in the *Election Law Journal*, *American Journal of Political Science*, *Public Administration Review*, *Political Research Quarterly*, and *American Politics Research*. I was part of a research group retained by the Wisconsin Government Accountability Board (the predecessor of the Wisconsin Elections Commission) to review their compliance with federal mandates and reporting systems under the Help America Vote Act, and to survey local election officials throughout the state. I served on the Steering Committee of the Wisconsin Elections Research Center, a unit within the UW-Madison College of Letters and Science. In 2012, I was retained by the United States Department of Justice

to analyze data and methods regarding Florida's efforts to identify and remove claimed ineligible noncitizens from the statewide file of registered voters. In 2022, I chaired the Dane County (WI) Election Security Review Committee, which produced a report for county officials on the physical security of election infrastructure.

9. In the past ten years, I have testified as an expert witness in trial or deposition or submitted a report in the following cases:

- a. Federal: *Montana Public Interest Research Group, et al., v. Jacobsen, et al.*, Case No. 6:23-cv-00070-DWM (D. Mont.); *Vote.org, et al., v. Georgia State Election Board, et al.*, Case No. 1:22-cv-01734-JPB (N.D. GA); *March for Our Lives Idaho and Idaho Alliance for Retired Americans v. McGrane*, Case No.: 1:23-cv-00107-AKB (D. Idaho); *Vote.org, et al. v. Cord Byrd, et al.*, Case No. 4:23-cv-111-AW-MAF (N.D. Fla.); *LULAC Texas, et al., v. John Scott, et al.*, No. 1:21-cv-0786-XR (W.D. Tex.); *Northeast Ohio Coalition for the Homeless et al. v. LaRose*, No. 1:23-cv-26-DCN (N.D. Ohio); *League of Women Voters of Fla., Inc., et al. v. Lee, et al.*, No. 4:21-cv-00186-MW-MAF (N.D. Fla.); *Fair Fight Inc., et al. v. True the Vote, Inc., et al.*, No. 2:20-cv-00302-SCJ (N.D. Ga.); *The Andrew Goodman Found. v. Bostelmann*, No. 3:19-cvf-00955-JDP (W.D. Wis.); *Majority Forward and Gamliel Warren Turner, Sr. v. Ben Hill Cnty. Bd. of Elections, et al.*, No. 1:20-cv-00266-LAG (M.D. Ga.); *Pearson, et al. v. Kemp, et al.*, No. 1:20-cv-4809-TCB (N.D. Ga.); *The New Ga. Project, et al. v. Raffensperger, et al.* No. 1:20-cv-01986-ELR (N.D. Ga.); *Fair Fight Action v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga.); *Kumar v. Frisco Indep. Sch. Dist., et al.*, No. 4:19-cv-00284-ALM (E.D. Tex.); *Vaughan v. Lewisville Indep. Sch. Dist., et al.*, No. 4:19-cv-00109-SDJ (E.D. Tex.);

Tyson v. Richardson Indep. Sch. Dist., et al., No. 3:18-cv-00212-K (N.D. Tex.); *Dwight, et al. v Kemp*, No: 1:18-cv-2869-JPB (N.D. Ga.); *League of Women Voters of Mich., et al. v. Benson*, No. 2:17-cv-14148-DPH-GJQ (E.D. Mich.); *One Wis. Inst., Inc. v. Thomsen* 198 F. Supp. 3d 896 (W.D. Wis. 2016); *Whitford v. Gill*, 218 F. Supp. 3d 837 (W.D. Wis.).

- b. State: *League Of Women Voters of Missouri and Missouri State NAACP v. State of Missouri et al.*, 22AC-CC04333 (Cir. Ct. of Cole Cnty., MO); *Clarke, et al. v. Wisconsin Elections Commission, et al.* (Wis.); *Missouri State Conference of the NAACP et. al. v. State of Missouri, et al.*, 22AC-CC04439, (Cir. Ct. of Cole Cnty., MO); *Lake v. Hobbs, et al.*, CV-2022-095403 (Maricopa Cty. Sup. Ct, AZ); *Montana Democratic Party and Mitch Bohn v. Christi Jacobsen*, consolidated Case No. DV 21-0451 (13th Judicial Ct. Yellowstone Cty., MT); *Johnson, et al. v Wis. Elections Comm'n, et al.*, No. 2021AP1450-OA (Wis. Sup. Ct.); *League of Women Voters v. Thurston*, No. 60CV-21-3138 (5th Div. Cir. Ct. Pulaski Cnty., AR); *Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cnty., MT); *N.C. All. for Retired Ams., et al. v. N.C. State Bd. of Elections* (Wake Cnty., NC); *LaRose et al. v. Simon*, No. 62-CV-20-3149 (2d Jud. Dist. Ct., Ramsey Cnty., MN), absentee ballots (2020); *Mich. All. for Retired Ams., et al. v. Benson, et al.* No 2020-000108-MM (Mich. Ct. of Claims); *Priorities U.S.A, et al. v. Missouri, et al.*, No. 19AC-CC00226 (Cir. Ct. of Cole Cnty., MO); *Milwaukee Branch of the NAACP v. Walker*, 851 N.W. 2d 262 (Wis.).

10. Courts consistently have accepted my expert opinions and the basis for those opinions. No court has ever excluded my expert opinion under *Daubert* or any other standard.

Courts have cited my expert opinions in their decisions, finding my opinions reliable and persuasive. *See Fair Fight Inc., et al. v. True the Vote, Inc., et al.*, No. 2:20-cv-00302-SCJ (N.D. Ga.) (including, among things, my opinions about the reliability of NCOA record linkage to voter files); *Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cnty., MT); *Priorities U.S.A., et al. v. Missouri, et al.*, No. 19AC-CC00226 (Cir. Ct. Cole Cnty., MO); *Whitford v. Gill*, 218 F. Supp. 3d 837 (W.D. Wis. 2016); *One Wis. Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896 (W.D. Wis. 2016); *Baldus v. Members of Wis. Gov't Accountability Bd.*, 849 F. Supp. 2d 840 (E.D. Wis. 2012); *Milwaukee Branch of the NAACP v. Walker*, 851 N.W. 2d 262 (Wis. 2014); *Baumgart v. Wendelberger*, No. 01-C-0121, 2002 WL 34127471 (E.D. Wis. May 30, 2002).

11. I am being compensated at a rate of \$550 per hour for my services in this matter. My work in this case is independent and impartial. My compensation is not dependent on either the substance of my opinion or the outcome of this case.

III. Analysis

A. The Complaint is Based on a False Premise and Relies on Unreliable Methods

12. The main argument in the complaint is that the existence of claimed “anomalous registrations” (complaint, paragraph 4) or registrations that “appear to be invalid” (complaint, paragraph 1) render the voter file¹ statewide and specifically in the City of Milwaukee inaccurate and allow ineligible individuals to vote, thereby causing vote dilution. Plaintiffs claim that in June 2024, “almost 150,000 voter registrations appear to be invalid . . . because the voter in question permanently moved out of state” (complaint, paragraph 1).

¹ Throughout this report, I use the term “voter file” to refer to the statewide list of registered voters, or a subset of this file for a county or municipality, maintained by the Wisconsin Electoral Commission through the Wisconsin Voter Registration System (WisVote).

13. The data plaintiffs rely on appear to be based on an unspecified method linking the voter file with the USPS National Change of Address (NCOA) file to identify individuals who appear to have moved, and processing the voter file through an unspecified method that purportedly found errors, omissions, or invalid addresses in the address fields (complaint, paragraphs 23-25).

14. I am unable to assess the underlying accuracy of the methods plaintiffs used to arrive at their conclusions, as neither the complaint nor the exhibits I had access to offer any specificity about what plaintiffs actually did. The description provided in the complaint and exhibit, which refers to an unspecified system named “TITAN” which found “various issues” using “progressive deeper-level databases” and which produced “many columns,” is entirely inadequate, and provides no actual information about the processes and methods used. This, by itself, renders the analysis wholly unreliable and invalid.²

15. Moreover, the complaint claims that plaintiffs relied on the USPS Coding Accuracy Support System (CASS) to determine whether voters “were still resident at their address of registration” (Complaint, paragraph 24). This is an inaccurate description of CASS, which verifies the accuracy of address matching software (USPS 2024), not who may or may not reside at any particular address.

16. But there is a deeper problem, which is that *even if the analysis is 100% accurate*, it is based on the flawed premise that a link between a registrant in the voter file and the NCOA file by itself is a sufficient basis to challenge a registration. It is, similarly, flawed to claim that incomplete or erroneous data in an address is sufficient to challenge a registration.

² As an example of the details that would be required in peer reviewed research, Ansolabehere and Hersh (2017, 206) include a 5-page, nearly 4,000-word description of record linkage, data pre-processing, and validity checking in their study of voter lists.

17. Using NCOA data by itself for maintaining voter files is problematic, as this process is known to produce false positives; this is a common problem when using name and address data alone to link records in different files when there are no unique identifiers that conclusively establish that the same individual has been flagged in both files.

18. Matching—or more properly, “record linkage”—is the process of identifying the same individual in different administrative files, “linking” the records so that the information in each file can be connected to the same individual. This can be straightforward in cases where there is a unique identifier for the same individual in both files: i.e., a social security number, for example, or a unique driver’s license or voter identification number in each file. In such an instance, we can be virtually certain that the information in both files is attached to the same individual (barring an entry or administrative error). When there is no unique identifier (which is the case here, as there is no information in the NCOA file other than name and address), great care is required. It is possible that the matching process incorrectly flagged individuals with the same or similar names living at the same address, or relied on erroneous data entry (such as a transposed number in an address).

19. The problems inherent in record linkage across files with no unique individual identifier are well known (Ansolabehere and Hersh 2017; Enamorado, Fifield, and Imai 2019), and analysts must take care to validate the results and control for false positive identifications.

20. The NCOA data are not error-free, and the companies that conduct NCOA matching note that false positives occur “on a regular basis.”³

21. Moreover, an NCOA form—even if an individual has submitted a permanent change of address—does not by itself mean that the individual is no longer eligible to vote at the

³ See *Understanding NCOA Processing*, NCOA Source, https://www.ncoasource.com/ncoa_processing.htm.

registration address. An individual who has submitted an NCOA form may still be eligible to vote absentee from the registered address. Common categories of such voters would include college students or military personnel.

22. Similarly, claiming to identify address fields that are incomplete or include errors does not by itself provide a sufficient basis to reliably determine that a voter is ineligible to vote at the address at which they are registered. These are common features of large datasets, particularly voter files which have millions of records and are continuously updated (Huber et al. 2021; Kim, Schneider and Alvarez 2020; Merivaki 2020; Pettigrew and Stewart 2016; Pettigrew and Stewart 2024; Stewart 2019; Ansolabehere and Hersh 2014).

23. The complaint offers no evidence that Wisconsin's existing list maintenance processes are insufficient, and plaintiffs are simply wrong in claiming that the Wisconsin Elections Commission (WEC) will not conduct any voter list maintenance until 2027 (complaint, paragraph 28). In fact, the WEC conducts list maintenance procedures *every two years* after each general election as required by statute.⁴ The false claim in the complaint appears to be based on the mistaken belief that the "four year maintenance process" occurs only once every four years, when it actually means that every two years, list maintenance takes into account *voter inactivity over the previous four years*.⁵

B. Voter Challenges Are Not Harmless

24. The complaint alleges that the challenges "would not harm any active voters" because those challenged could simply respond to notices from election officials, or just re-register on election day (complaint, paragraph 45). This is false.

⁴ "No later than June 15 following each general election, the commission shall examine the registration records for each municipality and identify each elector who has not voted within the previous 4 years if qualified to do so during that entire period." Wis. Stat. § 6.50(1).

⁵ The Wisconsin Elections Commission notes that it conducted list maintenance in 2023, 2021, and 2019. See <https://elections.wi.gov/statistics-data/voter-list-maintenance>. Another round will take place in 2025.

25. The academic literature has identified a clear pattern that errors in voter maintenance processes have a disproportionate effect on minority voters, who are more likely to be incorrectly removed from voter lists or to be placed in inactive status because of administrative errors. These errors include being falsely identified as having moved because of an incorrect NCOA match. Minority registrants are twice as likely as white registrants to vote at their registration address after they have been incorrectly flagged as moving (Huber et al. 2021, 3; see also Feder and Miller 2020).

26. This problem is compounded by the complaint's specific targeting of the City of Milwaukee. Milwaukee has the state's largest concentration of African Americans and Latinos of any municipality in the state, with a voting age population of over 160,000 African Americans (roughly 38% of the city's voting age population) and over 76,000 Latinos (about 18% of the city's voting age population) according to 2020 census data, far exceeding the statewide population figures.⁶ It is unambiguously clear that the singling out Milwaukee as a locus of registration challenges has the effect of specifically targeting minority voters.

27. The exhibit provided to me contains a specific request to *prosecute* registrants based on the results the plaintiffs claim to find.⁷ Given the inherent unreliability of the methods plaintiffs use and the focus on the City of Milwaukee, that is hardly innocuous. Such tactics have long been used as a method of voter intimidation, particularly against minority populations (Swirsky 2001; Anderson 2018).

28. In contrast to these established harms to challenged voters, the evidence supporting Plaintiffs' assertions that voter fraud or identity theft will occur is minimal.

⁶ Data from the 2020 Census for the City of Milwaukee (tables P10 and P11). Statewide, the voting age population in Wisconsin is 6.3% African American and 6.2% Latino.

⁷ Complaint, Exhibit A (email from Justin Gavery to Milwaukee election officials, June 7, 2024).

29. There is no evidence that material numbers of ineligible voters are casting ballots in Wisconsin elections. The academic literature on election administration has conclusively and repeatedly found that voter fraud claims are vastly exaggerated, with actual illegal votes occurring in vanishingly small numbers (Minnite 2010; Eggers, Garro and Grimmer 2021a; Eggers, Garro and Grimmer 2021b; Grimmer and Ramaswamy 2024). The Heritage Foundation database of election fraud cases in Wisconsin, extending to 2004 (a period during which over 55 million votes were cast in general, primary, and nonpartisan elections⁸) identified *no* instances of voter impersonation, and only a handful of cases in which a non-resident cast a ballot or registered at an invalid address.⁹

30. Recent Wisconsin Election Commission data further confirms these trends. On October 4, 2024, the Wisconsin Elections Commission referred cases of suspected or reported election fraud to the state legislature, as required by statute.¹⁰ WEC identified 30 potential cases between the 2023 Spring Primary election (held March 6, 2023) and the 2024 partisan primary election (held August 27, 2024)—a period during which over 5.1 million votes were cast in Wisconsin, and over 690,000 votes were cast in Milwaukee County.¹¹ Of those 30 potential cases, two involved allegations that an individual voted while not living at the registration address or voting after registering in another state, and neither of those allegations occurred in Milwaukee County.¹²

⁸ <https://elections.wi.gov/statistics-data/voter-turnout>.

⁹ Using the Heritage database, I identified 7 instances of a voter registering at a false address or voting as a non-resident. This works out to a rate of 0.000014% of the total votes cast over this period. https://www.heritage.org/voterfraud/search?combine=&state=WI&year=&case_type=All&fraud_type=24491.

¹⁰ Wis. Stat. § 7.15(1)(g).

¹¹ https://elections.wi.gov/sites/default/files/documents/Open%20Session%2010.4.2024_0.pdf. Turnout recorded for top-ticket races (2024 presidential primary, 2023 WI Supreme Court primary and general, and 2024 U.S. Senate primary).

¹² https://elections.wi.gov/sites/default/files/documents/Open%20Session%2010.4.2024_0.pdf.

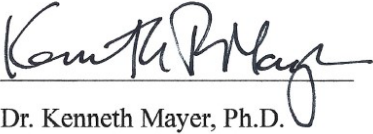
31. Including both sets of voting data (2004-2022, and 2023-2024) results in nine *possible* cases of voting from an ineligible address, over a period in which over 60 million votes were cast.

IV. Conclusion

32. My overall conclusions are:
- a. Plaintiffs rely on a mistaken characterization of the voter list maintenance process in Wisconsin. It occurs every two years, not every four as the plaintiffs claim.
 - b. Plaintiffs' complaint does not use a method that produces reliable information for challenging voter registrations.
 - c. Even if the method was 100% accurate, it still does not provide reliable information for challenging voter registrations. NCOA data alone is insufficient to reliably show that a registrant is ineligible at a previous address, nor is missing or erroneous information in an address field.
 - d. Registration challenges are not harmless. Data show that they have a disproportionate effect on minority voters, who are much more likely to be improperly removed from voter rolls.
 - e. There is no evidence of material levels of voter fraud in Wisconsin. Voters casting ballots from an invalid registration address is vanishingly rare, with 9 possible cases in the last 20 years out of more than 60 million votes cast.

I declare under penalty of false swearing under the law of Wisconsin that the foregoing is true and correct.

Signed on the 11th day of October, 2024, at Madison, Wisconsin.



Dr. Kenneth Mayer, Ph.D.

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- Merivaki, Thessalia. 2020. "Our Voter Rolls Are Cleaner Than Yours: Balancing Access and Integrity in Voter List Maintenance." *American Politics Research* 48:560-570.
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- Pettigrew, Stephen and Charles Stewart, III. 2024. "Moved Out, Moved On: Assessing the Effectiveness of Voter List Maintenance." Paper presented at the 2017 Election Data,

Science, and Administration Conference, July 2017, Portland Oregon. Updated January 2024.

Swirsky, Sherry A. 2001. "Minority Voter Intimidation: The Problem That Won't Go Away." *Temple Political and Civil Rights Review* 11:359-384.

U.S.P.S. 2020. *National Change of Address Program: Audit Report*. Report IT-AR-14-010. United States Postal Service, Office of Inspector General. September 24.

U.S.P.S. 2024. *CASS Technical Guide Cycle O*. October.

Appendix A - CV

Kenneth R. Mayer

October 2024

Department of Political Science

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Education

Yale University, Department of Political Science, Ph.D., 1988.

Yale University, Department of Political Science, M.A., M.Phil., 1987.

University of California, San Diego, Department of Political Science, B.A., 1982.

Positions Held

University of Wisconsin, Madison. Department of Political Science

Emeritus Professor, May 2024-present

Professor, July 2000-May 2024.

Associate Professor, June 1996-June 2000.

Assistant Professor, August 1989-May 1996.

Fulbright-ANU Distinguished Chair in Political Science, Australian National University (Canberra, ACT), July-December 2006.

Director, Data and Computation Center, College of Letters and Science, University of Wisconsin-Madison, June 1996-September 2003

Consultant, The RAND Corporation, Washington DC, 1988-1994. Conducted study of acquisition reform, and the effects of acquisition policy on the defense industrial base. Performed computer simulations of U.S. strategic force posture and capabilities.

Contract Specialist, Naval Air Systems Command, Washington D.C., 1985-1986. Responsible for cost and price analysis, contract negotiation, and contract administration for aerial target missile programs in the \$5 million - \$100 million range.

Awards

American Political Science Association, State Politics and Policy Section. Award for best Journal Article Published in the *American Journal of Political Science* in 2014. Awarded for Burden, Canon, Mayer, and Moynihan, "Election Laws, Mobilization, and Turnout."

Robert H. Durr Award, from the Midwest Political Science Association, for Best Paper Applying Quantitative Methods to a Substantive Problem Presented at the 2013 Meeting. Awarded for Burden, Canon, Mayer, and Moynihan, "Election Laws and Partisan Gains."

Leon Epstein Faculty Fellow, College of Letters and Science, 2012-2015

UW Housing Honored Instructor Award, 2012, 2014, 2017, 2018

Recipient, Jerry J. and Mary M. Cotter Award, College of Letters and Science, 2011-2012

Alliant Underkofler Excellence in Teaching Award, University of Wisconsin System, 2006

Pi Sigma Alpha Teaching Award, Fall 2006

Vilas Associate, 2003-2004, University of Wisconsin-Madison Graduate School.

2002 Neustadt Award. Awarded by the Presidency Research Group of the American Political Science Association, for the best book published on the American presidency in 2001.

Awarded for *With the Stroke of a Pen: Executive Orders and Presidential Power*.

Lilly Teaching Fellow, University of Wisconsin-Madison, 1993-1994.

Interfraternity Council award for Outstanding Teaching, University of Wisconsin-Madison, 1993.

Selected as one of the 100 best professors at University of Wisconsin-Madison, Wisconsin Student Association, March 1992.

Olin Dissertation Fellow, Center for International Affairs, Harvard University, 1987-1988

Service as an Expert Witness

1. *League Of Women Voters of Missouri and Missouri State NAACP v. State of Missouri et al.*, Case No. 22AC-CC04333 (Cir. Ct. of Cole Cnty., MO), voter registration (2024).
2. *Montana Public Interest Research Group, et al., v. Jacobsen, et al.*, Case No. 6:23-cv-00070-DWM (D. Mont.), voter registration (2024).
3. *Vote.org, et al., v. Georgia State Election Board, et al.*, Case No. 1:22-cv-01734-JPB (N.D. GA), election administration (2023).
4. *March for Our Lives Idaho and Idaho Alliance for Retired Americans v. McGrane*, Case No.: 1:23-cv-00107-AKB (D. Idaho), election administration (2023).
5. *Vote.org, et al. v. Cord Byrd, et al.*, Case No. 4:23-cv-111-AW-MAF (N.D. Fla.).
6. *Northeast Ohio Coalition for the Homeless et al. v. Frank LaRose*, Case No. 1:23-cv-26-DCN (E.D. Ohio), election administration (2023).
7. *Missouri State Conference of the NAACP, et. al. v. State of Missouri, et al.*, Case 22AC-CC04439 (Cir. Ct. of Cole Cnty., MO) voting rights, voter ID (2023).
8. *Lake v. Hobbs, et al.*, Case CV-2022-095403 (Maricopa Cty. Sup. Ct, AZ), election contest (2022).
9. *Johnson, et al., v. WEC, et al.*, 2021 WI 87 (Wis. 2021), redistricting.
10. *LULAC Texas et al. v. Scott et al.*, Case No. 1:21-cv-0786-XR (W.D. Tex.), election administration (2022).
11. *Montana Democratic Party and Mitch Bohn v. Christi Jacobsen*, Consolidated Case No. DV 21-0451 (13th Judicial Ct. Yellowstone Cty., MT), election administration (2022).
12. *Fair Fight Inc., et al. v. True the Vote, Inc., et al.*, Case No. 2:20-CV-00302-SCJ (N.D. GA), election administration (2022).
13. *League of Women Voters of Arkansas et al. v. Thurston et al.*, Case No. 60CV-21-3138 (5th Circ. Ct., Pulaski Cty., AR), election administration (2021).
14. *League of Women Voters of Florida, Inc., et al. v. Lee, et al.*, Case No. 4:21-cv-00186-MW-MAF (N.D. Fla.), election administration (2021).
15. *Majority Forward and Gamliel Warren Turner, Sr. v. Ben Hill County Board of Elections, et al.*, No. 1:20-CV-00266-LAG (M.D. Ga), election administration (2020).
16. *Pearson et al. v. Kemp et al.*, No. 1:20-cv-4809-TCB (N.D. Ga), election administration (2020).
17. *North Carolina Alliance for Retired Americans et al. v. North Carolina State Board of Elections* (Wake Cty., NC), absentee ballots (2020).
18. *LaRose et al. v. Simon*, No. 62-CV-20-3149 (2d Jud. Dist. Ct., Ramsey Cty., MN), absentee ballots (2020).

19. *Michigan Alliance for Retired Americans et al. v Benson et al.* No 2020-000108-MM (Mich. Court of Claims), absentee ballots (2020).
20. *The New Georgia Project et al. v. Raffensperger et al.* No. 1:20-CV-01986-EL0052 (N.D. Ga.), absentee ballots (2020).
21. *Driscoll v. Stapleton*, No. DV 20 0408 (13th Judicial Ct. Yellowstone Cty., MT), absentee ballots (2020).
22. *The Andrew Goodman Foundation v. Bostelmann*, No. 19-cv-955 (W.D. Wisc.), voter ID (2020).
23. *Kumar v. Frisco Independent School District et al.*, No.4:19-cv-00284 (E.D. Tex.), voting rights (2019).
24. *Fair Fight Action v. Raffensperger* No. 1:18-cv-05391-SCJ (N.D. Ga.), voting rights (2019)
25. *Vaughan v. Lewisville Independent School District*, No. 4:19-cv-00109 (E.D. Texas), voting rights (2019).
26. *Dwight et al. v Raffensperger*, No: 1:18-cv-2869-RWS (N.D. Ga.), redistricting, voting rights (2018).
27. *Priorities U.S.A. et al. v. Missouri et al.*, No. 19AC-CC00226 (Cir. Ct. of Cole Cty., MO), voter ID (2018).
28. *Tyson v. Richardson Independent School District*, No. 3:18-cv-00212 (N.D. Texas), voting rights (2018).
29. *League of Women Voters of Michigan, et al. v. Johnson*, No. 2:17-cv-14148-DPH-SDD (E.D. Mich.), redistricting (2018).
30. *One Wisconsin Institute, Inc., et al. v. Nichol, et al.*, 198 F. Supp. 3d 896 (W.D. Wis.), voting rights (2016).
31. *Whitford et al. v. Gill et al*, 218 F. Supp. 3d 837, (W.D. Wis.), redistricting (2016).
32. *Milwaukee NAACP et al. v. Scott Walker et. al*, N.W.2d 262 (Wis. 2014), voter ID (2012).
33. *Baldus et al. v. Brennan et al.*, 849 F. Supp. 2d 840 (E.D. Wis.), redistricting, voting rights (2012).
34. *County of Kenosha v. City of Kenosha*, No. 22-CV-1813 (Wis. Cir. Ct., Kenosha Cty.), municipal redistricting (2011).
35. *McComish et al. v Brewer et al.*. 2010 WL 2292213 (D. Ariz.), campaign finance (2009).
36. *Baumgart et al. v. Wendelberger et al.*, 2002 WL 34127471 (E.D. Wis.), redistricting (2002).

Grants

“A Multidisciplinary Approach for Redistricting Knowledge.” Principal Investigator. Co-PIs Adeline Lo (UW Madison, Department of Political Science), Song Gao (UW Madison, Department of Geography), and Barton Miller and Jin-Yi Cai (UW Madison, Department of Computer Sciences). UW 2020 Program, Wisconsin Alumni Research Foundation. July 1, 2020-June 30, 2023. \$410,711.

“Analyzing Nonvoting and the Student Voting Experience in Wisconsin.” Dane County (WI) Clerk, \$44,157. November 2016-December 2017. Additional support (\$30,000) provided by the Office of the Chancellor, UW-Madison.

Campaign Finance Task Force, Stanford University and New York University, \$36,585.

September 2016-August 2017.

“How do You Know? The Structure of Presidential Advising and Error Correction in the White House.” Graduate School Research Committee, University of Wisconsin, \$18,941. July 1, 2015-June 30, 2016.

“Study and Recommendations for the Government Accountability Board Chief Inspectors’ Statements and Election Incident Report Logs.” \$43,234. Co-PI. With Barry C. Burden (PI), David T. Canon (co-PI), and Donald Moynihan (co-PI). October 2011-May 2012.

“Public Funding in Connecticut Legislative Elections.” Open Society Institute. September 2009-December 2010. \$55,000.

“Early Voting and Same Day Registration in Wisconsin and Beyond.” Co-PI. October 2008-September 2009. Pew Charitable Trusts. \$49,400. With Barry C. Burden (PI), David T. Canon (Co-PI), Kevin J. Kennedy (Co-PI), and Donald P. Moynihan (Co-PI).
City of Madison, Blue Ribbon Commission on Clean Elections. Joyce Foundation, Chicago, IL. \$16,188. January-July 2008.

“Wisconsin Campaign Finance Project: Public Funding in Connecticut State Legislative Elections.” JEHT Foundation, New York, NY. \$84,735. November 2006-November 2007.

“Does Public Election Funding Change Public Policy? Evaluating the State of Knowledge.” JEHT Foundation, New York, NY. \$42,291. October 2005-April 2006.

“Wisconsin Campaign Finance Project: Disseminating Data to the Academic, Reform, and Policy Communities.” Joyce Foundation, Chicago, IL. \$20,900. September 2005- August 2006.

“Enhancing Electoral Competition: Do Public Funding Programs for State and Local Elections Work?” Smith Richardson Foundation, Westport, CT. \$129,611. December 2002-June 2005

WebWorks Grant (implementation of web-based instructional technologies), Division of Information Technology, UW-Madison, \$1,000. November 1999.

“Issue Advocacy in Wisconsin during the 1998 Election.” Joyce Foundation, Chicago, IL. \$15,499. April 1999.

Instructional Technology in the Multimedia Environment (IN-TIME) grant, Learning Support Services, University of Wisconsin. \$5,000. March 1997.

“Public Financing and Electoral Competitiveness in the Minnesota State Legislature.” Citizens’ Research Foundation, Los Angeles, CA, \$2,000. May-November 1996.

“The Reach of Presidential Power: Policy Making Through Executive Orders.” National Science Foundation (SBR-9511444), \$60,004. September 1, 1995-August 31, 1998. Graduate School Research Committee, University of Wisconsin, \$21,965. Additional support provided by the Gerald R. Ford Library Foundation, the Eisenhower World Affairs Institute, and the Harry S. Truman Library Foundation.

The Future of the Combat Aircraft Industrial Base.” Changing Security Environment Project, John M. Olin Institute for Strategic Studies, Harvard University (with Ethan B. Kapstein). June 1993-January 1995. \$15,000.

Hilldale Student Faculty Research Grant, College of Letters and Sciences, University of Wisconsin (with John M. Wood). 1992. \$1,000 (\$3,000 award to student)

“Electoral Cycles in Federal Government Prime Contract Awards” March 1992 – February 1995. National Science Foundation (SES-9121931), \$74,216. Graduate School Research Committee at the University of Wisconsin, \$2,600. MacArthur Foundation, \$2,500.

C-SPAN In the Classroom Faculty Development Grant, 1991. \$500

Professional and Public Service

Town of Middleton, Review of Polling Place Resource Allocation, 2023 (with Jessie Munson).

Chair, Election Security Review Committee, Dane County, Wisconsin 2022.

Participant and Board Member, 2016 White House Transition Project, PIs Martha Joynt Kumar (Towson State University) and Terry Sullivan (University of North Carolina-Chapel Hill).

Education and Social and Behavioral Sciences Institutional Review Board, 2008-2014. Acting Chair, Summer 2011. Chair, May 2012- June 2014.

Participant, U.S. Public Speaker Grant Program. United States Department of State (nationwide speaking tour in Australia, May 11-June 2, 2012).

Expert Consultant, Voces de la Frontera. Milwaukee Aldermanic redistricting, (2011).

Expert Consultant, Prosser for Supreme Court. Wisconsin Supreme Court election recount (2011).

Chair, Blue Ribbon Commission on Clean Elections (Madison, WI), August 2007-April 2011.

Consultant, Consulate of the Government of Japan (Chicago) on state politics in Illinois, Indiana, Minnesota, and Wisconsin, 2006-2011.

Section Head, Presidency Studies, 2006 Annual Meeting of the American Political Science Association.

Co-Chair, Committee on Redistricting, Supreme Court of Wisconsin, November 2003-December 2009.

Section Head, Presidency and Executive Politics, 2004 Annual Meeting of the Midwest Political Science Association, Chicago, IL.

Presidency Research Group (organized section of the American Political Science Association) Board, September 2002-present.

Book Review Editor, *Congress and the Presidency*, 2001-2006.

Editorial Board, *American Political Science Review*, September 2004-September 2007.

Consultant, Governor's Blue Ribbon Commission on Campaign Finance Reform (Wisconsin), 1997.

PUBLICATIONS

Books

Presidential Leadership: Politics and Policymaking, 13th edition. Lanham, MD: Rowman and Littlefield, 2024. With George C. Edwards, III and Steven J. Wayne. Previous editions 10th (2018), 11th (2020), 12th (2023).

The Enduring Debate: Classic and Contemporary Readings in American Government. 9th ed. New York: W.W. Norton & Co., 2023. Co-edited with David T. Canon and John Coleman. Previous editions 1st (1997), 2nd (2000), 3rd (2002), 4th (2006), 5th (2009), 6th (2011), 7th (2013), 8th (2017).

The 2016 Presidential Elections: The Causes and Consequences of an Electoral Earthquake. Lanham, MD: Lexington Press, 2017. Co-edited with Amnon Cavari and Richard J. Powell.

Faultlines: Readings in American Government, 5th ed. New York: W.W. Norton & Co. 2017. Co-edited with David T. Canon and John Coleman. Previous editions 1st (2004), 2nd (2007), 3rd (2011), 4th (2013).

The 2012 Presidential Election: Forecasts, Outcomes, and Consequences. Lanham, MD: Rowman and Littlefield, 2014. Co-edited with Amnon Cavari and Richard J. Powell.

Readings in American Government, 7th edition. New York: W.W. Norton & Co. 2002. Co-edited with Theodore J. Lowi, Benjamin Ginsberg, David T. Canon, and John Coleman). Previous editions 4th (1996), 5th (1998), 6th (2000).

With the Stroke of a Pen: Executive Orders and Presidential Power. Princeton, NJ: Princeton University Press. 2001. Winner of the 2002 Neustadt Award from the Presidency Studies Group of the American Political Science Association, for the Best Book on the Presidency Published in 2001.

The Dysfunctional Congress? The Individual Roots of an Institutional Dilemma. Boulder, CO: Westview Press. 1999. With David T. Canon.

The Political Economy of Defense Contracting. New Haven: Yale University Press. 1991.

Articles

- “Guardians at the Gate: Poll Worker Retention in a Challenging Election Environment.” *Election Law Journal*. With Robert M. Stein, Barry C. Burden, Matt Lamb, et. al (forthcoming 2025).
- "Bringing Spatial Interaction Measures into Multi-Criteria Assessment of Redistricting Plans Using Interactive Web Mapping," *Cartography and Geographic Information Science*, with Jake Kruse, Song Gao, Yuhan Ji, and Daniel P. Szabo (forthcoming 2025).
- “Mapping Literature with Networks: An Application to Redistricting.” *Political Analysis*. First View (2023). DOI: <https://doi.org/10.1017/pan.2023.4>. With Adeline Lo, Devin Judge-Lord, and Kyler Hudson.
- “The Random Walk Presidency,” *Presidential Studies Quarterly* 51: 71-95 (2021)
- “Voter Identification and Nonvoting in Wisconsin - Evidence from the 2016 Election.” *Election Law Journal* 18:342-359 (2019). With Michael DeCrescenzo.
- “Waiting to Vote in the 2016 Presidential Election: Evidence from a Multi-county Study.” *Political Research Quarterly* 71 (2019). With Robert M. Stein, Christopher Mann, Charles Stewart III, et al.
- “Learning from Recounts.” *Election Law Journal* 17:100-116 (No. 2, 2018). With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.
- “The Complicated Partisan Effects of State Election Laws.” *Political Research Quarterly* 70:549-563 (No. 3, September 2017). With Barry C. Burden, David T. Canon, and Donald P. Moynihan.
- “What Happens at the Polling Place: Using Administrative Data to Look Inside Elections.” *Public Administration Review* 77:354-364 (No. 3, May/June 2017). With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jacob R. Neiheisel.
- “Working Through the Unworkable? The View from Inside an Institutional Review Board.” *PS: Political Science and Politics* 49:289-293 (No. 2, April 2016).
- “Alien Abduction, and Voter Impersonation in the 2012 U.S. General Election: Evidence from a Survey List Experiment.” *Election Law Journal* 13:460-475 No.4, December 2014). With John S. Ahlquist and Simon Jackman.
- “Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform.” *American Journal of Political Science*, 58:95-109 (No. 1, January 2014). With Barry C. Burden, David T. Canon, and Donald P. Moynihan. Winner of the State Politics and Politics Section of the American Political Science Association Award for the best

- article published in the *AJPS* in 2014.
- “Executive Power in the Obama Administration and the Decision to Seek Congressional Authorization for a Military Attack Against Syria: Implications for Theories of Unilateral Action.” *Utah Law Review* 2014:821-841 (No. 4, 2014).
- “Public Election Funding: An Assessment of What We Would Like to Know.” *The Forum* 11:365-485 (No. 3, 2013).
- “Selection Method, Partisanship, and the Administration of Elections.” *American Politics Research* 41:903-936 (No. 6, November 2013). With Barry C. Burden, David T. Canon, Stéphane Lavertu, and Donald Moynihan.
- “The Effect of Administrative Burden on Bureaucratic Perception of Policies: Evidence from Election Administration.” *Public Administration Review* 72:741-451 (No. 5, September/October 2012). With Barry C. Burden, David T. Canon, and Donald Moynihan.
- “Early Voting and Election Day Registration in the Trenches: Local Officials’ Perceptions of Election Reform.” *Election Law Journal* 10:89-102 (No. 2, 2011). With Barry C. Burden, David T. Canon, and Donald Moynihan.
- “Is Political Science Relevant? Ask an Expert Witness,” *The Forum*: Vol. 8, No. 3, Article 6 (2010).
- “Thoughts on the Revolution in Presidency Studies,” *Presidential Studies Quarterly* 39 (no. 4, December 2009).
- “Does Australia Have a Constitution? Part I – Powers: A Constitution Without Constitutionalism.” *UCLA Pacific Basin Law Journal* 25:228-264 (No. 2, Spring 2008). With Howard Schweber.
- “Does Australia Have a Constitution? Part II: The Rights Constitution.” *UCLA Pacific Basin Law Journal* 25:265-355 (No. 2, Spring 2008). With Howard Schweber.
- “Public Election Funding, Competition, and Candidate Gender.” *PS: Political Science and Politics* XL:661-667 (No. 4, October 2007). With Timothy Werner.
- “Do Public Funding Programs Enhance Electoral Competition?” In Michael P. McDonald and John Samples, eds., *The Marketplace of Democracy: Electoral Competition and American Politics* (Washington, DC: Brookings Institution Press, 2006). With Timothy Werner and Amanda Williams. Excerpted in Daniel H. Lowenstein, Richard L. Hasen, and Daniel P. Tokaji, *Election Law: Cases and Materials*. Durham, NC: Carolina Academic Press, 2008.
- “The Last 100 Days.” *Presidential Studies Quarterly* 35:533-553 (No. 3, September 2005). With William Howell.
- “Political Reality and Unforeseen Consequences: Why Campaign Finance Reform is Too Important To Be Left To The Lawyers,” *University of Richmond Law Review* 37:1069-1110 (No. 4, May 2003).
- “Unilateral Presidential Powers: Significant Executive Orders, 1949-1999.” *Presidential Studies Quarterly* 32:367-386 (No. 2, June 2002). With Kevin Price.
- “Answering Ayres: Requiring Campaign Contributors to Remain Anonymous Would Not Resolve Corruption Concerns.” *Regulation* 24:24-29 (No. 4, Winter 2001).
- “Student Attitudes Toward Instructional Technology in the Large Introductory US Government Course.” *PS: Political Science and Politics* 33:597-604 (No. 3 September 2000). With John Coleman.
- “The Limits of Delegation – the Rise and Fall of BRAC.” *Regulation* 22:32-38 (No. 3,

- October 1999).
- “Executive Orders and Presidential Power.” *The Journal of Politics* 61:445-466 (No.2, May 1999).
- “Bringing Politics Back In: Defense Policy and the Theoretical Study of Institutions and Processes.” *Public Administration Review* 56:180-190 (1996). With Anne Khademan.
- “Closing Military Bases (Finally): Solving Collective Dilemmas Through Delegation.” *Legislative Studies Quarterly*, 20:393-414 (No. 3, August 1995).
- “Electoral Cycles in Federal Government Prime Contract Awards: State-Level Evidence from the 1988 and 1992 Presidential Elections.” *American Journal of Political Science* 40:162-185 (No. 1, February 1995).
- “The Impact of Public Financing on Electoral Competitiveness: Evidence from Wisconsin, 1964-1990.” *Legislative Studies Quarterly* 20:69-88 (No. 1, February 1995). With John M. Wood.
- “Policy Disputes as a Source of Administrative Controls: Congressional Micromanagement of the Department of Defense.” *Public Administration Review* 53:293-302 (No. 4, July-August 1993).
- “Combat Aircraft Production in the United States, 1950-2000: Maintaining Industry Capability in an Era of Shrinking Budgets.” *Defense Analysis* 9:159-169 (No. 2, 1993).

Book Chapters

- “Framing Controversies over Free Speech and Academic Freedom in The University Setting.” In *Campus Free Speech*, Lori Cox Han and Jerry Price, eds. ABC-CLIO. 2023. With Howard Schweber.
- “Is President Trump Conventionally Disruptive, or Unconventionally Destructive?” In *The 2016 Presidential Elections: The Causes and Consequences of an Electoral Earthquake*. Lanham, MD: Lexington Press, 2017. Co-edited with Amon Cavari and Richard J. Powell.
- “Lessons of Defeat: Republican Party Responses to the 2012 Presidential Election. In Amnon Cavari, Richard J. Powell, and Kenneth R. Mayer, eds. *The 2012 Presidential Election: Forecasts, Outcomes, and Consequences*. Lanham, MD: Rowman and Littlefield. 2014.
- “Unilateral Action.” George C. Edwards, III, and William G. Howell, *Oxford Handbook of the American Presidency* (New York: Oxford University Press, 2009).
- “Executive Orders,” in Joseph Bessette and Jeffrey Tulis, *The Constitutional Presidency*. Baltimore: Johns Hopkins University Press, 2009.
- “Hey, Wait a Minute: The Assumptions Behind the Case for Campaign Finance Reform.” In Gerald C. Lubenow, ed., *A User’s Guide to Campaign Finance Reform*. Lanham, MD: Rowman & Littlefield, 2001.
- “Everything You Thought You Knew About Impeachment Was Wrong.” In Leonard V. Kaplan and Beverly I. Moran, ed., *Aftermath: The Clinton Impeachment and the Presidency in the Age of Political Spectacle*. New York: New York University Press. 2001. With David T. Canon.
- “The Institutionalization of Power.” In Robert Y. Shapiro, Martha Joynt Kumar, and Lawrence R. Jacobs, eds. *Presidential Power: Forging the Presidency for the 21st Century*. New York: Columbia University Press, 2000. With Thomas J. Weko.
- “Congressional-DoD Relations After the Cold War: The Politics of Uncertainty.” In *Downsizing Defense*, Ethan Kapstein ed. Washington DC: Congressional Quarterly

Press. 1993.

“Elections, Business Cycles, and the Timing of Defense Contract Awards in the United States.” In Alex Mintz, ed. *The Political Economy of Military Spending*. London: Routledge. 1991.

“Patterns of Congressional Influence In Defense Contracting.” In Robert Higgs, ed., *Arms, Politics, and the Economy: Contemporary and Historical Perspectives*. New York: Holmes and Meier. 1990.

Monographs

2008 Election Data Collection Grant Program: Wisconsin Evaluation Report. Report to the Wisconsin Government Accountability Board, September 2009. With Barry C. Burden, David T. Canon, Stéphane Lavertu, and Donald P. Moynihan.

Issue Advocacy in Wisconsin: Analysis of the 1998 Elections and A Proposal for Enhanced Disclosure. September 1999.

Public Financing and Electoral Competition in Minnesota and Wisconsin. Citizens' Research Foundation, April 1998.

Campaign Finance Reform in the States. Report prepared for the Governor's Blue Ribbon Commission on Campaign Finance Reform (State of Wisconsin). February 1998. Portions reprinted in Anthony Corrado, Thomas E. Mann, Daniel Ortiz, Trevor Potter, and Frank J. Sorauf, ed., *Campaign Finance Reform: A Sourcebook*. Washington, D.C.: Brookings Institution, 1997.

“Does Public Financing of Campaigns Work?” *Trends in Campaign Financing*. Occasional Paper Series, Citizens' Research Foundation, Los Angeles, CA. 1996. With John M. Wood.

The Development of the Advanced Medium Range Air-to-Air Missile: A Case Study of Risk and Reward in Weapon System Acquisition. N-3620-AF. Santa Monica: RAND Corporation. 1993.

Barriers to Managing Risk in Large Scale Weapons System Development Programs. N-4624-AF. Santa Monica: RAND Corporation. 1993. With Thomas K. Glennan, Jr., Susan J. Bodilly, Frank Camm, and Timothy J. Webb.

Other

“Presidents Can't Declassify Documents with Green Lantern Superpowers.” *The Monkey Cage* (Washington Post), August 19, 2022. With Andrew Rudalevige.

“Campaign Finance: Some Basics.” Bauer-Ginsberg Campaign Finance Task Force, Stanford University. September 2017. With Elizabeth M. Sawyer.

“The Wisconsin Recount May Have a Surprise in Store after All.” *The Monkey Cage* (Washington Post), December 5, 2016. With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.

Review of Jason K. Dempsey, *Our Army: Soldiers, Politicians, and American Civil-Military Relations*. *The Forum* 9 (No. 3, 2011).

“Voting Early, but Not Often.” *New York Times*, October 25, 2010. With Barry C. Burden.

Review of John Samples, *The Fallacy of Campaign Finance Reform* and Raymond J. La Raja, *Small Change: Money, Political Parties, and Campaign Finance Reform*. *The Forum* 6 (No. 1, 2008).

Review Essay, *Executing the Constitution: Putting the President Back Into the Constitution*, Christopher S. Kelley, ed.; *Presidents in Culture: The Meaning of Presidential*

- Communication*, David Michael Ryfe; *Executive Orders and the Modern Presidency: Legislating from the Oval Office*, Adam L. Warber. In *Perspective on Politics* 5:635-637 (No. 3, September 2007).
- “The Base Realignment and Closure Process: Is It Possible to Make Rational Policy?” Brademas Center for the Study of Congress, New York University. 2007.
- “Controlling Executive Authority in a Constitutional System” (comparative analysis of executive power in the U.S. and Australia), manuscript, February 2007.
- “Campaigns, Elections, and Campaign Finance Reform.” *Focus on Law Studies*, XXI, No. 2 (Spring 2006). American Bar Association, Division for Public Education.
- “Review Essay: Assessing The 2000 Presidential Election – Judicial and Social Science Perspectives.” *Congress and the Presidency* 29: 91-98 (No. 1, Spring 2002).
- Issue Briefs (Midterm Elections, Homeland Security; Foreign Affairs and Defense Policy; Education; Budget and Economy; Entitlement Reform) *2006 Reporter’s Source Book*. Project Vote Smart. 2006. With Meghan Condon.
- “Sunlight as the Best Disinfectant: Campaign Finance in Australia.” Democratic Audit of Australia, Australian National University. October 2006.
- “Return to the Norm,” *Brisbane Courier-Mail*, November 10, 2006.
- “The Return of the King? Presidential Power and the Law,” *PRG Report* XXVI, No. 2 (Spring 2004).
- Issue Briefs (Campaign Finance Reform, Homeland Security; Foreign Affairs and Defense Policy; Education; Budget and Economy; Entitlement Reform), *2004 Reporter’s Source Book*. Project Vote Smart. 2004. With Patricia Strach and Arnold Shober.
- “Where's That Crystal Ball When You Need It? Finicky Voters and Creaky Campaigns Made for a Surprise Electoral Season. And the Fun's Just Begun.” *Madison Magazine*. April 2002.
- “Capitol Overkill.” *Madison Magazine*, July 2002.
- Issue Briefs (Homeland Security; Foreign Affairs and Defense Policy; Education; Economy, Budget and Taxes; Social Welfare Policy), *2002 Reporter’s Source Book*. Project Vote Smart. 2002. With Patricia Strach and Paul Manna.
- “Presidential Emergency Powers.” *Oxford Analytica Daily Brief*. December 18, 2001.
- “An Analysis of the Issue of Issue Ads.” *Wisconsin State Journal*, November 7, 1999.
- “Background of Issue Ad Controversy.” *Wisconsin State Journal*, November 7, 1999.
- “Eliminating Public Funding Reduces Election Competition.” *Wisconsin State Journal*, June 27, 1999.
- Review of *Executive Privilege: The Dilemma of Secrecy and Democratic Accountability*, by Mark J. Rozell. *Congress and the Presidency* 24 (No. 1, 1997).
- “Like Marriage, New Presidency Starts In Hope.” *Wisconsin State Journal*. March 31, 1996.
- Review of *The Tyranny of the Majority: Fundamental Fairness in Representative Democracy*, by Lani Guinier. *Congress and the Presidency* 21: 149-151 (No. 2, 1994).
- Review of *The Best Defense: Policy Alternatives for U.S. Nuclear Security From the 1950s to the 1990s*, by David Goldfisher. *Science, Technology, and Environmental Politics Newsletter* 6 (1994).
- Review of *The Strategic Defense Initiative*, by Edward Reiss. *American Political Science Review* 87:1061-1062 (No. 4, December 1993).
- Review of *The Political Economy of Defense: Issues and Perspectives*, Andrew L. Ross ed. *Armed Forces and Society* 19:460-462 (No. 3, April 1993)
- Review of *Space Weapons and the Strategic Defense Initiative*, by Crockett Grabbe. *Annals of*

- the American Academy of Political and Social Science* 527: 193-194 (May 1993).
- “Limits Wouldn't Solve the Problem.” *Wisconsin State Journal*, November 5, 1992. With David T. Canon.
- “Convention Ceded Middle Ground.” *Wisconsin State Journal*, August 23, 1992.
- “CBS Economy Poll Meaningless.” *Wisconsin State Journal*, February 3, 1992.
- “It's a Matter of Character: Pentagon Doesn't Need New Laws, it Needs Good People.” *Los Angeles Times*, July 8, 1988.

Conference Papers

- “A New Individual-Level Model for Estimating and Simulating the Effects of Redistricting.” Presented at the 2023 Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 12-16, 2023. With Blake Reynolds.
- “Voter Identification and Nonvoting in Wisconsin – Evidence from the 2016 Election.” Presented at the 2018 Annual Meeting of the Midwest Political Science Association, Chicago, IL April 5-8, 2018. With Michael G. DeCrescenzo.
- “Learning from Recounts.” Presented at the Workshop on Electoral Integrity, San Francisco, CA, August 30, 2017, and at the 2017 Annual Meeting of the American Political Science Association, San Francisco, CA, August 31-September 3, 2017. With Stephen Ansolabehere, Barry C. Burden, and Charles Stewart, III.
- “What Happens at the Polling Place: Using Administrative Data to Understand Irregularities at the Polls.” Conference on New Research on Election Administration and Reform, Massachusetts Institute of Technology, Cambridge, MA, June 8, 2015. With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jake R. Neiheisel.
- “Election Laws and Partisan Gains: What are the Effects of Early Voting and Same Day Registration on the Parties' Vote Shares.” 2013 Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 11-14, 2013. Winner of the Robert H. Durr Award.
- “The Effect of Public Funding on Electoral Competition: Evidence from the 2008 and 2010 Cycles.” Annual Meeting of the American Political Science Association, Seattle, WA, September 1-4, 2011. With Amnon Cavari.
- “What Happens at the Polling Place: A Preliminary Analysis in the November 2008 General Election.” Annual Meeting of the American Political Science Association, Seattle, WA, September 1-4, 2011. With Barry C. Burden, David T. Canon, Donald P. Moynihan, and Jake R. Neiheisel.
- “Election Laws, Mobilization, and Turnout: The Unanticipated Consequences of Election Reform.” 2010 Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 2010. With Barry C. Burden, David T. Canon, Stéphane Lavertu and Donald P. Moynihan.
- “Selection Methods, Partisanship, and the Administration of Elections. Annual Meeting of the Midwest Political Science Association, Chicago, IL, April 22-25, 2010. Revised version presented at the Annual Meeting of the European Political Science Association, June 16-19, 2011, Dublin, Ireland. With Barry C. Burden, David T. Canon, Stéphane Lavertu and Donald P. Moynihan.
- “The Effects and Costs of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Elections.” Annual Meeting of the American Political Science Association, Toronto, Canada, September 3-5, 2009. With Barry C. Burden, David T. Canon, and

Donald P. Moynihan.

- “Comparative Election Administration: Can We Learn Anything From the Australian Electoral Commission?” Annual Meeting of the American Political Science Association, Chicago, IL, August 29-September 1, 2007.
- “Electoral Transitions in Connecticut: Implementation of Public Funding for State Legislative Elections.” Annual Meeting of the American Political Science Association, Chicago, IL, August 29-September 1, 2007. With Timothy Werner.
- “Candidate Gender and Participation in Public Campaign Finance Programs.” Annual Meeting of the Midwest Political Science Association, Chicago IL, April 7-10, 2005. With Timothy Werner.
- “Do Public Funding Programs Enhance Electoral Competition?” 4th Annual State Politics and Policy Conference,” Akron, OH, April 30-May 1, 2004. With Timothy Werner and Amanda Williams.
- “The Last 100 Days.” Annual Meeting of the American Political Science Association, Philadelphia, PA, August 28-31, 2003. With William Howell.
- “Hey, Wait a Minute: The Assumptions Behind the Case for Campaign Finance Reform.” Citizens’ Research Foundation Forum on Campaign Finance Reform, Institute for Governmental Studies, University of California Berkeley. August 2000.
- “The Importance of Moving First: Presidential Initiative and Executive Orders.” Annual Meeting of the American Political Science Association, San Francisco, CA, August 28-September 1, 1996.
- “Informational vs. Distributive Theories of Legislative Organization: Committee Membership and Defense Policy in the House.” Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 1993.
- “Department of Defense Contracts, Presidential Elections, and the Political-Business Cycle.” Annual Meeting of the American Political Science Association, Washington, DC, September 2-5, 1993.
- “Problem? What Problem? Congressional Micromanagement of the Department of Defense.” Annual Meeting of the American Political Science Association, Washington DC, August 29 - September 2, 1991.

Talks and Presentations

- “Turnout Effects of Voter ID Laws.” Rice University, March 23, 2018; Wisconsin Alumni Association, October 13, 2017. With Michael DeCrescenzo.
- “Informational and Turnout Effects of Voter ID Laws.” Wisconsin State Elections Commission, December 12, 2017; Dane County Board of Supervisors, October 26, 2017. With Michael DeCrescenzo.
- “Voter Identification and Nonvoting in Wisconsin, Election 2016. American Politics Workshop, University of Wisconsin, Madison, November 24, 2017.
- “Gerrymandering: Is There A Way Out?” Marquette University. October 24, 2017.
- “What Happens in the Districting Room and What Happens in the Courtroom” Geometry of Redistricting Conference, University of Wisconsin-Madison October 12, 2017.
- “How Do You Know? The Epistemology of White House Knowledge.” Clemson University, February 23, 2016.
- Roundtable Discussant, Separation of Powers Conference, School of Public and International Affairs, University of Georgia, February 19-20, 2016.

Campaign Finance Task Force Meeting, Stanford University, February 4, 2016.

Discussant, "The Use of Unilateral Powers." American Political Science Association Annual Meeting, August 28-31, 2014, Washington, DC.

Presenter, "Roundtable on Money and Politics: What do Scholars Know and What Do We Need to Know?" American Political Science Association Annual Meeting, August 28-September 1, 2013, Chicago, IL.

Presenter, "Roundtable: Evaluating the Obama Presidency." Midwest Political Science Association Annual Meeting, April 11-14, 2012, Chicago, IL.

Panel Participant, "Redistricting in the 2010 Cycle," Midwest Democracy Network,

Speaker, "Redistricting and Election Administration," Dane County League of Women Voters, March 4, 2010.

Keynote Speaker, "Engaging the Electorate: The Dynamics of Politics and Participation in 2008." Foreign Fulbright Enrichment Seminar, Chicago, IL, March 2008.

Participant, Election Visitor Program, Australian Electoral Commission, Canberra, ACT, Australia. November 2007.

Invited Talk, "Public Funding in State and Local Elections." Reed College Public Policy Lecture Series. Portland, Oregon, March 19, 2007.

Fulbright Distinguished Chair Lecture Tour, 2006. Public lectures on election administration and executive power. University of Tasmania, Hobart (TAS); Flinders University and University of South Australia, Adelaide (SA); University of Melbourne, Melbourne (VIC); University of Western Australia, Perth (WA); Griffith University and University of Queensland, Brisbane (QLD); Institute for Public Affairs, Sydney (NSW); The Australian National University, Canberra (ACT).

Discussant, "Both Ends of the Avenue: Congress and the President Revisited," American Political Science Association Meeting, September 2-5, 2004, Chicago, IL.

Presenter, "Researching the Presidency," Short Course, American Political Science Association Meeting, September 2-5, 2004, Chicago, IL.

Discussant, Conference on Presidential Rhetoric, Texas A&M University, College Station, TX. February 2004.

Presenter, "Author Meets Author: New Research on the Presidency," 2004 Southern Political Science Association Meeting, January 8-11, New Orleans, LA.

Chair, "Presidential Secrecy," American Political Science Association Meeting, August 28-31, 2003, Philadelphia, PA.

Discussant, "New Looks at Public Approval of Presidents." Midwest Political Science Association Meeting, April 3-6, 2003, Chicago, IL.

Discussant, "Presidential Use of Strategic Tools." American Political Science Association Meeting, August 28-September 1, 2002, Boston, MA.

Chair and Discussant, "Branching Out: Congress and the President." Midwest Political Science Association Meeting, April 19-22, 2001, Chicago, IL.

Invited witness, Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, U.S. House of Representatives. *Hearing on Executive Order and Presidential Power*, Washington, DC. March 22, 2001.

"The History of the Executive Order," Miller Center for Public Affairs, University of Virginia (with Griffin Bell and William Howell), January 26, 2001.

Presenter and Discussant, Future Voting Technologies Symposium, Madison, WI May 2, 2000.

Moderator, Panel on Electric Utility Reliability. Assembly Staff Leadership Development

Seminar, Madison, WI. August 11, 1999.
Chair, Panel on "Legal Aspects of the Presidency: Clinton and Beyond." Midwest Political Science Association Meeting, April 15-17, 1999, Chicago, IL.
Session Moderator, National Performance Review Acquisition Working Summit, Milwaukee, WI. June 1995.
American Politics Seminar, The George Washington University, Washington D.C., April 1995.
Invited speaker, Defense and Arms Control Studies Program, Massachusetts Institute of Technology, Cambridge, MA, March 1994.
Discussant, International Studies Association (Midwest Chapter) Annual Meeting, Chicago IL, October 29-30, 1993.
Seminar on American Politics, Princeton University, January 16-17, 1992.
Conference on Defense Downsizing and Economic Conversion, October 4, 1991, Harvard University.
Conference on Congress and New Foreign and Defense Policy Challenges, The Ohio State University, Columbus OH, September 21-22, 1990, and September 19-21, 1991.
Presenter, "A New Look at Short Term Change in Party Identification," 1990 Meeting of the American Political Science Association, San Francisco, CA.

University and Department Service

Cross-Campus Human Research Protection Program (HRPP) Advisory Committee, 2019-present.
UW Athletic Board, 2014-2022.
General Education Requirements Committee (Letters and Science), 1997-1998.
Communications-B Implementation Committee (Letters and Science), 1997-1999
Verbal Assessment Committee (University) 1997-1998.
College of Letters & Science Faculty Appeals Committee (for students dismissed for academic reasons).
Committee on Information Technology, Distance Education and Outreach, 1997-98.
Hilldale Faculty-Student Research Grants, Evaluation Committee, 1997, 1998.
Department Computer Committee, 1996-1997; 1997-1998, 2005-2006. Chair, 2013-present.
Faculty Senate, 2000-2002, 2002-2005. Alternate, 1994-1995; 1996-1999; 2015-2016.
Preliminary Exam Appeals Committee, Department of Political Science, 1994-1995.
Faculty Advisor, Pi Sigma Alpha (Political Science Honors Society), 1993-1994.
Department Honors Advisor, 1991-1993.
Brown-bag Seminar Series on Job Talks (for graduate students), 1992.
Keynote speaker, Undergraduate Honors Symposium, April 13 1991.
Undergraduate Curriculum Committee, Department of Political Science, 1990-1992; 1993-1994.
Individual Majors Committee, College of Letters and Sciences, 1990-1991.
Dean Reading Room Committee, Department of Political Science, 1989-1990; 1994-1995.

Teaching

Undergraduate

Introduction to American Government (regular and honors)
The American Presidency
Campaign Finance
Election Law

Classics of American Politics
Presidential Debates
Comparative Electoral Systems
Legislative Process
Theories of Legislative Organization
Senior Honors Thesis Seminar

Graduate

Contemporary Presidency
American National Institutions
Classics of American Politics
Legislative Process

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

DENNIS EUCKE et al.,

Plaintiffs,

v.

WISCONSIN ELECTIONS
COMMISSION et al.,

Defendants.

Case No. 2024CV007822
Case Code: 30952

[PROPOSED] ORDER ON MOTION TO DISMISS

The Court has considered the Motion to Dismiss filed by Proposed Intervenor-Defendants Black Leaders Organizing for Communities, Souls for the Polls, and WISDOM.

IT IS HEREBY ORDERED:

The Motion to Dismiss submitted by Black Leaders Organizing for Communities, Souls for the Polls, and WISDOM is **GRANTED**, and the case is dismissed with prejudice.