

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Reverend Greg Lewis, Souls To The Polls, Voces De La Frontera, Black Leaders Organizing For Communities, American Federation Of Teachers Local, 212, AFL-CIO, SEIU Wisconsin State Council, and League Of Women Voters Of Wisconsin,

Plaintiffs,

v.

Dean Knudson, Julie M. Glancey, Robert F. Spindell, Jr., Mark L. Thomsen, Ann S. Jacobs, Marge Bostelmann, in their official capacity as members of the Wisconsin Election Commission, and Meagan Wolfe, in her official capacity as the Administrator of the Wisconsin Elections Commission,

Defendants,

and

Republican National Committee, Republican Party of Wisconsin, and the Wisconsin State Legislature,

Intervenor-Defendants.

Case No. 3:20-cv-284-wmc
(consolidated with Case Nos.
3:20-cv-249-wmc and
3:20-cv-278-wmc)

**THE WISCONSIN LEGISLATURE'S PARTIAL OPPOSITION
TO *LEWIS* PLAINTIFFS' MOTION TO VOLUNTARILY DISMISS
PURSUANT TO RULE 41(A)(2) WITH COSTS**

The Legislature agrees with the *Lewis* Plaintiffs that dismissal is proper. Their lawsuit—which, to the extent not wholly duplicative of other plaintiffs' requests, was focused on a failed effort to get the federal courts to postpone the April 7 Election—was “rendered moot by the conclusion” of that election. *DNC* Dkt. 205 at 2; *see Tobin for Governor v. Ill. State Bd. of Elections*, 268 F.3d 517, 528 (7th Cir. 2001).

The Legislature further notes that Plaintiffs should not be permitted to seek recovery of statutory costs, expenses, or attorneys' fees from any Defendants. Plaintiffs have now moved to dismiss their own lawsuit, and they lost even on the overwhelming majority of their arguments at the preliminary injunction and appellate stages before that. *See DNC Dkt. 170; DNC Dkt. 189* (Seventh Circuit's Order); *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 140 S. Ct. 1205, 1206 (2020) (per curiam); *see generally Sole v. Wyner*, 551 U.S. 74 (2007). In any event, Plaintiffs could not possibly obtain any type of cost/expenses recovery or attorneys' fees from the real-party-in-interest defendant here—the State of Wisconsin—because no party authorized to represent the State was permitted to take part in the relevant proceedings before this Court. *See Scott v. Donald* 165 U.S. 107, 117 (1897). Should any Plaintiffs nonetheless move for any costs/expense recovery or fee award, the Legislature reserves the right to oppose such motion at the appropriate time.

Dated: May 28, 2020

RYAN J. WALSH
AMY MILLER
EIMER STAHL LLP
10 East Doty Street, Ste. 800
Madison, WI 53703
(608) 442-5798
(608) 441-5707 (fax)
rwalsh@eimerstahl.com
amiller@eimerstahl.com
*Counsel for Intervenor-Defendant
Wisconsin Legislature in Lewis*

Respectfully Submitted,

/s/ Misha Tseytlin
MISHA TSEYTLIN
Counsel of Record
KEVIN M. LEROY
TROUTMAN SANDERS LLP
227 W. Monroe Street, Ste. 3900
Chicago, IL 60606
(608) 999-1240
(312) 759-1939 (fax)
misha.tseytlin@troutman.com
kevin.leroy@troutman.com
*Counsel for Intervenor-Defendant
Wisconsin Legislature in DNC, Gear,
and Lewis*

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of May, 2020, a true and accurate copy of the foregoing was served via the Court's CM/ECF system upon all counsel of record.

/s/ Misha Tseytlin

MISHA TSEYTLIN

TROUTMAN SANDERS LLP

227 W. Monroe Street

Suite 3900

Chicago, IL 60606

(608) 999-1240

(312) 759-1939 (fax)

misha.tseytlin@troutman.com