

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

DEMOCRATIC NATIONAL COMMITTEE
and DEMOCRATIC PARTY OF WISCONSIN,

Plaintiffs,

v.

Case No. 20-cv-249-wmc

MARGE BOSTELMANN, JULIE M. GLANCEY, ANN S.
JACOBS, DEAN KNUDSON, ROBERT F. SPINDELL, JR.
and MARK L. THOMSEN,

Defendants,

and

REPUBLICAN NATIONAL COMMITTEE
and REPUBLICAN PARTY OF WISCONSIN,

Intervening Defendants.

SYLVIA GEAR, CLAIRE WHELAN, WISCONSIN
ALLIANCE FOR RETIRED AMERICANS, LEAGUE
OF WOMEN VOTERS OF WISCONSIN, KATHERINE
KOHLBECK, DIANE FERGOT, GARY FERGOT,
BONIBET BAHR OLSAN, SHEILA JOZWIK, and
GREGG JOZWIK,

Plaintiffs,

v.

Case No. 20-cv-278-wmc

MARGE BOSTELMANN, JULIE M. GLANCEY, ANN S.
JACOBS, DEAN KNUDSON, ROBERT F. SPINDELL, JR.,
MARK L. THOMSEN, and MEAGAN WOLFE,

Defendants.

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.

Case No. 20-cv-284-wmc

MARGE BOSTELMANN, JULIE M. GLANCEY, ANN S.
JACOBS, DEAN KNUDSON, ROBERT F. SPINDELL, JR.,
MARK L. THOMSEN, and MEAGAN WOLFE,

Defendants.

**WEC DEFENDANTS' RESPONSE TO GEAR PLAINTIFFS'
PROPOSED FINDINGS OF FACT**

The WEC Defendants respond to the Gear Plaintiffs' Proposed Findings of Fact as follows:

I. The Covid-19 Pandemic

1. The threat of airborne transmission of SARS-CoV-2, the virus that causes Covid-19, in indoor settings where people congregate, like a polling place, is real, substantial, and not meaningfully mitigated by any of the available protective measures. Murray Decl. ¶¶ 6-20, 32-44.

RESPONSE NO. 1: Disputed. See paragraphs 12 & 13, of the Murray report; 20 CV 459 Dkt. 44, pp. 3, 15.

2. The risk of in-person voting facilitating the transmission of Covid-19 was on full display after the April 7 election in Wisconsin. As Dr. Murray concludes after analyzing several studies on the post-election Covid-19 transmission dynamics, "despite labor-intensive and costly efforts to maintain the safety of in-person voting during the [April 7] Wisconsin election, a rigorous

study provides support for the contention that this election increased Covid-19 transmission.” Murray Decl. ¶¶ 60-65.

RESPONSE NO. 2: : Disputed in part. Dr. Murray’s declaration reviewed 3 studies, two of which showed that there was not a surge in COVID-19 cases and one that did. Murray Decl. ¶¶ 61, 65.

3. As of the early morning of July 8, 2020, there were more than 3.0 million confirmed cases in the United States, and there have been 131,285 deaths nationwide. Sherman Decl., Ex. 4, Mitch Smith et al, *Coronavirus in the U.S.: Latest Map and Case Count*, N.Y. TIMES <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> (last accessed July 8, 2020).

RESPONSE NO. 3: Not disputed.

4. As of the early morning of July 8, 2020, the Wisconsin Department of Health Services had confirmed 32,556 positive cases of coronavirus in Wisconsin, 3,639 hospitalizations, and 805 deaths. Sherman Decl., Ex. 5, Wisconsin Department of Health Services, *COVID-19: Wisconsin Summary Data*, <https://www.dhs.wisconsin.gov/outbreaks/index.htm> (last accessed July 8, 2020).

RESPONSE NO. 4: Not disputed.

5. COVID-19 appears to be much more contagious than other respiratory illnesses, in significant part because of its capacity for asymptomatic transmission, and highly lethal, particularly for people with underlying health conditions or comorbidities that put them at severe risk of complications or death. According to the U.S. Centers for Disease Control and Prevention, (“CDC”), individuals are at higher risk of severe complications and death from Covid-19 if they are 65 years old or older or have underlying health conditions and diseases, including Chronic

kidney disease, COPD (chronic obstructive pulmonary disease), immunocompromised state (weakened immune system) from solid organ transplant, obesity (body mass index [BMI] of 30 or higher), serious heart conditions, such as heart failure, coronary artery disease, or cardiomyopathies, sickle cell disease, and Type 2 diabetes mellitus. Sherman Decl., Ex. 6, Coronavirus Disease 2019 (COVID-19), *People of Any Age with Underlying Medical Conditions*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last updated June 25, 2020).

RESPONSE NO. 5: Not disputed.

6. The CDC also notes that individuals with the following conditions or diseases *may* be at increased risk from Covid-19: asthma (moderate to severe), cerebrovascular disease (affects blood vessels and blood supply to the brain), cystic fibrosis, hypertension or high blood pressure, immunocompromised state (weakened immune system) from blood or bone marrow transplant, immune deficiencies, HIV, use of corticosteroids, or use of other immune weakening medicines, neurologic conditions, such as dementia, liver disease, pregnancy, pulmonary fibrosis (having damaged or scarred lung tissues), smoking, thalassemia (a type of blood disorder), and Type 1 diabetes mellitus. Sherman Decl., Ex. 6, Coronavirus Disease 2019 (COVID-19), *People of Any Age with Underlying Medical Conditions*, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last updated June 25, 2020); Murray Decl. ¶¶ 6-13, 28, 79-81.

RESPONSE NO. 6: Not disputed.

7. This virus spreads through respiratory droplets that are attached to the surfaces of objects or are suspended in air and transmitted via inhalation and “emitted during coughs, sneezes or even talking.” Murray Decl. ¶¶ 8-13, 34.

RESPONSE NO. 7: Not disputed.

8. Since it can be transmitted “by symptomatic and asymptomatic people” alike, individuals can spread the disease before realizing they are infected and self-quarantining. Murray Decl. ¶¶ 8-9, 32-33, 42.

RESPONSE NO. 8: Not disputed.

9. The CDC has also warned that asymptomatic COVID-19-positive individuals can transmit the disease to others. As a result, voters can spread the disease at a polling place before they even realize they are infected. Sherman Decl., Ex. 7, *Coronavirus 2019 (COVID-19): How to Prepare*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html> (last updated Mar. 4, 2020); Murray Decl. ¶¶ 8-9, 32-33, 42.

RESPONSE NO. 9: Not disputed.

10. Though Covid-19 typically begins with “a flu-like illness that starts out with fever, cough, sore throat and shortness of breath,” some people “develop much more serious illness, characterized by respiratory compromise due to pneumonia that can be gradual or sudden.” Murray Decl. ¶¶ 6, 21, 22.

RESPONSE NO. 10: Not disputed.

11. The major complication in patients with severe disease is acute respiratory distress syndrome (“ARDS”), which commonly requires patients to be put on a ventilator. Murray Decl. ¶¶ 7, 23.

RESPONSE NO. 11: Not disputed.

12. People who develop severe complications and require mechanical ventilation to survive ARDS “are likely to develop lung scarring that may permanently impair their pulmonary

function” or, in the case of stroke, “long-term neurological deficits from these events.” Murray Decl. ¶¶ 7, 26.

RESPONSE NO. 12: Not disputed.

13. In critical cases, Covid-19 can be fatal. Murray Decl. ¶¶ 27-31.

RESPONSE NO. 13: Not disputed.

14. Infections are more common in people younger than 50. Murray Decl. ¶ 31. Even young individuals, including children, are at risk of severe complications and death from COVID-19. Murray Decl. ¶¶ 24-25. In fact, because 66 percent of the U.S. population is under 50, Dr. Murray notes that “deaths among people under 50 will not be uncommon as the epidemic progresses over time.” Murray Decl. ¶ 31.

RESPONSE NO. 14: Not disputed.

15. It is highly likely that COVID-19 will continue to circulate at its current level or at an even higher level in October and November of 2020. Murray Decl. ¶¶ 10, 66.

RESPONSE NO. 15: Not disputed.

16. The COVID-19 pandemic is expected to produce steady or increased transmission in the United States through the fall, as voters seek to cast their ballots on or before Election Day. Dr. Megan Murray notes in her declaration that within the range of different possible scenarios for COVID-19 epidemic trajectories, “all of these scenarios are similar in that they predict that it is highly likely that Covid-19 will continue to circulate at its current level or at an even higher level than currently in October and November of 2020.” Murray Decl. ¶ 66.

RESPONSE NO. 16: Not disputed.

17. Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases, has said a second wave of infections in the United States is “inevitable.” Sherman Decl.,

Ex. 8, *Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing*, White House (Mar. 25, 2020), at 84 <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-11/>.

RESPONSE NO. 17: Not disputed.

18. CDC Director Robert Redfield has said that wave may “be even more difficult than the one we just went through.” Sherman Decl., Ex. 9, H. Rept. 116-420, *Authorizing Remote Voting by Proxy in the House of Representatives and Providing for Official Remote Committee Proceedings During a Public Health Emergency Due to a Novel Coronavirus, and For Other Purposes*, at 7, available at <https://www.congress.gov/congressional-report/116th-congress/house-report/420/1>.

RESPONSE NO. 18: Not disputed.

19. In his recent testimony to Congress, Dr. Redfield stated: “I want to make it clear we are going to experience significant coronavirus infection in the fall and winter of 2020.” Sherman Decl., Ex. 10, House Committee on Energy and Commerce, *Oversight of the Trump Administration's Response to the COVID-19 Pandemic*, 3:54:02, YOUTUBE (June 23, 2020), <https://www.youtube.com/watch?v=TX-x9tAmx6Q>.

RESPONSE NO. 19: Not disputed.

20. While seasonal changes as to temperature and humidity may or may not ultimately have a significant impact on Covid-19’s transmission, the risk of transmission in the fall and winter will track “differences in the ways people congregate,” as “people tend to spend more time indoors with less ventilation and less personal space than they do in the summer.” Murray Decl. ¶ 72.

RESPONSE NO. 20: Not disputed.

21. With additional contacts, particularly in indoor settings, comes increased risk of infection. Murray Decl. ¶¶ 71-72.

RESPONSE NO. 21: Not disputed.

22. Based on studies of previous influenza epidemics, Dr. Murray notes that the “most likely scenario” is that “the current first wave of Covid-19 will be followed by a larger wave in the fall or winter of 2020 and one or more smaller subsequent waves in 2021,” and that “most epidemiologists expect that incidence will increase in the fall/winter months of 2020-2021.” Murray Decl. ¶¶ 74-75. Dr. Murray has stated that: “In the period prior to the widespread use of an effective vaccine, this spread will continue to lead to serious disease and death in at-risk groups.” Murray Decl. ¶ 77.

RESPONSE NO. 22: Not disputed.

23. Progress towards herd immunity and vaccine development and production are unlikely to advance sufficiently quickly to significantly alter the trajectory of the COVID-19 outbreak. Murray Decl. ¶¶ 68, 82-83.

RESPONSE NO. 23: Not disputed that this is Dr. Murray’s opinion.

24. There are no known pharmaceutical treatments that substantially reduce the danger of Covid-19. Murray Decl. ¶¶ 9, 43, 85.

RESPONSE NO. 24: Not disputed.

25. According to Dr. Murray’s report, “There is a substantial risk that an infection with Covid-19 acquired during voting at a poll place in Wisconsin in the fall of 2020 could result in symptomatic disease, hospitalization or death.” That is because “[t]o the extent that polling places are crowded, require people to wait in lines, involve interacting with polling staff or other voters at a close distance, move people through the process slowly, are poorly ventilated and/or involve

people touching objects like pens, paper, or surfaces within the voting booth, they constitute a risk to voters.” Murray Decl. ¶¶ 11, 47.

RESPONSE NO. 25: Disputed in part. Not disputed that Dr. Murray’s report makes these statements, however Dr. Remington’s report provides 5 measures that local polling places can implement to reduce the risk of spreading the disease. (20 CV 459 Dkt. 44, pp. 3, 15-19).

26. Despite precautions taken during the April 7, 2020 election to protect in-person voters, “the Wisconsin department of health services detected 71 cases that they consider may have resulted from in-person voting, and a recent study found that counties with higher than average in person voting had twice the rate of Covid-19 positive tests in the weeks that followed the election.” Murray Decl. ¶¶ 13, 65.

RESPONSE NO. 26: Not disputed.

27. A Kaiser Family Foundation analysis found that “37% of adults over age 18 in Wisconsin are at risk for serious disease with older adults making up 59% of those at high risk.” Murray Decl. ¶ 81.

RESPONSE NO. 27: Not disputed.

II. Absentee Voting During the April 7 Election

28. The threat of contracting COVID-19, particularly in confined spaces like polling sites and the long lines of voters who waited for their turn to access them on April 7, along with the precipitous reduction in election administration resources (including poll workers) for in-person voting both on and before Election Day, have forced a seismic shift towards mail-in absentee voting in Wisconsin. Sherman Decl., Ex. 1, Wisconsin Elections Commission, April 7, 2020 Absentee Voting Report (May 15, 2020) (“Post-Election Absentee Voting Report”), at 3-6; Murray Decl. ¶ 13.

RESPONSE NO. 28: Disputed in that the cited materials do not support the factual contention. It is undisputed that many more people voted absentee in the April 7, 2020 election.

29. According to the Wisconsin Elections Commission's ("WEC" or "the Commission") "Post-Election Absentee Voting Report," mail-in absentee ballots have been cast by 4.8 to 8.1 percent of voters in spring and fall general elections going back to the 2016 fall general election, but in the April 7, 2020 election, they comprised a stunning 61.8 percent of votes cast. Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 6 (Table 4).

RESPONSE NO. 29: Not disputed.

30. In that election, voters submitted an unprecedented total of 1,239,611 absentee ballot requests to municipal clerks, clerks issued 1,282,097 absentee ballots (which, of course, includes replacement ballots), and voters returned 1,157,599 of those ballots, or 73.2 percent of the total turnout in the election, 1,555,263. Sherman Decl., Ex. 11, Absentee Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary (updated Apr. 21, 2020), <https://elections.wi.gov/node/6862>; Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 4 (Table 2), 5 (Table 3).

RESPONSE NO. 30: Not disputed.

31. Only a fraction of these were in-person absentee ballots, as 964,433 or 83.3 percent of the 1,157,599 absentee ballots were mail-in absentee ballots. Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 4 (Table 1).

RESPONSE NO. 31: 17% of the absentee ballots were in person absentee ballots.

32. Based on these figures, 42,486 of the mail-in absentee ballots were replacement ballots, many chasing previously-requested ballots that were delayed or lost in the mail, and 124,498 mail-in absentee ballots were ultimately never returned. Sherman Decl. Ex. 11, Absentee

Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary (updated Apr. 21, 2020), <https://elections.wi.gov/node/6862>.

RESPONSE NO. 32: Disputed to the extent that the plaintiffs are claiming that unreturned absentee ballots represented a failing of the system. The percentage of unreturned ballots is consistent with previous elections.

33. Notwithstanding municipal clerks' heroic efforts to prepare and mail out an unprecedented volume of absentee ballots, voters in the April 7th election faced a systemic and catastrophic failure to timely prepare and deliver absentee ballots by mail. Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 13-20.

RESPONSE NO. 33: Objection. This proposed fact is argument that is not supported by the cited materials. Without waiving this objection, disputed. The cited report describes problems that local election officials and the post office faced given the volume of requests, but does not conclude that these issues were systemic nor does it conclude they were catastrophic.

34. The total number of voters disenfranchised due to absentee ballot preparation and delivery failures is unknown, but as recounted by Defendants in their Post-Election Absentee Voting Report, at least several thousand voters never received their ballots in the mail. Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 13-20.

RESPONSE NO. 34: Objection. This proposed fact is argument. To the extent that the plaintiffs are suggesting that these defendants were the cause of people being unable to vote by the use of the word disenfranchised, that is an inaccurate characterization of the events. There is no dispute that there voters who did not receive their ballots in the mail, but it is also unknown how many of these voters then went to the polls and voted.

35. Meagan Wolfe, WEC's Administrator, has testified that the Post-Election Absentee Voting Report does not include all the absentee ballot delivery failures her office recorded by WEC or a municipal clerk's office, just those that rose "to the level of a trend." Sherman Decl, Ex. 2, Wolfe Tr. at 82:1-4.

RESPONSE NO. 35: Not disputed.

36. According to Defendants' own rolling absentee ballot reports, as of the morning of April 7, the last day to postmark a ballot for delivery or drop it off, it appears that 9,388 ballots had not yet been mailed out. Sherman Decl., Ex. 12, Absentee Ballot Report - April 7, 2020 Spring Election and Presidential Preference Primary (updated Apr. 7, 2020 at 7:30 a.m.), <https://elections.wi.gov/node/6825>.

RESPONSE NO. 36: Not disputed.

37. Some voters received their ballots too late to cast and deliver or postmark them by April 7th, Ackerbauer Decl. ¶ 11, Thompson Decl. ¶¶ 5, 7, while some voters never received them at all, even weeks or months later. Kohlbeck Decl. ¶ 9; Diane Fergot Decl. ¶ 7; Gary Fergot Decl. ¶ 7; Bahr Olsan Decl. ¶ 6; Sheila Jozwik Decl. ¶ 7; Gregg Jozwik Decl. ¶ 7; Harrell Decl. ¶ 5; Krejci Decl. ¶ 7; Lohrenz Decl. ¶ 5; Newby Decl. ¶ 5; Wood Decl. ¶ 6.

RESPONSE NO. 37: Not disputed.

38. Absent any fail-safe alternatives for these voters who diligently and timely requested absentee ballots, Plaintiffs' remaining options were to play Russian roulette with their health at the polls or lose their right to vote. Kohlbeck Decl. ¶ 9; Diane Fergot Decl. ¶ 7; Gary Fergot Decl. ¶ 7; Bahr Olsan Decl. ¶ 8; Sheila Jozwik Decl. ¶ 8; Gregg Jozwik Decl. ¶ 8; Harrell Decl. ¶ 8; Krejci Decl. ¶ 8; Lohrenz Decl. ¶ 9; Newby Decl. ¶ 8; Thompson Decl. ¶ 6; Wood Decl. ¶ 6.

RESPONSE NO. 38: Objection. This proposed fact is argument. Without waiving this objection, it is not disputed that that the declarants had the issues stated in their declarations.

39. As Defendants put it in their post-mortem report, “The most fundamental challenge faced by election officials was simply meeting the unprecedented demand.” *See* Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 13.

RESPONSE NO. 39: Objection. This proposed fact is argument. Without waiving this objection it is not disputed that the demand for absentee ballots was greater than in any previous election.

40. The Post-Election Absentee Voting Report notes that: “Absentee voting remains a largely manual, labor-intensive process administered by each individual jurisdiction across the state. While voters can request a ballot and upload a photo ID on their smart phone in just a few minutes, behind the scenes clerks must still manually verify the IDs, stuff and seal envelopes by hand, apply postage, carry boxes of envelopes to the post office, and physically check off each request. . . . When mail volume is up to ten times higher than anticipated, clerks must complete the same tasks without the benefit of having more staff, additional supplies or more hours to meet statutory deadlines.” Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 3.

RESPONSE NO. 40: Disputed in part. While this was a true statement when it was made, it is no longer completely accurate based on the efforts of the defendants in preparation for the November election. (Wolfe Dep. Part1 p. 80:1-21).

41. The April 7, 2020 election set the record for most mail-in ballots ever cast in any Wisconsin election ever. Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 3.

RESPONSE NO. 41: Not disputed.

42. The Commission reports that “[a]s the enormous quantity of absentee ballots began entering the mail system, voters began asking more questions and expressing concerns about ballot deliveries. With nearly six times more ballots in circulation, the number of complaints and concerns increased by a similar amount. Some voters also reported not receiving their absentee ballots” Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 12.

RESPONSE NO. 42: Not disputed.

43. Voters who requested their mail-in absentee ballots weeks in advance of April 7th, such as Plaintiffs Katherine Kohlbeck, Diane Fergot, Gary Fergot, Bonibet Bahr Olsen, Sheila Jozwik, and Gregg Jozwik, as well as Declarants Michele Harrell, Marina Krejci, Megan Lohrenz, Halee Newby, and Christopher Wood, never received their ballots in the mail, even after Election Day. Kohlbeck Decl. ¶ 9; Diane Fergot Decl. ¶ 7; Gary Fergot Decl. ¶ 7; Bahr Olsan Decl. ¶ 6; Sheila Jozwik Decl. ¶ 7; Gregg Jozwik Decl. ¶ 7; Harrell Decl. ¶ 5; Krejci Decl. ¶ 7; Lohrenz Decl. ¶ 5; Newby Decl. ¶ 5; Wood Decl. ¶ 6.

RESPONSE NO. 43: Not disputed.

44. All of these Plaintiffs and Declarants were in Wisconsin at the time of the election and requested the ballots be mailed to their residential addresses. Kohlbeck Decl. ¶¶ 5, 9; Diane Fergot Decl. ¶¶ 5-6; Gary Fergot Decl. ¶¶ 5-6; Bahr Olsan Decl. ¶ 6; Sheila Jozwik Decl. ¶ 4; Gregg Jozwik Decl. ¶ 4; Ackerbauer Decl. ¶ 8; Harrell Decl. ¶ 5; Lohrenz Decl. ¶ 6; Newby Decl. ¶ 6; Krejci Decl. ¶ 7; Thompson Decl. ¶ 6; Wood Decl. ¶ 6.

RESPONSE NO. 44: Not disputed.

45. Many voters like Plaintiffs Katherine Kohlbeck, Diane Fergot, and Gary Fergot, as well as Declarants Diane Ackerbauer, Michele Harrell, Megan Lohrenz, and Halee Newby, contacted their municipal clerks’ offices to inquire about their missing absentee ballots, all to no

avail. Kohlbeck Decl. ¶ 8; Diane Fergot Decl. ¶ 6; Gary Fergot Decl. ¶ 6; Ackerbauer Decl. ¶ 8; Harrell Decl. ¶ 5; Lohrenz Decl. ¶ 6; Newby Decl. ¶ 6.

RESPONSE NO. 45: Not disputed that the plaintiffs' declarations state they did not get their absentee ballots and that they contacted their local clerks.

46. Others believed they would arrive by Election Day, allowing them time to vote the ballots and postmark or drop them off. Bahr Olsan Decl. ¶ 7; Sheila Jozwik Decl. ¶ 7; Gregg Jozwik Decl. ¶ 7; Krejci Decl. ¶ 7; Thompson Decl. ¶ 6; Wood Decl. ¶ 6.

RESPONSE NO. 46: Not disputed.

47. WEC has released a report on absentee voting in the April 7, 2020 election, which recounts the multifarious and alarming failures to put absentee ballots in voters' hands, that recounted that "Oshkosh and other Fox Valley communities all reported voters complaining that their ballots were arriving late or not arriving at all." WEC could not ascertain why this had occurred. Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 16.

RESPONSE NO. 47: Objection. This proposed fact is argument. Without waiving this objection, disputed in part. The WEC did not fail to put any ballots in voters' hands as it is not the job of the WEC to do so. §§ 6.82, 7.15, 7.30. In addition, the cited portion of the report discusses issues with the post office, not "multifarious" failures.

48. The day after the election, USPS notified WEC that it had found three tubs of approximately 1,600 absentee ballots destined for Appleton and Oshkosh; no explanation was given, and none has been discovered or provided since then. Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 16; Sherman Decl., Ex. 2, Wolfe Tr. at 85:20-86:5; 88:12-89:3; 121:13-17.

RESPONSE NO. 48: Not disputed.

49. In the Village of Fox Point, USPS bizarrely and repeatedly returned absentee ballots to the clerk's office without explanation as to any defect precluding delivery, culminating in the return of 100 to 150 returned ballots *per day* in the week leading up to Election Day and 175 returned in a plastic mail bin on Election Day. *See* Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 16-17.

RESPONSE NO. 49: Objection. This proposed fact is argument. Without waiving this objection, it is not disputed that ballots were returned in Fox Point.

50. In response to these inexplicable absentee ballot delivery failures, both of Wisconsin's U.S. Senators called upon the Inspector General of the U.S. Postal Service to investigate "absentee ballots not being delivered in a timely manner." Sherman Decl., Ex. 13, Letter from Senators Tammy Baldwin and Ron Johnson to U.S. Postal Service Inspector General (Apr. 9, 2020), <https://www.ronjohnson.senate.gov/public/cache/files/9485956c-0c16-4f38-9be0-f8d45e926aac/baldwin-johnson-letter-to-usps-ig-on-wisconsin-absentee-ballots.pdf>.

RESPONSE NO. 50: Not disputed.

51. The WEC's report notes that "[r]esidents who did not receive an absentee ballot in the mail were advised to vote in person at their polling place on Election Day," but that was not a viable, safe option for at-risk voters. *See* Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 16-17.

RESPONSE NO. 51: Disputed in part. The cited document indicates that voters were told to vote in person if they had not received their ballot but it does not discuss the safety or viability of voting in person.

52. USPS was also unable to explain what happened in Fox Point. Sherman Decl., Ex. 2, Wolfe Tr. at 88:12-89:3; 121:18-21.

RESPONSE NO. 52: Not disputed.

53. WEC's Administrator Meagan Wolfe has testified that she had "significant concerns" with these USPS problems. Sherman Decl., Ex. 2, Wolfe Tr. at 84:1-2.

RESPONSE NO. 53: Not disputed.

54. In Milwaukee, on March 22, 2020, as a result of human and computer error or delay, "2,693 requested ballots were never sent to City of Milwaukee residents. Of the affected voters, 52.5% voted in the election either on a replacement absentee ballot or at the polls on election day." This incident therefore disenfranchised approximately 1,279 voters, who lost their right to vote through no fault of their own. They had timely requested their ballots more than two weeks before Election Day and, believing that the mail was delayed and that they had no other alternatives for ballot delivery, watched the days elapse and finally Election Day go by without receiving an absentee ballot in the mail. *See* Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 19-20.

RESPONSE NO. 54: Disputed in part. The cited document does not reflect what the voters believed or why they decided not to vote on election day.

55. Absentee ballot delivery failures were experienced by voters statewide. Even without comprehensive statewide data, the record shows that voters did not receive their absentee ballots on time, or at all, in municipalities across Wisconsin, including Fox Point, Oshkosh, Appleton, Milwaukee, Brookfield. Decl. Diane Fergot ¶¶ 1, 7 (Oshkosh); Decl. Gary Fergot ¶¶ 1, 7 (Oshkosh); Decl. Olsan ¶¶ 1, 6 (Appleton); Decl. Sheila Jozwik ¶¶ 1, 7 (Brookfield); Decl. Kohlbeck ¶¶ 1, 5 (Milwaukee); Decl. Greg Jozwik ¶¶ 1, 7 (Brookfield).

RESPONSE NO. 55: Not disputed.

56. The turnout in the April 7 election was 1,555,263 of Wisconsin's voters—less than half of all registered voters. Sherman Decl., Ex. 14, Wisconsin Elections Commission, Canvass Results for 2020 Spring Election and Presidential Preference Vote, https://elections.wi.gov/sites/elections.wi.gov/files/Canvass%20Results%20Summary_spring%20election%20all%20contests_4_7_2020.pdf; Sherman Decl., Ex. 15, Wisconsin Elections Commission, July 1, 2020 Voter Registration Statistics, <https://elections.wi.gov/node/6948>.

RESPONSE NO. 56: Not disputed.

57. Wisconsin has 1,850 municipal clerks. Sherman Decl., Ex. 2, Wolfe Tr. at 109:1-5.

RESPONSE NO. 57: Not disputed.

58. Wisconsin had 3,406,952 registered voters as of July 1, 2020. Sherman Decl., Ex. 15, Wisconsin Elections Commission, July 1, 2020 Voter Registration Statistics, <https://elections.wi.gov/node/6948>.

RESPONSE NO. 58: Not disputed.

59. In 2016, 2,976,150 voters cast ballots for President. Sherman Decl., Ex. 16, Wisconsin Elections Commission, Canvass Results for 2016 General Election, <https://elections.wi.gov/sites/elections.wi.gov/files/Statewide%20Results%20All%20Offices%20%28post-Presidential%20recount%29.pdf>.

RESPONSE NO. 59: Not disputed.

60. If the same number of voters who voted in the 2016 presidential election vote in the fall general election, and, as in the April 7 election, 61.8 percent of those ballots cast are mail-in absentee ballots, municipal clerks will need to process a *minimum* of 1,839,260 absentee ballot requests and successfully deliver the same number by mail. Assuming the 1 to 1.129 ratio of

returned mail-in ballots to total issued mail-in absentee ballots holds from the April 7 election, then clerks will need to process over 2 million mail-in absentee ballot requests and issue the same number of ballots this fall. *See supra* Nos. 28-59.

RESPONSE NO. 60: Not disputed.

61. The level of mail-ballot usage in the April 7, 2020 election stands in stark contrast to the 2016 fall general election, in which just 162,445 absentee ballots were returned by mail and other means such as special voting deputies (excluding *in-person* absentee voting), and which constitutes about one-sixth of the total such ballots cast in the April 7 election and just 8.83 percent of the projected total for the 2020 fall general election. Sherman Decl., Ex. 3, Wisconsin Elections Commission, Absentee Ballot Report (Nov. 8, 2016), <https://elections.wi.gov/node/4397>; Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 4.

RESPONSE NO. 61: Not disputed.

62. The WEC has voted to send absentee ballot request forms to approximately 2.7 million registered Wisconsin voters, excluding the approximately 528,000 who have already requested absentee ballots and the approximately 158,000 suspected of moving to a different municipality or state. Sherman Decl., Ex. 17, Wisconsin Elections Commission, Meeting Agenda (June 10, 2020) an Mailer, at 145-50, https://elections.wi.gov/sites/elections.wi.gov/files/2020-06/Open%20Session%206.10.2020.Final_.pdf; Sherman Decl., Ex. 18, Wisconsin Elections Commission, Notice of Open Meeting, Wisconsin Elections Commission Special Teleconference-Only Meeting 8 (May 27, 2020), available at https://elections.wi.gov/sites/elections.wi.gov/files/2020-05/Open%20Meeting%205-27-2020.final_.final_.pdf

RESPONSE NO. 62: Not disputed.

63. Many absentee ballot requests are submitted in the final days before the deadline, when municipal clerks' offices are busy conducting in-person absentee voting and making other preparations for Election Day. The Commission notes in its report that: "Statewide, the volume of absentee requests received remained high in the week prior to April 7. Clerks received over 60,000 requests alone on the Friday before election day. Even if all these requests were mailed on Saturday, it is unknown how long those ballots took to reach voters." Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 17.

RESPONSE NO. 63: Not disputed.

64. With significant USPS delays, it is likely that a substantial portion did not arrive in time for voters to cast them. Furthermore, 80,593 requests were submitted on March 31, 2020, 66,482 on April 1, 79,921 on April 2, and 62,172 on April 3, which, by this Court's order, was the last day to request a *mail-in* absentee ballot. *See* Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 17; *see also Democratic Nat'l Comm. v. Bostelmann*, No. 20-cv-249, 2020 WL 1638374, at *22 (W.D. Wis. Apr. 2, 2020).

RESPONSE NO. 64: Objection. This proposed fact is based on conjecture and unsupported by the evidence.

65. The overwhelming majority of these 289,168 requests, which municipal clerks received on just those four days alone, were requests for mail-in absentee ballots, which by law must be mailed out to voters within a day of receiving them. Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 17; Wis. Stat. § 7.15(1)(cm).

RESPONSE NO. 65: Not disputed.

66. WEC have stated that: "If voting patterns from April hold true, the state could see more than 1.8 million requests for absentee ballots by mail. This kind of volume would present

terrific challenges for Wisconsin election officials at all levels.” Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 12.

RESPONSE NO. 66: Not disputed.

67. In her declaration, Madison City Clerk Maribeth Witzel-Behl describes an incredibly “challenging” situation, with her staff “work[ing] around the clock, including on weekends, struggling to meet the unprecedented demand for mail-in absentee ballots.” Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 67: Not disputed.

68. Madison City Clerk Maribeth Witzel-Behl explains that her office staff were barely able to send all these requested ballots out, and it took all of the city’s resources, as well as volunteer help, to accomplish this. Absentee ballot request processing and data entry were handled by my full-time and part-time staff, with just a few other trained employees from the city’s Planning and Library departments. Other City of Madison municipal departments’ employees worked on absentee ballot mailings, specifically the manual work of affixing labels and mailing out the ballots. The staff and other departments’ employees worked over the weekend to complete these mailings and were compelled to rely on outside help from League of Women Voters of Dane County volunteers. For the April 7 election, we had over 100 city employees from other departments helping us; now we only have 7 available to us.

Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 68: Not disputed.

69. Ms. Witzel-Behl notes that the city clerk’s office was barely able to meet its obligation to mail ballots within 24 hours of receiving the request under Wis. Stat. § 7.15(1)(cm), and the backlog grew “as high as 12,000 absentee requests” but was ultimately cleared. Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 69: Not disputed.

70. Unfortunately, however, notwithstanding all of their efforts, during the April 7, 2020 election, the Madison City Clerk’s office still “received thousands of calls and emails from

voters in Madison informing us that they had never received their requested absentee ballot in the mail” and still “sent thousands of replacement ballots to such voters in the weeks before the election.” Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 70: Not disputed.

71. Ms. Witzel-Behl adds in her declaration that “most of the voters who called [her] office in late March and early April had been waiting over a week since their ballot had been placed in the mail, and it had not yet been delivered.” Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 71: Not disputed, however the information is found in Witzel-Behl Decl. ¶ 5.

72. Ms. Witzel-Behl also notes in her declaration that her office is still “receiving ballots back from the Post Office, marked as undeliverable,” some twelve weeks after the April 7 election ended. Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 72: Disputed in part. The clerk indicated 11 weeks and the citation is found at Witzel-Behl Decl. ¶ 5.

73. In its Post-Election Absentee Voting Report, the Commission reported that:

Nearly every community experienced unprecedented absentee request volume, and many hired temporary staff to cope with demand. Many small and medium size jurisdictions learned to use WisVote absentee batch processing tools for the first time, having never previously needed any automation assistance to manage their workload. Larger cities, while used to higher volumes, were forced to work around the clock and conduct much larger batch mailings than [*sic*] previously experienced. For all jurisdictions, the statutory requirement to mail ballots within 24 hours of receiving a request presented a significant challenge.

Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 13.

RESPONSE NO. 73: Not disputed.

III. November 3, 2020 General Election Facts

74. On June 25, 2020, the WEC Defendants submitted a status report outlining the various measures they are taking in advance of the August and November elections. 20-cv-249, dkt. 227.

RESPONSE NO. 74: Not disputed.

75. Only a few of these proposed or ongoing reforms can have any impact on the administrative burdens of absentee ballot preparation, data entry, and delivery. They include: (1) funding to municipal clerks through subgrants for additional staffing for processing higher levels of absentee ballots, 20-cv-249, dkt. 227, at 5; (2) a still-developing plan to modify the state's voter information database, WisVote, "to identify which method of processing absentee ballot requests, ballot records, and absentee address labels is best in managing high volumes of requests, and [to] train exclusively on this method," *id.* a 9; and (3) a further WisVote modification "to implement additional tracing procedures and audit tools in WisVote to enable early detection of issues that could occur during the high volume of absentee ballot request processing," *id.* None of Defendants' proposals for new data entry procedures, tracking tools, and other measures can cure this shortfall in resources and staff.

RESPONSE NO. 75: Objection. This proposed fact is argument. Without waiving this objection, the WEC is sending information to 2.7 million voters on how to register to receive absentee ballots which will ease the administrative burden on municipal clerks; (Dkt. 227 par. 1b.); WEC staff and contractors will be assisting municipal clerks with data entry (Dkt. 227 par. 1b.); WEC staff will be following up with absentee voters who submitted incomplete information with the intent being to shift the administrative burden away from municipal clerks (*Id.*); The WEC has already ordered supplies and PPE so that the municipal clerks do not have to spend time on that task (*Id.* at 1.c); The WEC is providing subgrants to municipalities which they can use to hire staff

to assist with the increased work load (*Id.* at 1.d.); WEC is using intelligent bar codes which are designed to allow the voter to track her own ballot, thus decreasing the administrative burden on municipal clerks (*Id.* at 1.e); WEC has updated the Wisvote system to meet the needs of the municipal clerks and reduce their administrative burdens (*Id.* at 1. J.); WEC has put together training protocols to use with National Guard members should they be ordered to serve as election inspectors in an effort to reduce the administrative burden on municipal clerks (*Id.* at 1.1.); WEC has increased recruitment for poll workers state wide (*Id.*); WEC is educating voters on the process of registering and voting absentee in an effort to decrease the administrative burden on municipal clerks. (*Id.* at 1.m).

76. Defendants expressly disclaim that intelligent mail barcodes (“IMBs”) will have a meaningful impact on the burden of processing and mailing so many ballots: “Use of IMBs will not change the preparation of absentee ballots in any significant way, but they will allow for more precise population of tracking information in WisVote/MyVoteWI.” 20-cv-249, dkt. 227, at 6.

RESPONSE NO. 76: Not disputed.

77. WEC Administrator Wolfe has testified that she does not know what, if any, steps USPS is or will be taking to address its past failures to deliver absentee ballots on time or at all in Wisconsin. Wolfe Tr. at 95:8-11.

RESPONSE NO. 77: Not disputed.

78. WEC states that the coming onslaught will pose “terrific challenges for Wisconsin election officials at all levels.” Sherman Decl., Ex. 1, Post-Election Absentee Voting Report, at 12.

RESPONSE NO. 78: Disputed in part. The report provides that if the voting patterns from April hold true, that will pose terrific challenges for Wisconsin election officials at all levels.

79. Madison City Clerk Ms. Witzel-Behl states that her office “has not been given the resources and money necessary to meet the anticipated demand for mail-in absentee ballots in November” and that “with other departments going back to work, [her] staff now only has a few dozen League of Women Voters volunteers available to help.” Witzehl-Behl Decl. ¶ 6.

RESPONSE NO. 79: Disputed in part. It is not disputed that the Madison clerk has not been given resources at this point. However, Madison qualifies for CARES subgrants which the Madison clerk can use to hire additional staff, pay for postage, or other enumerated uses of the CARES grant, and the WEC has purchased PPE, cleaning supplies and other election materials in anticipation of the November election. In addition, the WEC has made changes to the computer systems that will make it easier for the Madison clerk to administer the election. (DKT. 247; Wolfe Dep. part 1, pp. 74:21-75:16).

80. With respect to IMBs, she states that “better tracking of ballots with anticipated delivery dates listed on myvote.wi.gov can only do so much to alleviate the burden on [her] staff. Although we anticipate that the intelligent bar codes may reduce the number of telephone inquiries we receive, this will not make it easier to process a massive volume of absentee ballot requests—according to the WEC, an estimated 1.8 million statewide.” Witzehl-Behl Decl. ¶ 6; Salas Decl. ¶ 8.

RESPONSE NO. 80: Not disputed.

81. Absentee ballot delivery failures were experienced by voters statewide, including Plaintiffs. Even without comprehensive statewide data, the record shows that voters did not receive their absentee ballots on time, or at all, in many Wisconsin municipalities, including Fox Point, Oshkosh, Appleton, Milwaukee, Brookfield, and Sun Prairie. Diane Fergot Decl. ¶¶ 1, 7 (Oshkosh); Gary Fergot Decl. ¶¶ 1, 7 (Oshkosh); Harrell Decl. ¶¶ 1, 5 (Oshkosh); Bahr Olsan Decl.

¶¶ 1, 5 (Appleton); Kohlbeck Decl. ¶¶ 1, 5 (Milwaukee); Krejci Decl. ¶¶ 1, 6 (Milwaukee); Lohrenz Decl. ¶¶ 1, 5 (Milwaukee); Newby Decl. ¶¶ 1, 5 (Milwaukee); Thompson Decl. ¶¶ 1, 5 (Milwaukee); Wood Decl. ¶¶ 1, 6 (Milwaukee); Greg Jozwik Decl. ¶¶ 1, 7 (Brookfield); Sheila Jozwik Decl. ¶¶ 1, 7 (Brookfield); Ackerbauer Decl. ¶¶ 1,11 (Sun Prairie).

RESPONSE NO. 81: Disputed in part. It is not disputed that there were voters in Wisconsin who did not get their absentee ballot on time. However, there are 1,850 municipalities and the cited documents list problems with 5 which is .3% of the municipalities in the state.

82. While Plaintiffs Claire Whelan and Sylvia Gear received their ballots in April, as both cannot risk voting in person at the polls, they too run the risk of disenfranchisement if their ballots do not arrive in time for them to be cast in the November election. Whelan Decl. ¶¶ 4-5, 7, 9; Gear Decl. ¶¶ 4, 6-7.

RESPONSE NO. 82: Disputed in part. Plaintiffs Whelan and Gear can request their absentee ballot 47 days prior to the November election pursuant to §§ 7.10(3) and 7.15(cm). In addition, they can drop off their voted ballot prior to election day.

83. The Organizational Plaintiffs LWVWI and Wisconsin Alliance are also severely burdened by the failure to provide voters with back-up options if their ballots do not arrive timely in the mail. When voters do not receive requested absentee ballots in the mail, they turn to civic engagement organizations for information and assistance. LWVWI and Wisconsin Alliance have already expended resources, time, and money educating and helping voters that would not need help but for the unconstitutional failure to offer back-up delivery options to them and will continue to do so through the November general election. Cronmiller Decl. ¶¶ 10-11, 13; Mitchell Decl. ¶¶ 11-14.

RESPONSE NO. 83: Objection. The proposed finding of fact contains legal conclusions regarding the constitutionality of Wisconsin's absentee ballot system. Without waiving this objection, disputed in part. The cited declarations do not support the proposed factual finding. The LWVWI spent \$887.50 on voter education, but there is nothing in the affidavit indicating that they would not have to spend money educating voters on the back-up delivery options, nor is there any indication of how much time such education would cost.

84. Voters, particularly those who are at higher risk from Covid-19 and who live alone, struggle with how to safely comply with this requirement and often require assistance. Civic engagement organizations have been compelled to divert organizational resources away from their core mission activities to educate and help voters comply with this requirement that is ill-suited to a pandemic. LWVWI and Wisconsin Alliance have already expended resources, time, and money educating and helping voters that would not need help but for the unconstitutional enforcement of the witness requirement and will continue to do so through the November general election. Cronmiller Decl. ¶¶ 9, 11-12; Mitchell Decl. ¶¶ 11-14.

RESPONSE NO. 84: Objection. The proposed finding of fact contains legal conclusions regarding the constitutionality of Wisconsin's absentee ballot system. Without waiving this objection, it is not disputed that the LWVWI will continue to assist home-bound voters with the statutorily mandated witness requirements.

85. Because of Defendants' failure to provide them with a fail-safe option if their absentee ballots do not arrive in the mail on time Plaintiffs Katherine Kohlbeck, Diane Fergot, Gary Fergot, Bonibet Bahr Olsan, and Sheila Jozwik were all disenfranchised in the April 7 election and stand to be disenfranchised again in the November general election, Kohlbeck Decl. ¶ 9; Diane Fergot Decl. ¶ 7; Gary Fergot Decl. ¶ 7; Bahr Olsan Decl. ¶¶ 6, 8; Sheila Jozwik Decl.

¶¶ 7-8, and Plaintiff Gregg Jozwik was forced to risk exposure to the novel coronavirus by voting in person. Gregg Jozwik Decl. ¶¶ 7-8.

RESPONSE NO. 85: Objection. This proposed fact is a legal conclusion. Without waiving this objection, the WEC defendants have no power to amend the statutes and had no ability to provide a “failsafe” option. Additionally, the recent opinion of the 7th circuit makes it clear that the “failsafe” option advocated by the plaintiffs is a violation of Wisconsin law.

86. Even if these methods were effective and there is no evidence that they substantially reduce the risk of transmission, voters’ and poll workers’ non-compliance with safeguards and public health guidance would still make in-person voting very risky, particularly for voters with comorbidities. One poll worker, Barbara Keresty from Madison, describes her experience working the April 7 election. She notes the polling place was so cramped and crowded that “made it impossible to maintain six feet of distance,” and that those who assisted curbside voters were unable to maintain 6 feet of distance. Keresty Decl. ¶¶ 3, 7.

RESPONSE NO. 86: Objection. The proposed fact is vague and multiple. It is unclear which methods plaintiffs are referring to. Without waiving this objection, disputed in part. The plaintiffs’ experts have all opined that it is safer to vote in person if there is social distancing, hand washing and use of facemasks. It is not disputed that the conditions described in the Keresty declaration existed. As an additional response, the WEC defendants are not responsible for setting up the polling places.

87. Barbara Keresty notes that “[v]oting stations were also set up back-to-back in a small circle, not six feet apart” and that “[v]oters were therefore within two feet of each other when filling out their ballots.” Keresty Decl. ¶ 3.

RESPONSE NO. 87: Not disputed.

88. Additionally, Ms. Keresty observed that some poll workers and “many voters” failed to wear masks or gloves. Keresty Decl. ¶ 4.

RESPONSE NO. 88: Not disputed.

89. Additionally, “[p]oll workers had to sit approximately two feet apart throughout the day. There were four tables for poll workers: two with plexiglass for assisting registered voters; one without plexiglass for assisting new registrants; and one without plexiglass for poll workers collecting absentee ballots. Poll workers had the use of only one unisex bathroom, which was never cleaned throughout the day. This set-up meant that poll workers were forced to come in close contact with both each other and voters.” Keresty Decl. ¶ 5.

RESPONSE NO. 89: Not disputed.

IV. The Law and Mechanics of Requesting, Casting, and Returning an Absentee Ballot in Wisconsin

90. Wisconsin has no-excuse absentee voting. “An absent elector is any otherwise qualified elector who for any reason is unable or unwilling to appear at the polling place in his or her ward or election district.” Wis. Stat. § 6.85.

RESPONSE NO. 90: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

91. Registered voters in Wisconsin can apply for and obtain absentee ballots in a variety of ways: by a written, mail-in application;¹ in person at the municipal clerk’s office or at an alternate site under Wis. Stat. § 6.855;² by signing a statement and filing a request to receive

¹ Wisconsin Elections Commission, Form EL-121, Wisconsin Application for Absentee Ballot, <https://elections.wi.gov/sites/elections.wi.gov/files/2020-03/EL-121%20Application%20for%20Absentee%20Ballot%20%282018-10%29.pdf>.

² Wisconsin’s “early voting” is in fact in-person absentee voting. Statistics on “absentee voting,” therefore must be disaggregated into in-person absentee voting and mail-in absentee voting.

absentee ballots under Wis. Stat. § 6.86(2) or Wis. Stat. § 6.86(2m)(a) (indefinitely confined voters) or Wis. Stat. §§ 6.22(4), 6.24(4), or 6.25(1)(c) (military and overseas civilian voters); by agent as provided in Wis. Stat. § 6.86(3) (hospitalized voters); by delivering an application to a special voting deputy under Wis. Stat. § 6.875(6) (voters in retirement homes and residential care facilities); by email or fax as provided in Wis. Stat. § 6.86(1)(ac); and by online request through the myvote.wi.gov portal.

RESPONSE NO. 91: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

92. Unless the voter is indefinitely confined, a military or overseas voter, or has a confidential listing (typical in domestic violence cases), the voter must submit or upload a copy or image of their valid photo ID the first time they submit an absentee ballot request. Wis. Stat. §§ 6.86(ac), 6.87(1). The clerk must verify the name on the absentee ballot. Wis. Stat. §§ 6.86(ac).

RESPONSE NO. 92: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

93. Absentee ballots are cast and returned in different ways as well. Many absentee voters mail their absentee ballots to the municipal clerk's office, drop the ballots off, or authorize someone to drop them off on their behalf. Wis. Stat. § 6.87.³ In-person absentee voters vote prior to Election Day at designated sites, but their ballots are not processed and counted until Election Day. Wis. Stat. §§ 6.855, 6.87, 6.88. All absentee ballots must be returned to the municipal clerk's office by no later than 8:00 p.m. on Election Day. Wis. Stat. § 6.87(6).

³ See also *Uniform Instructions for Wisconsin Absentee Voters*, WIS. ELECTIONS COMM'N, <https://elections.wi.gov/sites/elections.wi.gov/files/2019-02/Uniform%20Instructions%20for%20Absentee%20Voting%20-%20All%20Voters%20%28Rev.%202-2019%29.pdf>.

RESPONSE NO. 93: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

94. Municipal clerks prepare absentee ballots for delivery to voters that request them. An absentee ballot must be sent to any voter with an absentee application already on file, no later than 47 days before a federal election, and no later than 21 days before a primary or other election. Otherwise, the municipal clerk must deliver an absentee ballot within one business day of the time the voter's request is received. Wis. Stat. § 7.15(1)(cm). Some absentee voters have requested ballots for a whole year or to be placed on the permanent absentee voter list because they are indefinitely confined. Wis. Stat. § 6.86(2)(a).

RESPONSE NO. 94: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

V. Factual Allegations Relevant to Remedies for Absentee Ballot Delivery Failures

95. Replacement absentee ballots can be requested up until the Thursday deadline for requesting absentee ballots generally. Wis. Stat. § 6.86(5); Wis. Stat. § 6.86(1)(b); Sherman Decl., Ex. 2, Wolfe Tr. at Wolfe Tr. at 145:9-20.

RESPONSE NO. 95: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

96. All absentee ballot certificate envelopes bear a unique identifying number and bar code, and clerks will cancel the previously-requested absentee ballot, so there is a safeguard that prevents the voter from casting two ballots. Sherman Decl., Ex. 2, Wolfe Tr. at 149:15-151:7; 169:20-170:6; Salas Decl. ¶ 13 (“When a military or overseas voter accesses their absentee ballot online at myvote.wi.gov, they also access the statutorily prescribed certificate according to Wis. Stats. 6.87(2) which contains their name, address and ward. This certificate contains a unique

identification number and bar code assigned by the WisVote system.”); *id.* ¶ 13 (“In the rare instance where more than one certificate envelope containing a marked ballot is received from an individual voter, the unique identification number assigned by the WisVote system in addition to multiple procedural safeguards in place according to WEC rules and Wisconsin Statutes prevent more than one ballot from being counted.”); *id.* ¶ 11 (“The WisVote system allows only one ballot to be recorded as returned.”).

RESPONSE NO. 96: Not disputed.

97. A voter is entitled to up to three replacement ballots. Wis. Stat. § 6.80(2)(c).

RESPONSE NO. 97: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

98. Mail-in absentee ballots are delivered or made available to voters in a few different ways. Domestic civilian voters can receive mail-in ballots by mail delivery only. Wis. Stat. § 6.87(3)(a); Wolfe Tr. at 133:5-11.

RESPONSE NO. 98: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

99. Military and overseas civilian voters can receive an absentee ballot by fax or email delivery. Wis. Stat. § 6.87(3)(d).

RESPONSE NO. 99: Objection. This proposed finding of fact is a legal conclusion. Without waiving this objection, the statute speaks for itself.

100. In addition to these delivery methods, since 2012, all overseas civilian and military voters have been able to access their mail-in absentee ballots themselves online at myvote.wi.gov, download them for marking, and return them by mail. Wis. Stat. § 6.87(3)(d); Wolfe Tr. at 130:21-131:14; Sherman Decl., Ex. 19, Wisconsin Elections Commission, MyVote Wisconsin: A Guide

to the MyVote Wisconsin Website for Voters and Clerks, at 20-21, https://elections.wi.gov/sites/elections.wi.gov/files/publication/65/myvote_manual_sept_2016_pdf_21316.pdf.

RESPONSE NO. 100: Not disputed.

101. Wisconsin law restricts the ability to electronically access and download a mail-in absentee ballot to military and overseas voters. Wis. Stat. § 6.87(3)(d). Requests for online access to a mail-in absentee ballot must be selected at myvote.wi.gov; a municipal clerk's office cannot facilitate the online access. Wolfe Tr. at 130:21-131:14; 136:20-139:19.

RESPONSE NO. 101: Not disputed.

102. This process is automated and does not require municipal clerks to do any work to deliver a mail-in absentee ballot and the envelope's certificate to a military or overseas voter. This method of ballot "delivery" shifts the burden from the municipal clerk's office staff to the voter by permitting the voter to access their ballot at any time after their request is completed and processed. Sherman Decl., Ex. 2, Wolfe Tr. at 134:2-135:20 (outlining online access and downloading process step by step from voter's perspective); 151:8-152:9 (same).

RESPONSE NO. 102: Not disputed.

103. When asked what work, if any, the municipal clerk's office has to do when a request for online access and downloading is made, Meagan Wolfe, WEC's Administrator, responded: "Nothing. They do nothing. So it's all a voter initiated process." Sherman Decl., Ex. 2, Wolfe Tr. at 137:5-12.

RESPONSE NO. 103: Not disputed.

104. Ms. Wolfe also testified that the ballot and the certificate are automatically generated by the MyVote portal and also testified that this online access and downloading function

at myvote.wi.gov draws on geocoded districts and wards, as well as pre-loaded candidate slates, in WisVote and can therefore automatically generate a ballot specific to the voter's residence and a certificate for the envelope, without necessitating any further work from the municipal clerk's office. Sherman Decl., Ex. 2, Wolfe Tr. at 137:16-139:19, 140:8-143:17.

RESPONSE NO. 104: Not disputed.

105. The Commission has already geocoded districts and imported candidate data for each election, so the ballot and certificate can be produced automatically, without any action by the municipal clerks' offices. *See id.; id.* at 139:18-19 (“We’re able to generate it using data that we have.”).

RESPONSE NO. 105: Not disputed.

106. For online access and downloading, the municipal clerks' offices do not have to create a mailing label, provide or stuff an envelope, pay for postage, enter any data, or deliver a ballot. Wolfe Tr. at 146:14-147:6.

RESPONSE NO. 106: Not disputed.

107. Current and former municipal clerks in Madison, Racine, and Kenosha concur with this assessment. Maribeth Witzel-Behl in Madison writes that:

There is nothing that our office needs to do to enable online access and download of a mail-in absentee ballot through myvote.wi.gov. The real benefit of this method is that it puts the burden on the voter to access their ballot; we do not have to send it to them and it will not get caught in email spam filters. In processing the ballot request and making the ballot available for download through myvote.wi.gov, the system automatically draws on the voter's records in the WisVote database and generates a ballot for that voter's residential address and ward. So we do not need to assemble the ballot and certificate, print a mailing label, affix a label, or affirmatively mail or email the ballot.

Witzel-Behl Decl. ¶ 10.

RESPONSE NO. 107: Not disputed that the declarations state this, but Wisconsin statutes and recent case law make it clear that these options violate the law except for military and overseas voters.

108. All three current and former clerks from Madison, Racine, and Kenosha endorse extending online access and downloading to regular absentee voters. Ms. Witzel-Behl in Madison writes: “Of the three methods Plaintiffs have proposed to ensure voters have a way to safely cast a ballot during this pandemic, I prefer extending the online access and download option to all registered Wisconsin voters, but any of the methods will be preferable to mailing replacement ballots.” Witzel-Behl Decl. ¶ 15.

RESPONSE NO. 108: Not disputed that the declarations state this, but Wisconsin statutes and recent case law make it clear that these options violate the law.

109. Tara Coolidge in Racine and former Kenosha City Clerk-Treasurer⁴ Debra Salas endorses this method of ballot delivery for all the same reasons. Coolidge Decl. ¶¶ 8-12; Salas Decl. ¶¶ 11-13, 17-18.

RESPONSE NO. 109: Not disputed that the declarations state this, but Wisconsin statutes and recent case law make it clear that these options violate the law.

110. The sole task the municipal clerk’s office would need to complete for a regular absentee voter to secure a replacement ballot through online access on the MyVote portal online is to cancel the prior request for a mail-delivered ballot. Sherman Decl., Ex. 2, Wolfe Tr. at 143:22-144:17; *see also* Witzel-Behl Decl. ¶ 12 (“[W]e would need to cancel the outstanding ballot in the state system and deactivate the voter's absentee request. The voter could then go to myvote.wi.gov to submit a new request and request a ballot by online access and downloading.”).

⁴ This is the same as a City Clerk.

RESPONSE NO. 110: Not disputed.

111. Ms. Coolidge in Racine notes that this would be a simple and quick task: “If a voter has previously requested that the ballot be delivered by mail, for example, but did not receive it, a member of my staff would have to log onto WisVote to manually cancel the outstanding ballot. This would take just a few minutes for each voter.” Coolidge Decl. ¶ 11.

RESPONSE NO. 111: Not disputed.

112. The former Kenosha City Clerk helpfully describes the process from end to end:

When a military or overseas voter accesses their absentee ballot online at myvote.wi.gov, they also access the statutorily prescribed certificate according to Wis. Stats. 6.87(2) which contains their name, address and ward. This certificate contains a unique identification number assigned by the WisVote system. The voter is instructed to affix this certificate to the sealed envelope containing their voted ballot. No matter how many times the ballot is accessed and printed, the identification number on the certificate will be the same. When the envelope containing the voted ballot is received, the unique identification number is scanned into the WisVote system confirming that the ballot has been received. On election day, the envelopes received, containing the voted ballots, are submitted to the Absentee Board of Canvassers for counting. The canvassers view the certificate, announce the name and address of the voter, assign a number, write the number on the certificate envelope and in the ballot log next to the voter’s name and address. They view each envelope, one at a time, and perform the same procedure for each certificate envelope. The certificate envelopes are then opened. The canvassers remove the ballots and place the envelopes in a sealed container. Then ballots are then inserted into the voting machines for tabulation. Once tabulated, the ballots are removed from the voting machine and placed into the ballot container according to Wisconsin Statutes Section 7.52(4)(g).

Salas Decl. ¶ 13.

RESPONSE NO. 112: Not disputed.

113. WEC Administrator Wolfe has represented that permitting regular absentee voters who are not in the military or overseas to access replacement mail-in ballots at myvote.wi.gov will require these voters to submit photo IDs and municipal clerks to verify photo IDs. Wolfe Tr. at 133:13-134:1; 154:2-5 (“There would have to be a measure in there where the clerk verifies their photo ID and makes sure that they're able to access a ballot.”); 155:10-17 (“[T]hey would have to

be able to upload their photo ID which would then have to be sent to the clerk to be able to review . . . before the voter would be able to complete actually getting their ballot electronically.”); 159:2-3 (“Yes, that’s correct plus the transmission of the photo ID.”).

RESPONSE NO. 113: Not disputed.

114. Plaintiffs’ requested relief seeks to enable online access and downloading for *replacement* mail-in ballots, so all of the regular voters who utilize this option will have already had their uploaded or submitted photo IDs verified. Otherwise, they would never have had their initial request for a mail-delivered ballot processed. *See* Salas Decl. ¶ 14 (“If this online access system is extended to domestic civilian absentee voters when requesting a replacement mail-in ballot, acceptable photo ID will already be on file in the WisVote system because their previous request for a mail-delivered ballot was processed.”). All the clerk’s staff need to do is cancel that prior request, permitting the voter to submit a new request, but the voter’s previously-submitted photo ID will still be on file in WisVote, the statewide voter information database, and will show as previously-verified.

RESPONSE NO. 114: It is not disputed that the plaintiff is requesting this relief. However, Wisconsin statutes and recent case law make it clear that such relief is a violation of Wisconsin law.

115. Ms. Wolfe also testified that the MyVote portal and WisVote workflows for online access and downloading would need to be bifurcated because regular voters must submit photo ID, but military and overseas voters are exempt. Wolfe Tr. at 165:18-166:1; Wis. Stat. § 6.87(1).

RESPONSE NO. 115: Not disputed.

116. The MyVote online ballot access portal system is secure. As election security and cybersecurity expert Matthew Bernhard explains in his declaration, Plaintiffs’ proposed relief of

online access and downloading a ballot through MyVote “does not pose any additional security risk to Wisconsin elections.” Bernhard Decl. ¶ 8. Mr. Bernhard bases this opinion

on four facts: (1) the subset of voters who will have access to the proposed relief is limited; (2) the voters who can use the proposed relief will have been authenticated already and will also have to authenticate to MyVote using additional credentials; (3) the WEC has robust, defense-in-depth procedures for preventing fraud in absentee ballots; and (4) fraud in elections in the United States and in Wisconsin in particular is so rare as to be functionally non-existent.

Id. ¶ 9.

RESPONSE NO. 116: Disputed in part. Ms. Wolfe testified that the proposed relief sought by plaintiffs will make the system less secure. (Wolfe Dep. pp. 143: 25-158:25).

117. First, “[v]oters who gain the ability to download a ballot through MyVote will only be able to do so if they have previously requested and not received an absentee ballot via mail, and only if they do so within a specified window of time. Limiting the use of MyVote’s mail-in absentee ballot portal in this way is a well-established security practice in election security literature.” Bernhard Decl. ¶ 10.

RESPONSE NO. 117: Disputed to the extent that the voters envisioned by the plaintiffs are not statutorily allowed to access a ballot through MyVote.

118. Second, voters using the system will already be authenticated and then provided more authenticating information. “While there is no evidence that voter ID requirements have an impact on the prevention of voter fraud, voters who will use MyVote to access a replacement absentee ballot will have already met the voter ID requirements in Wisconsin. These voters will thus have reached a higher bar of authentication than military and overseas voters, who are exempt from the photo identification verification requirement.” Bernhard Decl. ¶ 10. Additionally, MyVote portal users must enter their name, date of birth, and the last four digits of their Social Security Number in order to access their ballot online at myvote.wi.gov. Wolfe Tr. at 156:16-21.

As Mr. Bernhard explains, “[t]he MyVote portal already uses standard identity authentication information by requiring the voter input their name, date of birth, and the last four digits of their Social Security Numbers (which have been established as the most secure part of SSNs by Acquisti and Gross).” Bernhard Decl. ¶ 12.

RESPONSE NO. 118: Disputed to the extent that the voters envisioned by the plaintiffs are not statutorily allowed to access a ballot through MyVote

119. Asked whether she thought MyVote’s online ballot access portal was secure, Ms. Wolfe responded: “Yes, and there’s only, you know, one point of that data exchange, right, for them because there isn’t that intermediary step but, yes, we -- we consider it to be very secure.” Sherman Decl., Ex. 2, Wolfe Tr. at 157:2-9.

RESPONSE NO. 119: Not disputed.

120. However, because photo ID will already be on file and will already have been verified for a voter requesting a *replacement* ballot, it is unclear why Ms. Wolfe thinks the system will need an “intermediary step” to verify ID or be less secure if MyVote and WisVote are reprogrammed simply to confirm that this is a replacement ballot for a voter who (necessarily) has a photo ID on file. Sherman Decl., Ex. 2, Wolfe Tr. at 158:16-21.

RESPONSE NO. 120: Ms. Wolfe attempted to describe the issue in detail during her deposition. The fact that the plaintiffs do not understand or accept her conclusion does not invalidate her concern that the plaintiffs’ proposed relief will make the system less secure. (Wolfe Dep. pp. 143: 25-158:25).

121. As Mr. Bernhard concludes, the MyVote website could be programmed to require only one data transaction that verified the voter’s identity and voter ID on file in one step. For a voter whose ballot does not arrive in the mail and requests online access, “[t]he MyVote page

would then have to confirm that a photo ID verification had already taken place, which it can do in the same check it performs on the voter's name, date of birth, and the last 4 digits of their SSN, and then build and send a ballot back to the voter. This should only require one transaction of PII, not two as indicated by Administrator Meagan Wolfe in her deposition." Bernhard Decl. ¶ 13.

RESPONSE NO. 121: Objection. Foundation. Mr. Bernhard has read the MyVote manual but has not programmed the system, spoken with any of the programmers and states no basis for his disagreement with Administrator Wolfe who is in fact a subject matter expert. Without waiving this objection, disputed. Ms. Wolfe has testified that the proposed relief will make the system less secure and will require additional touchpoints. (Wolfe Dep. p. 158:11-21).

122. Mr. Bernhard adds: "Since the proposed relief would require only one transaction with personally identifiable information (PII), it will be functionally the same as the existing workflow." Bernhard Decl. ¶ 14.

RESPONSE NO. 122: Please see WEC's responses to 120 and 121.

123. Third, Mr. Bernhard believes a few other features of the MyVote portal create additional security: (1) "The MyVote portal prohibits the ability to download the ballot more than three times. While this does not preclude the ability to copy the ballot once downloaded, it is a robust safeguard that balances the voter's right to ballot access against the risk of any security breach, however remote or unlikely to affect the election," Bernhard Decl. ¶ 15; (2) "Voters' requests to use the portal will also result in their clerk cancelling their existing mail ballot request, eliminating the possibility that a voter can have multiple live ballots issued at once, and therefore eliminating any opportunity for double voting," *id.* ¶ 16; and (3) "[A]ccess to the portal for replacement ballots could be further limited in time restricts the access to the system even more. It is unlikely that actors seeking to commit fraud would be able to take advantage of the MyVote

portal, for the aforementioned reasons, but also because a week is not enough time to fraudulently access and submit a substantial number of fraudulent ballots,” *id.* ¶ 17.

RESPONSE NO. 123: Objection. This proposed fact is an opinion. Without waiving this objection, disputed in part. See WEC responses to 116-122.

124. Finally, Ms. Wolfe testified that she knows of no instance in which a ballot was fraudulently accessed and/or voted using MyVote’s online access portal. Sherman Decl., Ex. 2, Wolfe Tr. at 160:17-161:4.

RESPONSE NO. 124: Not disputed.

125. The municipal clerks also agree that the system is secure and go farther to say that modification would not undermine its security. Racine City Clerk Tara Coolidge concurs that the system is secure: “I believe this to be a very secure and reliable method for voters to obtain their absentee ballots.” Coolidge Decl. ¶ 8; *see also* Salas Decl. ¶ 11 (“The voter securely accesses their certificate in PDF format, bearing their name, address and voter number and the PDF ballot for their ward and the instructions.”).

RESPONSE NO. 125: Objection. Foundation. Without waiving this objection, not disputed that the clerk believes the system is secure.

126. All online-accessed and downloaded ballots must be “duplicated or re-made” or “re-create[d]” on an official absentee ballot in order for it to be scanned by a voting machine. Witzel-Behcl ¶ 14; Coolidge Decl. ¶ 9; Salas Decl. ¶ 16.

RESPONSE NO. 126: Not disputed.

127. However, current and former clerks from Madison, Racine, and Kenosha do not believe this additional back-end work should preclude a front-end solution to the problems observed with absentee ballot delivery across Wisconsin. Racine City Clerk Tara Coolidge

contends that as long as her office has some “advance notice of how many downloaded absentee ballots have been requested and are to be expected for each polling location,” then she “do[es] not foresee any difficulties in staffing polling places to adequately process such ballots once they are cast.” Coolidge Decl. ¶ 9. She adds that while “[t]his alternative would pose some minor inconvenience on the back end,” she “believe[s] that any inconvenience to [her] staff and poll workers would be far outweighed by the value to voters.” *Id.* ¶ 10. Ms. Witzel-Behl in Madison strongly dismisses the notion that administrative burden should outweigh voters’ access to an absentee ballot in a safe and secure manner: “We already do this for many ballots, but the volume will increase if these back-up options are required by the Court. This would pose some minor inconvenience on the back end, but I want to state clearly that, in my view, the value to voters who are trying to vote—and vote safely—would far outweigh any inconvenience or burden to my staff and those canvassing ballots at polling places.” Witzel-Behl Decl. ¶ 14; *see* Salas Decl. ¶ 16 (noting additional ballot duplication would “only pose minor inconvenience”).

RESPONSE NO. 127: Objection. This proposed fact is lay opinion and lacks foundation. Without waiving these objections, it is not disputed that these clerks believe what is stated in their declarations.

128. Finally, Ms. Witzel-Behl and Ms. Coolidge in Madison and Racine, respectively, both note that every voter they can help successfully cast an absentee ballot is one less voter who needs to vote in person, adding to long lines and straining election administration resources that are in short supply. Witzel-Behl Decl. ¶ 14 ; Coolidge Decl. ¶ 10 (“[E]very voter we permit to vote by mail is a voter who does not show up at the polls, straining our already-taxed in-person voting resources in an environment with far fewer poll workers and potentially increasing the risk of Covid-19 transmission.”); Salas Decl. ¶ 17.

RESPONSE NO. 128: Not disputed.

129. If a voter uses myvote.wi.gov, then mail delivery of the absentee ballot is the default and only option for a domestic civilian voter. If, however, a voter fills out the statewide absentee ballot request form, Form EL-121, seeking a mail-in absentee ballot, then the voter is offered a selection of three methods of delivery: mail, fax, or email. Sherman Decl., Ex. 20, Wisconsin Elections Commission, Form EL-121, Wisconsin Application for Absentee Ballot, <https://elections.wi.gov/sites/elections.wi.gov/files/2020-03/EL-121%20Application%20for%20Absentee%20Ballot%20%282018-10%29.pdf>; Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters (last updated June 2018), https://elections.wi.gov/sites/elections.wi.gov/files/memo/20/faxing_or_emailing_absentee_ballots_to_uocava_vote_83593.pdf.

RESPONSE NO. 129: Disputed. The 7th circuit invalidated this option. (Wolfe Dep. pp. 177-178).

130. For each delivery option, the voter is required to write in the address to which the ballot should be mailed, their fax number, or their email address. Sherman Decl., Ex. 20, Wisconsin Elections Commission, Form EL-121, Wisconsin Application for Absentee Ballot, <https://elections.wi.gov/sites/elections.wi.gov/files/2020-03/EL-121%20Application%20for%20Absentee%20Ballot%20%282018-10%29.pdf>.

RESPONSE NO. 130: Disputed in part. The e-mail information is no longer an option.

131. Some registered voters will have already provided their email address upon registering to vote, such that it is in their voter registration record. Sherman Decl., Ex. 22, Wisconsin Elections Commission, Form EL-131, Wisconsin Voter Registration Application,

https://elections.wi.gov/sites/default/files/publication/154/el_131_voter_registration_application_pdf_23730.pdf.

RESPONSE NO. 131: Not disputed that some voters will have provided their e-mail.

132. Wisconsin's municipal clerks gained the authority to deliver mail-in absentee ballots to domestic civilian voters by email or fax in this Court's decision in *One Wisconsin Institute v. Thomsen* in 2016. 198 F. Supp. 3d 896, 946 (W.D. Wis. 2016), which invalidated the statutory ban on emailing or faxing mail-in absentee ballots to domestic civilian voters and is on appeal. That decision has been reversed, restoring the ban, and will be officially vacated once the Seventh Circuit issues the mandate.

RESPONSE NO. 132: Not disputed.

133. According to municipal clerks, regular absentee voters really valued and came to rely on the availability of email delivery. Recently-retired Kenosha City Clerk-Treasurer Debra Salas expects the office will continue to receive email delivery requests for the November election: "Despite the Seventh Circuit's recent decision, once again restricting email delivery of absentee ballots to military and overseas voters, it is anticipated that many regular voters will request email delivery of absentee ballots for the November general election. For some regular voters, particularly voters temporarily away, or in counties with unreliable mail delivery, receiving a ballot via email was the only way to guarantee the voter would have an adequate amount of time to send their ballot back to the City Clerk's Office." Salas Decl. ¶ 10.

RESPONSE NO. 133: Objection, relevance. The 7th circuit decision is binding and a voter's reliance on e-mail delivery does not alter the fact that Wisconsin law as upheld by the court of appeals does not allow this option.

134. The procedure for emailing absentee ballots requires municipal clerks to “print their initials in the endorsement section of the ballot and on the face of the ballot and scan the initialed ballot” and then email the voter the initialed ballot, the absentee ballot certificate envelope, and the Uniform Instructions for Absentee Voters. Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters (last updated June 2018), https://elections.wi.gov/sites/elections.wi.gov/files/memo/20/faxing_or_emailing_absentee_ballots_to_uocava_vote_83593.pdf.

RESPONSE NO. 134: Not disputed.

135. WEC’s instructions on how the voter should be directed to print, cast, and mail the ballot state:

The elector should be instructed to print the ballot, vote the ballot in the presence of a witness, fold the ballot and seal it inside a regular, non-window envelope, complete and sign the absentee certificate. An adult U.S. citizen witness must sign and provide his or her address on the certificate. Military or permanent overseas voters should provide their birthdate. The certificate should be affixed (with glue or tape) to the envelope containing the voted ballot. The envelope with the certificate attached should be placed into another, larger, envelope, sealed and mailed to the municipal clerk. The ballot must be received by 8 p.m. on Election Day.

Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters.

RESPONSE NO. 135: Not disputed.

136. The WEC’s instructions continue to explain that “[t]he absentee elector must return the hard copy of the ballot and the completed certificate to the municipal clerk in time so that the clerk can deliver the ballot to the polling place before the close of the polls.” Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters.

RESPONSE NO. 136: Not disputed.

137. The WEC's instructions on email delivery of ballots notes that USPS does not think it can guarantee on-time delivery unless it is afforded a week. The USPS recommends that ballots be mailed one week prior to the date of the Election to arrive on time. Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters. Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters.

RESPONSE NO. 137: Not disputed.

138. The elector may choose overnight delivery to assure that their ballot arrives on time. Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters.

RESPONSE NO. 138: Not disputed.

139. The municipal clerk is not responsible for return postage of a faxed or e-mailed absentee ballot. Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters.

RESPONSE NO. 139: Not disputed that this was the process. However, the guidance is outdated based on recent court decisions.

140. "When absentee ballots are returned to the clerk's office, the municipal clerk records the information is recorded in WisVote or their WisVote Provider."⁵ "The municipal clerk records the date absentee ballots are faxed or e-mailed to voters in WisVote or forwards the information to their WisVote Provider." Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters.

⁵ *Id.*

RESPONSE NO. 140: Not disputed that this was the process. However, the guidance is outdated based on recent court decisions

141. The clerk encloses the envelope holding the ballot into a certificate envelope and attaches the completed certificate to the outside. The clerk then delivers the ballot to the appropriate polling place in a carrier envelope.”⁶ “At the polling place, the election inspectors follow the procedures for processing absentee ballots. The ballot may be remade by 2 election inspectors in order for the ballot to be accepted by electronic tabulating equipment.” Sherman Decl., Ex. 21, Wisconsin Elections Commission, Clerk Instructions for Emailing and Faxing Ballots to Mail-in Absentee Voters.

RESPONSE NO. 141: Not disputed that this was the process. However, the guidance is outdated based on recent court decisions

142. Upon information and belief, every one of Wisconsin’s 1,850 municipal clerks exercises their discretionary authority on email delivery of absentee ballots differently. Some advertise this delivery option; some do not. Some will deliver ballots by email; some will not, even close to Election Day or the effective deadline to mail the ballot so that it is received in time to be counted. And there are of course variances between staff members within a municipal clerk’s office.

RESPONSE NO. 142: Objection, relevance. The law has changed and what the clerks did in the past has no bearing on the November election.

143. Nevertheless, in the 2016 fall general election, Wisconsin municipal clerks emailed voters 9,619 absentee ballots, and 7,231 voters returned those absentee ballots by mail.⁷

⁶ *Id.*

⁷ Sherman Decl., Ex. 3, Wisconsin Elections Commission, Absentee Ballot Report (Nov. 8, 2016), <https://elections.wi.gov/node/4397>.

RESPONSE NO. 143: Not disputed.

144. The municipal clerk is required to enter absentee applications and ballot information into the WisVote system maintained by the Commission within 48 hours after mailing or receiving an in-person absentee ballot application. Wis. Stat. § 6.33(5). Or, in the case where the municipality relies on the county or another municipality, the clerk shall submit the information to the clerk's WisVote provider, and the provider shall enter the absentee information into the WisVote system within 24 hours. Wis. Stat. § 6.33(5).

RESPONSE NO. 144: Objection. These are legal conclusions. Without waiving this objection, the statutes speak for themselves.

145. There is one other element of absentee voting in Wisconsin that is relevant to the relief Plaintiffs request: the Federal Write-in Absentee Ballot ("FWAB"). Sherman Decl., Ex. 24, Federal Write-in Absentee Ballot, <https://www.fvap.gov/uploads/FVAP/Forms/fwab2013.pdf>.

RESPONSE NO. 145: Objection. This proposed fact is argument.

146. This is another fail-safe option that would solve the problem of disenfranchisement by delayed delivery. Federal law and Wisconsin law set forth a procedure for military and overseas civilian voters to request and cast absentee ballots. Under the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), 52 U.S.C. § 20301 *et seq.*, military and overseas civilian voters are able to register to vote and request an absentee ballot with a federal postcard application. 52 U.S.C. § 20301(b)(2); Sherman Decl., Ex. 25, Federal Postcard Application, <https://www.fvap.gov/uploads/FVAP/Forms/fpca2013.pdf>.

RESPONSE NO. 146: Objection. This proposed fact is argument.

147. Under UOCAVA, military and overseas voters also must be permitted to cast FWABs as an "Official Backup Ballot" or "back-up measure" to vote in federal races if they do

not receive their regular absentee ballot. Sherman Decl., Ex. 24, Federal Write-in Absentee Ballot, <https://www.fvap.gov/uploads/FVAP/Forms/fwab2013.pdf>; 52 U.S.C. §§ 20302(a)(2)-(a)(3), 20303(a)(1) (“The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general, special, primary, and runoff elections for Federal office by absent uniformed services voters and overseas voters who make timely application for, and do not receive, States, absentee ballots.”). State legislatures have the discretion to permit UOCAVA voters to use FWABs to vote in state and local offices or not. 52 U.S.C. § 20303(a)(1).

RESPONSE NO. 147: Not disputed.

148. The ballot is downloadable and printable from this url: <https://www.fvap.gov/uploads/FVAP/Forms/fwab2013.pdf>. The envelope must be assembled by the voter, and the voter fills out both a voter information sheet and the official back-up ballot. “[A] Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved.” 52 U.S.C. § 20303(b). If the voter later casts an official state absentee ballot after casting their FWAB, they are instructed to “make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.” 52 U.S.C. § 20303(d). Wisconsin already accepts and processes the FWAB for overseas civilian and military voters, *even if* they have not previously requested a ballot be delivered by mail. Sherman Decl, Ex. 2, Wolfe Tr. at 185:4-186:12.

RESPONSE NO. 148: Not disputed.

149. Because these are write-in ballots, federal law sets forth specific rules for processing and counting FWABs, specifically:

(1) In completing the ballot, the absent uniformed services voter or overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of

a political party (in which case the ballot shall be counted for the candidate of that political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

52 U.S.C. § 20303(c).

RESPONSE NO. 149: Objection. the proposed fact is a legal conclusion. Without waiving this objection, the statutes speak for themselves.

150. Both Ms. Witzel-Behl and Ms. Salas represent that “[i]t is not cumbersome or difficult to process these write-in absentee ballots.” Witzel-Behl Decl. ¶ 13; Salas Decl. ¶ 15.

RESPONSE NO. 150: Objection, speculation. Without waiving this objection, there is no dispute that Ms. Witzel-Behl and Salas have not had difficulty in the past with this process.

151. With respect to online access and downloading, former City Clark Ms. Salas notes that the WisVote system can be used to enforce temporal limitations:

The WisVote database records whether a particular voter has previously requested a ballot or not and, because of the U.S. Post Office Intelligent Bar Code, the system identifies whether that ballot is in the mail, and if so, for how long. There are ways to limit the use of this feature for domestic civilian voters and make it available only to those who request a replacement ballot for one that did not arrive in the U.S. mail . . .

Salas Decl. ¶ 13.

RESPONSE NO. 151: Objection, foundation.

152. Municipal clerks are still processing mail-in absentee ballot requests that come in until 5:00 p.m. on the Thursday before Election Day;⁸ administering in-person absentee voting

⁸ This is the deadline to make any request for an absentee ballot. Wis. Stat. § 6.86(5); Wis. Stat. § 6.86(1)(b); Wolfe Tr. at 139:3-14. If the Court orders this relief to cure the federal constitutional

through the Sunday before Election Day, Wis. Stat. § 6.86(1)(b); and making preparations for Election Day. Salas Decl. ¶¶ 4-5.

RESPONSE NO. 152: Not disputed.

153. Ordering these alternative delivery methods, especially online access and downloading of mail-in ballots through the MyVote portal, would cure the constitutional violations caused by absentee ballot delivery failures during the Covid-19 pandemic, while also alleviating strain on municipal clerks' offices. Municipal clerks would not need to mail any replacement mail-in ballots, unless the voter could not access a ballot online, and USPS advises WEC that it takes seven days for a ballot to be delivered so a replacement ballot might not arrive in time if it is mailed. Sherman Decl., Ex. 2, Wolfe Tr. at 51:7-9.

RESPONSE NO. 153: Objection. This proposed fact is argument. Without waiving this objection, Ms. Wolfe's testimony was that it could take up to 7 days for a ballot to be delivered especially if it was from out of state. (Wolfe Tr. p. 51: 1-9).

154. Many voters will continue to believe their ballot is still in the mail, even after the deadline to request a replacement ballot has passed. Salas Decl. ¶ 17. This deadline is the same as the deadline for any other request for a mail-in absentee ballot: 5:00 p.m. on the Thursday before Election Day. *Id.*; Wis. Stat. § 6.86(5); Wis. Stat. § 6.86(1)(b).

RESPONSE NO. 154: Objection. Speculative and foundation. Without waiving this objection, the balance of this proposed fact is a legal conclusion and the statutes speak for themselves.

violation for voters who need replacement absentee ballots, it of course need not be bound by this deadline in Wisconsin law.

155. For this reason, Ms. Witzel-Behl, Madison's City Clerk, contends that Plaintiffs' proposed "back-up options should also be made available to voters through Election Day." Witzel-Behl Decl. ¶ 15. Racine City Clerk Ms. Coolidge's office "received hundreds of requests for absentee ballots after the cut-off date allowed by law," and these were rejected. Coolidge Decl. ¶ 5.

RESPONSE NO. 155: Objection, relevance. Ms. Witzel-Behl's beliefs are not relevant to the issues in this case. Without waiving this objection, it is not disputed that Racine county received hundreds of late requests.

156. Ms. Coolidge does suggest a deadline earlier than Election Day so that she can reallocate staff to polling places that will need to duplicate more of these online-accessed ballots, but that deadline, if the Court adopted it, need not be long before Election Day. *Id.* ¶ 9.

RESPONSE NO. 156: Objection, relevance. Ms. Coolidge's beliefs are not relevant to the issues in this case.

VI. Plaintiffs' and Other Declarants' Facts

157. Plaintiff Diane Fergot is 59 years old and a resident of Oshkosh, Wisconsin. Diane Fergot Decl. ¶ 1.

RESPONSE NO. 157: Not disputed.

158. Plaintiff Fergot is a United States citizen and a registered Wisconsin voter. Diane Fergot Decl. ¶ 2.

RESPONSE NO. 158: Not disputed.

159. Plaintiff Fergot has never lost her right to vote by reason of a felony conviction or a court order. Diane Fergot Decl. ¶ 2.

RESPONSE NO. 159: Not disputed.

160. Plaintiff Fergot wants to vote in the November general election. Diane Fergot Decl. ¶ 2.

RESPONSE NO. 160: Not disputed.

161. Plaintiff Fergot lives with her husband, and they have been quarantining themselves during the Covid-19 pandemic. Diane Fergot Decl. ¶ 3.

RESPONSE NO. 161: Not disputed.

162. Typically, Plaintiff Fergot votes in person on Election Day, but Covid-19 poses a serious risk to her health and life. Diane Fergot Decl. ¶ 4.

RESPONSE NO. 162: Not disputed.

163. Plaintiff Fergot has a history of severe blood clotting that required 14 years of medication; she also suffers from hypertension. Diane Fergot Decl. ¶ 4.

RESPONSE NO. 163: Not disputed.

164. From what Plaintiff Fergot has read in the news, she understands that Covid-19 is causing blood clotting and strokes, even in healthy and younger people. Diane Fergot Decl. ¶ 4.

RESPONSE NO. 164: Not disputed.

165. Plaintiff Fergot is extremely worried about Covid-19 and will only be voting by mail while this pandemic lasts. Diane Fergot Decl. ¶ 4.

RESPONSE NO. 165: Not disputed.

166. To avoid voting in person and the dangers of Covid-19, on March 24th, two weeks before the April 7th election, Plaintiff Fergot and her husband went on myvote.wi.gov and requested their absentee ballots be mailed to them, but they never received them, even after Election Day. Diane Fergot Decl. ¶ 5.

RESPONSE NO. 166: Not disputed.

167. On April 2nd, Plaintiff Fergot and her husband realized that their ballots had not arrived in the mail yet, so she emailed the clerk's office. Diane Fergot Decl. ¶ 6.

RESPONSE NO. 167: Not disputed.

168. The following day, April 3, having not heard back, Plaintiff Fergot went on myvote.wi.gov and saw that her ballot had been mailed out on March 24th. Diane Fergot Decl. ¶ 6.

RESPONSE NO. 168: Not disputed.

169. Plaintiff Fergot also sent the clerk's office a second email. Diane Fergot Decl. ¶ 6.

RESPONSE NO. 169: Not disputed.

170. Later that day, Plaintiff Fergot received an email back informing her that their ballots had been reissued and mailed out that day, April 3, the Friday before the election. Diane Fergot Decl. ¶ 6.

RESPONSE NO. 170: Not disputed.

171. The clerk's office did not offer to email Plaintiff Fergot an absentee ballot as a more expedient option. Diane Fergot Decl. ¶ 6.

RESPONSE NO. 171: Not disputed.

172. Ultimately, Plaintiff Fergot and her husband never received their ballots in the mail, before, on, or after Election Day. Diane Fergot Decl. ¶ 7.

RESPONSE NO. 172: Not disputed.

173. Plaintiff Fergot and her husband thought their ballots were delayed but still coming, and that as long as they arrived soon, they could still vote and drop them off or mail them. Diane Fergot Decl. ¶ 7.

RESPONSE NO. 173: Not disputed.

174. Due to Plaintiff Fergot's health conditions, she could not safely vote in person. Diane Fergot Decl. ¶ 7.

RESPONSE NO. 174: Not disputed.

175. There was no way Plaintiff Fergot was going to vote in person; the risk of contracting Covid-19 was simply too high. Diane Fergot Decl. ¶ 7.

RESPONSE NO. 175: Not disputed.

176. Plaintiff Fergot is at high risk from Covid-19 and has been quarantining since mid-March. Diane Fergot Decl. ¶ 7.

RESPONSE NO. 176: Not disputed.

177. Plaintiff Fergot and her husband are taking social distancing seriously. She has been to a handful of stores that require mask-wearing, and she tries to go at off-hours to avoid crowds. Diane Fergot Decl. ¶ 7.

RESPONSE NO. 177: Not disputed.

178. Plaintiff Fergot wants to vote by mail in the November general election. Diane Fergot Decl. ¶ 8.

RESPONSE NO. 178: Not disputed.

179. For the November election, Plaintiff Fergot wants to request an absentee ballot be delivered to her home by mail. Diane Fergot Decl. ¶ 9.

RESPONSE NO. 179: Not disputed.

180. Plaintiff Fergot does not want to deal with downloading and printing a ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Diane Fergot Decl. ¶ 9.

RESPONSE NO. 180: Not disputed. In addition, Wisconsin law does not allow Plaintiff Fergot to download a ballot.

181. However, if her requested ballot does not arrive by mail in time for her to cast and return it on time, then Plaintiff Fergot needs a back-up option because she cannot safely vote in person at the polls on or before Election Day. Diane Fergot Decl. ¶ 9.

RESPONSE NO. 181: Objection. This proposed fact is argument.

182. Because of Plaintiff Fergot's health, age, and the ongoing Covid-19 crisis, voting in person is simply too high a risk to her health and life. Diane Fergot Decl. ¶ 9.

RESPONSE NO. 182: Not disputed.

183. If Plaintiff Fergot's ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Diane Fergot Decl. ¶ 9.

RESPONSE NO. 183: Not disputed.

184. Plaintiff Fergot has access to a computer, a printer, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that ballot back. Diane Fergot Decl. ¶ 9.

RESPONSE NO. 184: Not disputed.

185. Plaintiff Fergot hopes it does not come to that, and her ballot arrives in the mail on time, but her right to vote should not and cannot be left to chance. Diane Fergot Decl. ¶ 9.

RESPONSE NO. 185: Not disputed.

186. If Plaintiff Fergot cannot vote by mail in these elections, she will not be able to vote. Diane Fergot Decl. ¶ 9.

RESPONSE NO. 186: Not disputed.

187. Plaintiff Fergot felt disenfranchised and extremely frustrated because she and her husband had done what they needed to do to receive their ballots. Diane Fergot Decl. ¶ 10.

RESPONSE NO. 187: Not disputed.

188. Plaintiff Fergot says it was insane—they were caught totally off guard. She was angry. Diane Fergot Decl. ¶ 10.

RESPONSE NO. 188: Not disputed.

189. Plaintiff Fergot takes great pride in being a voter and takes great responsibility in this duty and says it felt awful to lose her right to vote. Diane Fergot Decl. ¶ 10.

RESPONSE NO. 189: Not disputed.

190. Plaintiff Gary Fergot is 69 years old and a resident of Oshkosh, Wisconsin. Gary Fergot Decl. ¶ 1.

RESPONSE NO. 190: Not disputed.

191. Plaintiff Fergot is a United States citizen and a registered Wisconsin voter. Gary Fergot Decl. ¶ 2.

RESPONSE NO. 191: Not disputed.

192. Plaintiff Fergot has never lost his right to vote by reason of a felony conviction or a court order. Gary Fergot Decl. ¶ 2.

RESPONSE NO. 192: Not disputed.

193. Plaintiff Fergot wants to vote in the November general election. Gary Fergot Decl. ¶ 2.

RESPONSE NO. 193: Not disputed.

194. Plaintiff Fergot lives with his wife, and they have been quarantining themselves during the Covid-19 pandemic. Gary Fergot Decl. ¶ 3.

RESPONSE NO. 194: Not disputed.

195. Plaintiff Fergot always votes in person on Election Day, but Covid-19 poses a serious risk to his health and life because of his age. Gary Fergot Decl. ¶ 4.

RESPONSE NO. 195: Not disputed.

196. Plaintiff Fergot has never voted absentee in his life, but he will only be voting by mail while this pandemic lasts. Gary Fergot Decl. ¶ 4.

RESPONSE NO. 196: Not disputed.

197. To avoid voting in person and the dangers of Covid-19, on March 24th, two weeks before the April 7th election, Plaintiff Fergot and his wife went on myvote.wi.gov and requested their absentee ballots be mailed to them, but they never received them, even after Election Day. Gary Fergot Decl. ¶ 5.

RESPONSE NO. 197: Not disputed.

198. On April 2nd, Plaintiff Fergot and his wife realized that their ballots had not arrived in the mail yet, so his wife emailed the clerk's office. Gary Fergot Decl. ¶ 6.

RESPONSE NO. 198: Not disputed.

199. On April 3rd, Plaintiff Fergot and his wife received an email back informing them that their ballots had been reissued and mailed out that day, which was the Friday before the election. Gary Fergot Decl. ¶ 6.

RESPONSE NO. 199: Not disputed.

200. The clerk's office did not offer to email Plaintiff Fergot and his wife their absentee ballots. Gary Fergot Decl. ¶ 6.

RESPONSE NO. 200: Not disputed.

201. Ultimately, Plaintiff Fergot and his wife never received their ballots in the mail, before, on, or after Election Day. Gary Fergot Decl. ¶ 7.

RESPONSE NO. 201: Not disputed.

202. Plaintiff Fergot thought their ballots were delayed but still coming, and that as long as they arrived soon, they could still vote and drop them off or mail them. Gary Fergot Decl. ¶ 7.

RESPONSE NO. 202: Not disputed.

203. Due to Plaintiff Fergot's age (he will be 70 this year), he was and remains extremely worried about Covid-19. Gary Fergot Decl. ¶ 7.

RESPONSE NO. 203: Not disputed.

204. There was no way Plaintiff Fergot was going to vote in person; the risk of contracting Covid-19 was simply too high. Gary Fergot Decl. ¶ 7.

RESPONSE NO. 204: Not disputed.

205. Plaintiff Fergot is at high risk from Covid-19 and has been quarantining since mid-March. Gary Fergot Decl. ¶ 7.

RESPONSE NO. 205: Not disputed.

206. Plaintiff Fergot and his wife are taking social distancing seriously. He has been to a handful of stores that require mask-wearing, and he goes at off-hours to avoid crowds. Gary Fergot Decl. ¶ 7.

RESPONSE NO. 206: Not disputed.

207. Plaintiff Fergot wants to vote by mail in the November general election. Gary Fergot Decl. ¶ 8.

RESPONSE NO. 207: Not disputed.

208. For the November election, Plaintiff Fergot wants to request an absentee ballot be delivered to his home by mail. Fergot Decl. ¶ 9.

RESPONSE NO. 208: Not disputed.

209. Plaintiff Fergot does not want to deal with downloading and printing an absentee ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Fergot Decl. ¶ 9.

RESPONSE NO. 209: Not disputed. In addition, Wisconsin law does not allow Plaintiff Fergot to download a ballot.

210. However, if that requested ballot does not arrive by mail in time for him to cast and return it on time, then Plaintiff Fergot needs a back-up option because he cannot safely vote in person at the polls on or before Election Day. Fergot Decl. ¶ 9.

RESPONSE NO. 210: Objection. This proposed fact is argument.

211. Because of Plaintiff Fergot's age and the ongoing Covid-19 crisis, voting in person is simply too high a risk to his health and life. Fergot Decl. ¶ 9.

RESPONSE NO. 211: Not disputed.

212. If Plaintiff Fergot's ballot does not arrive in the mail on time, he wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Fergot Decl. ¶ 9.

RESPONSE NO. 212: Not disputed.

213. Plaintiff Fergot has access to a computer, a printer, his email account, envelopes, and tape: everything he needs to print off, assemble, cast, and mail that emailed ballot back. Fergot Decl. ¶ 9.

RESPONSE NO. 213: Not disputed.

214. Plaintiff Fergot hopes it does not come to that, and his ballot arrives on time, but his right to vote should not and cannot be left to chance. Fergot Decl. ¶ 9.

RESPONSE NO. 214: Not disputed.

215. If Plaintiff Fergot cannot vote by mail in these elections, he will not be able to vote. Gary Fergot Decl. ¶ 9.

RESPONSE NO. 215: Not disputed.

216. Plaintiff Fergot made every attempt to be able to vote, but the system failed him. Gary Fergot Decl. ¶ 10.

RESPONSE NO. 216: Objection, this proposed fact is argument.

217. Plaintiff Fergot was extremely disappointed when he was unable to exercise his right to vote in the April 7th election. Gary Fergot Decl. ¶ 10.

RESPONSE NO. 217: Not disputed.

218. Plaintiff Fergot hopes he is never again forced to decide between staying safe or being able to vote. Gary Fergot Decl. ¶ 10.

RESPONSE NO. 218: Not disputed.

219. Plaintiff Fergot continues to feel angry and frustrated because of what happened to him. Gary Fergot Decl. ¶ 10.

RESPONSE NO. 219: Not disputed.

220. Plaintiff Gregg Jozwik is 70 years old and a resident of Brookfield in Waukesha County. Gregg Jozwik Decl. ¶ 1.

RESPONSE NO. 220: Not disputed.

221. Plaintiff Jozwik is a United States citizen and a registered Wisconsin voter. Gregg Jozwik Decl. ¶ 2.

RESPONSE NO. 221: Not disputed.

222. Plaintiff Jozwik has never lost his right to vote by reason of a felony conviction or a court order. Gregg Jozwik Decl. ¶ 2.

RESPONSE NO. 222: Not disputed.

223. Plaintiff Jozwik lives with his wife, Sheila Jozwik, who is 69 years old. Gregg Jozwik Decl. ¶ 3.

RESPONSE NO. 223: Not disputed.

224. Since March 21, 2020, Plaintiff Jozwik and his wife have been self-isolating with Sheila's 93-year-old mother in their cabin. Gregg Jozwik Decl. ¶ 3.

RESPONSE NO. 224: Not disputed.

225. To avoid voting in person and the dangers of COVID-19, Plaintiff Jozwik and his wife attempted to vote by mail in the April 7, 2020 election. Gregg Jozwik Decl. ¶ 4.

RESPONSE NO. 225: Not disputed.

226. Plaintiff Jozwik and his wife both requested absentee ballots be sent by mail using myvote.wi.gov on March 17, 2020; they requested that their ballots be mailed to their home in Brookfield. Gregg Jozwik Decl. ¶ 4.

RESPONSE NO. 226: Not disputed.

227. As part of the online request process, Plaintiff Jozwik had to submit an image of his Wisconsin driver's license. Gregg Jozwik Decl. ¶ 5.

RESPONSE NO. 227: Not disputed.

228. Plaintiff Jozwik had to upload his license three times before he could continue with the process, and he did not receive any message confirming that the image had been successfully uploaded. Gregg Jozwik Decl. ¶ 5.

RESPONSE NO. 228: Not disputed.

229. Since March 21st, Plaintiff Jozwik, his wife, and mother-in-law have been staying at their cabin up north in Tomahawk, Wisconsin to self-isolate. Gregg Jozwik Decl. ¶ 6.

RESPONSE NO. 229: Not disputed.

230. Plaintiff Jozwik and his wife have occasionally returned home to check the mail, including for the ballots they requested for the Spring Election. Gregg Jozwik Decl. ¶ 6.

RESPONSE NO. 230: Not disputed.

231. Plaintiff Jozwik last checked for their ballots on April 5th. They never arrived. Gregg Jozwik Decl. ¶ 6.

RESPONSE NO. 231: Not disputed.

232. On April 6th, Plaintiff Jozwik and his wife logged back onto myvote.wi.gov to see where their ballots were. It said that they had applied to receive their ballots by mail. Gregg Jozwik Decl. ¶ 7.

RESPONSE NO. 232: Not disputed.

233. Plaintiff Jozwik and his wife never contacted the clerk's office. Gregg Jozwik Decl. ¶ 7.

RESPONSE NO. 233: Not disputed.

234. Ultimately, Plaintiff Jozwik and his wife never received their ballots, even after Election Day. Gregg Jozwik Decl. ¶ 7.

RESPONSE NO. 234: Not disputed.

235. Plaintiff Jozwik and his wife thought their ballots were delayed but still coming, and that as long as they arrived by April 7th, they could vote them and drop them off or put them

in the mail so they would be postmarked by April 7th, hoping they would arrive by April 13th. Gregg Jozwik Decl. ¶ 7.

RESPONSE NO. 235: Not disputed.

236. Plaintiff Jozwik decided to vote in person in Brookfield on April 7, although he was very worried about doing so. Gregg Jozwik Decl. ¶ 8.

RESPONSE NO. 236: Not disputed.

237. Plaintiff Jozwik wore a mask to vote. Gregg Jozwik Decl. ¶ 8.

RESPONSE NO. 237: Not disputed.

238. While waiting in line to vote, Plaintiff Jozwik saw that all of the poll workers were wearing masks, but about half of the voters were not. Gregg Jozwik Decl. ¶ 8.

RESPONSE NO. 238: Not disputed.

239. Plaintiff Jozwik was not going to be denied his right to vote, but he does not feel he should have been forced to expose himself and, potentially, loved ones to a lethal virus. Gregg Jozwik Decl. ¶ 8.

RESPONSE NO. 239: Not disputed.

240. Plaintiff Jozwik wants to vote by mail in the August primaries and the November general election. Gregg Jozwik Decl. ¶ 9.

RESPONSE NO. 240: Not disputed.

241. For the November election, Plaintiff Jozwik want to request an absentee ballot be delivered to his home by mail. Gregg Jozwik Decl. ¶ 10.

RESPONSE NO. 241: Not disputed.

242. Plaintiff Jozwik does not want to deal with downloading and printing a ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Gregg Jozwik Decl. ¶ 10.

RESPONSE NO. 242: Not disputed that Mr. Jozwik does not want to download a ballot. Under current law, he would not be able to download a ballot.

243. However, if that requested ballot does not arrive by mail in time for me to cast and return it on time, then Plaintiff Jozwik needs a back-up option because he cannot safely vote in person at the polls on or before Election Day. Gregg Jozwik Decl. ¶ 10.

RESPONSE NO. 243: Objection. This proposed fact is argument.

244. Because of Plaintiff Jozwik's age, the ages of his wife and mother-in-law, and the ongoing Covid-19 crisis, voting in person is simply too high a risk to his health, his wife's health, and his mother-in-law's life. Gregg Jozwik Decl. ¶ 10.

RESPONSE NO. 244: Not disputed.

245. If Plaintiff Jozwik's ballot does not arrive in the mail on time, he wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Gregg Jozwik Decl. ¶ 10.

RESPONSE NO. 245: Not disputed.

246. Plaintiff Jozwik has access to a computer, a printer, an Internet connection, his email account, envelopes, and tape: everything he needs to print off, assemble, cast, and mail that ballot back. Gregg Jozwik Decl. ¶ 10.

RESPONSE NO. 246: Not disputed.

247. Plaintiff Jozwik hopes it does not come to that and that his ballot arrives in the mail on time, but his right to vote should not and cannot be left to chance. Gregg Jozwik Decl. ¶ 10.

RESPONSE NO. 247: Not disputed.

248. Plaintiff Jozwik says he should not be forced to choose between voting and exposing himself and his family members to a deadly virus. Gregg Jozwik Decl. ¶ 10.

RESPONSE NO. 248: Not disputed.

249. Plaintiff Jozwik says he lives in a democracy, and he believes 100 percent of eligible voters should vote. He also says should not be this difficult to participate in democracy. Gregg Jozwik Decl. ¶ 11.

RESPONSE NO. 249: Not disputed.

250. Plaintiff Sheila Jozwik is 69 years old and a resident of Brookfield in Waukesha County. Sheila Jozwik Decl. ¶ 1.

RESPONSE NO. 250: Not disputed.

251. Plaintiff Jozwik is a United States citizen and a registered Wisconsin voter. Sheila Jozwik Decl. ¶ 2.

RESPONSE NO. 251: Not disputed.

252. Plaintiff Jozwik has never lost her right to vote by reason of a felony conviction or a court order. Sheila Jozwik Decl. ¶ 2.

RESPONSE NO. 252: Not disputed.

253. Plaintiff Jozwik wants to vote in the August primary election and the November general election. Sheila Jozwik Decl. ¶ 2.

RESPONSE NO. 253: Not disputed.

254. Plaintiff Jozwik lives with her husband, Gregg Jozwik, in Brookfield. Since March 21st, they have been self-isolating at a cabin during the COVID-19 pandemic with her 93-year-old mother. Sheila Jozwik Decl. ¶ 3.

RESPONSE NO. 254: Not disputed.

255. To avoid voting in person and the dangers of COVID-19, Plaintiff Jozwik and her husband attempted to vote by mail in the April 7, 2020 election. Sheila Jozwik Decl. ¶ 4.

RESPONSE NO. 255: Not disputed.

256. Plaintiff Jozwik and her husband both requested absentee ballots by mail using myvote.wi.gov on March 17, 2020. Sheila Jozwik Decl. ¶ 4.

RESPONSE NO. 256: Not disputed.

257. Plaintiff Jozwik and her husband requested that their ballots be mailed to their home in Brookfield, but never received them, even after Election Day. Sheila Jozwik Decl. ¶ 4.

RESPONSE NO. 257: Not disputed.

258. In order to request their ballots online at myvote.wi.gov, Plaintiff Jozwik and her husband had to upload images of their Wisconsin driver's licenses. Sheila Jozwik Decl. ¶ 5.

RESPONSE NO. 258: Not disputed.

259. Plaintiff Jozwik had to submit the image of her ID three times before she could continue in the ballot request process. Sheila Jozwik Decl. ¶ 5.

RESPONSE NO. 259: Not disputed.

260. Plaintiff Jozwik did not receive any message confirming that the image had been successfully uploaded, and her husband had the same experience. Sheila Jozwik Decl. ¶ 5.

RESPONSE NO. 260: Not disputed.

261. Since March 21, Plaintiff Jozwik, her husband, and mother have been staying in their cabin north of Brookfield in order to self-isolate. Sheila Jozwik Decl. ¶ 6.

RESPONSE NO. 261: Not disputed.

262. Leading up to the April 7th election, Plaintiff Jozwik or Gregg would drive down and check the mail at their home in Brookfield to see if their ballots had arrived. Sheila Jozwik Decl. ¶ 6.

RESPONSE NO. 262: Not disputed.

263. The last time Plaintiff Jozwik and her husband checked was on April 5th, when Gregg went to their house to check the mail. Sheila Jozwik Decl. ¶ 6.

RESPONSE NO. 263: Not disputed.

264. On April 6th, Plaintiff Jozwik and Gregg logged back onto myvote.wi.gov to see where their ballots were. It showed that they had applied to receive their ballots by mail.

RESPONSE NO. 264: Not disputed. No source provided. Jozwik Decl. ¶ 7.

265. Plaintiff Jozwik never contacted the clerk's office. Sheila Jozwik Decl. ¶ 7.

RESPONSE NO. 265: Not disputed.

266. Ultimately, Plaintiff Jozwik and her husband never received their ballots, even after Election Day. Sheila Jozwik Decl. ¶ 7.

RESPONSE NO. 266: Not disputed.

267. Plaintiff Jozwik thought their ballots were delayed but still coming, and that as long as they arrived by April 7th, they could vote them and drop them off or put them in the mail so they would be postmarked by April 7th, hoping they would arrive by April 13th. Sheila Jozwik Decl. ¶ 7.

RESPONSE NO. 267: Not disputed.

268. Plaintiff Jozwik chose not to vote in person on April 7th, to protect her health and the health of her elderly mother, who is extremely vulnerable to COVID-19. Sheila Jozwik Decl. ¶ 8.

RESPONSE NO. 268: Not disputed.

269. It was the first time Plaintiff Jozwik could not vote since she first registered and voted in 1969. Sheila Jozwik Decl. ¶ 8.

RESPONSE NO. 269: Not disputed.

270. Plaintiff Jozwik wants to vote by mail in the August primaries and the November general election. Sheila Jozwik Decl. ¶ 9.

RESPONSE NO. 270: Not disputed.

271. For the November election, Plaintiff Jozwik wants to request an absentee ballot be delivered to her home by mail. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 271: Not disputed.

272. Plaintiff Jozwik does not want to deal with downloading and printing a ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 272: Not disputed. In addition, downloading ballots is not an option for her under Wisconsin law.

273. However, if that requested ballot does not arrive by mail in time for her to cast and return it on time, then Plaintiff Jozwik needs a back-up option because she cannot safely vote in person at the polls on or before Election Day. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 273: Objection. This proposed fact is argument.

274. Because of Plaintiff Jozwik's age, the ages of her husband and mother, and the ongoing Covid-19 crisis, voting in person is simply too high a risk to her health, her husband's health, and her mother's life. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 274: Not disputed.

275. If Plaintiff Jozwik's ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 275: Not disputed.

276. Plaintiff Jozwik has access to a computer, a printer, an Internet connection, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that ballot back. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 276: Not disputed.

277. Plaintiff Jozwik hopes it does not come to that, and her ballot arrives on time. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 277: Not disputed.

278. But Plaintiff Jozwik believes her right to vote should not and cannot be left to chance, and she should not be forced to choose between voting and exposing myself to a deadly virus. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 278: Not disputed.

279. If Plaintiff Jozwik cannot vote by mail in these elections, she will not be able to vote. Sheila Jozwik Decl. ¶ 10.

RESPONSE NO. 279: Disputed in part. The WEC and its staff are undertaking measures to improve voter safety. There are alternative ways to vote.

280. Plaintiff Katherine Kohlbeck is 72 years old and a resident of Milwaukee, Wisconsin. Kohlbeck Decl. ¶ 1.

RESPONSE NO. 280: Not disputed.

281. Plaintiff Kohlbeck is a United States citizen and a registered Wisconsin voter. Kohlbeck Decl. ¶ 2.

RESPONSE NO. 281: Not disputed.

282. Plaintiff Kohlbeck has never lost her right to vote by reason of a felony conviction or a court order. Kohlbeck Decl. ¶ 2.

RESPONSE NO. 282: Not disputed.

283. Plaintiff Kohlbeck wants to vote in the November general election. Kohlbeck Decl. ¶ 2.

RESPONSE NO. 283: Not disputed.

284. Plaintiff Kohlbeck lives alone and has been self-quarantined during the Covid-19 pandemic. Kohlbeck Decl. ¶ 3.

RESPONSE NO. 284: Not disputed.

285. On March 11th, Plaintiff Kohlbeck was diagnosed with breast cancer, and on May 12th, after a two-month delay due to the pandemic, she finally had her lumpectomy surgery. Kohlbeck Decl. ¶ 3.

RESPONSE NO. 285: Not disputed.

286. Typically, Plaintiff Kohlbeck votes in person on Election Day, but sometimes she votes early in person and only on a few occasions, such as when she has gone on vacation, she has voted by absentee ballot. Kohlbeck Decl. ¶ 4.

RESPONSE NO. 286: Not disputed.

287. Because of Plaintiff Kohlbeck's health condition and the uncertainty surrounding it, she attempted to vote by mail in the April 7, 2020 election. Kohlbeck Decl. ¶ 4.

RESPONSE NO. 287: Not disputed.

288. Plaintiff Kohlbeck's doctor told her not to risk getting Covid-19 and that she should absolutely not be in contact with people. She was told to stay home and stay safe, and she followed that medical advice. Kohlbeck Decl. ¶ 4.

RESPONSE NO. 288: Not disputed.

289. Plaintiff Kohlbeck was told by her surgeon that in order to have the lumpectomy, she would have to take a Covid-19 test and test negative. Kohlbeck Decl. ¶ 4.

RESPONSE NO. 289: Not disputed.

290. Fortunately, because Plaintiff Kohlbeck followed her doctors' advice, she ultimately tested negative. Kohlbeck Decl. ¶ 4.

RESPONSE NO. 290: Not disputed.

291. If Plaintiff Kohlbeck had tested positive, she could not have had this necessary surgery. Kohlbeck Decl. ¶ 4.

RESPONSE NO. 291: Not disputed.

292. That is one major reason Plaintiff Kohlbeck had to vote by mail: She could not be exposed because at any moment she could have been called up for the postponed surgery. Kohlbeck Decl. ¶ 4.

RESPONSE NO. 292: Not disputed.

293. But even if Plaintiff Kohlbeck did not have breast cancer and did not need that surgery, at her age, her odds of surviving Covid-19 are not good. Kohlbeck Decl. ¶ 4.

RESPONSE NO. 293: Not disputed.

294. And if Plaintiff Kohlbeck had managed to somehow survive Covid-19, it might well have made it impossible for her to have the lumpectomy afterwards. Kohlbeck Decl. ¶ 4.

RESPONSE NO 294: Not disputed.

295. So, to avoid voting in person and the dangers of Covid-19, Plaintiff Kohlbeck requested an absentee ballot by mail using the website myvote.wi.gov on March 19th or 20th, but never received the ballot in the mail, even after Election Day. Kohlbeck Decl. ¶ 5.

RESPONSE NO. 295: Not disputed.

296. Plaintiff Kohlbeck managed to upload an image of her Wisconsin driver's license. Kohlbeck Decl. ¶ 5.

RESPONSE NO. 296: Not disputed.

297. Plaintiff Kohlbeck had to take a photo of her driver's license, and then she had to send it from her phone to her email and download it onto her laptop. Finally, she uploaded it to myvote.wi.gov. Kohlbeck Decl. ¶ 5.

RESPONSE NO. 297: Not disputed.

298. Plaintiff Kohlbeck was able to track her ballot on myvote.wi.gov. Kohlbeck Decl. ¶ 6.

RESPONSE NO. 298: Not disputed.

299. Plaintiff Kohlbeck waited for almost a week and checked the website again on March 25th and again on March 26th. Kohlbeck Decl. ¶ 6.

RESPONSE NO. 299: Not disputed.

300. The site showed that Plaintiff Kohlbeck's ballot had been mailed out on March 23rd, but she had not yet received it. Kohlbeck Decl. ¶ 6.

RESPONSE NO. 300: Not disputed.

301. Plaintiff Kohlbeck did receive a letter dated March 25 from Milwaukee's Mayor Tom Barrett thanking her for requesting an absentee ballot. Kohlbeck Decl. ¶ 6.

RESPONSE NO. 301: Not disputed.

302. At the time, Plaintiff Kohlbeck had no idea what was causing the delay, but since the election she has read some of the stories of how ballots were lost or delayed in the mail or never even were mailed out due to computer problems. Kohlbeck Decl. ¶ 6.

RESPONSE NO. 302: Not disputed.

303. Plaintiff Kohlbeck did not call the Milwaukee City Election Commission at any point. Kohlbeck Decl. ¶ 7.

RESPONSE NO. 303: Not disputed.

304. Plaintiff Kohlbeck thought her ballot was delayed but still coming, and that as long as it arrived soon, she could vote it and drop it off somewhere or put it in the mail, hoping it would arrive by April 13th. Kohlbeck Decl. ¶ 7.

RESPONSE NO. 304: Not disputed.

305. Around March 26 or 27, Plaintiff Kohlbeck emailed the city election commission and received an email back within a day or two from Neil Albrecht, the head of the Commission, who informed her that another ballot would be mailed out to her. Kohlbeck Decl. ¶ 8.

RESPONSE NO 305: Not disputed.

306. Ultimately, Plaintiff Kohlbeck did not receive either of these ballots in the mail before, on, or even after Election Day. Kohlbeck Decl. ¶ 9.

RESPONSE NO. 306: Not disputed.

307. There was no way Plaintiff Kohlbeck was going to vote in person given her health situation and her age. Kohlbeck Decl. ¶ 9.

RESPONSE NO. 307: Not disputed.

308. Plaintiff Kohlbeck is at high risk from Covid-19, and she has been quarantining myself since mid-March. Kohlbeck Decl. ¶ 9.

RESPONSE NO. 308: Not disputed.

309. Plaintiff Kohlbeck has not been to church since March 15th. Kohlbeck Decl. ¶ 9.

RESPONSE NO. 309: Not disputed.

310. The risk of contracting Covid-19 is simply too high and, based on what Plaintiff Kohlbeck saw on the news, she would have had to wait in long lines for 90 to 120 minutes or longer and vote in a very crowded polling place, increasing her risk of contracting Covid-19. Kohlbeck Decl. ¶ 9.

RESPONSE NO. 310: Not disputed.

311. Instead of the usual almost-200 polling places in the city, there were only five open on April 7th. Kohlbeck Decl. ¶ 9.

RESPONSE NO. 311: Not disputed.

312. This was due to the shortage of available poll workers and the Covid-19 crisis; Plaintiff Kohlbeck saw on the news that the lines and long waits continued throughout the day. Kohlbeck Decl. ¶ 9.

RESPONSE NO. 312: Not disputed.

313. Plaintiff Kohlbeck wants to vote by mail in the November general election. Kohlbeck Decl. ¶ 10.

RESPONSE NO. 313: Not disputed.

314. For the November election, Plaintiff Kohlbeck wants to request an absentee ballot be delivered to her home by mail. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 314: Not disputed.

315. Plaintiff Kohlbeck does not want to deal with downloading and printing a ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 315: Not disputed. In addition, Wisconsin law does not allow Plaintiff Kohlbeck to download a ballot

316. However, if that requested ballot does not arrive by mail in time for her to cast and return it on time, then Plaintiff Kohlbeck needs a back-up because she cannot safely vote in person at the polls on or before Election Day. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 316: Objection. This proposed fact is argument.

317. Because of Plaintiff Kohlbeck's health, age, and the ongoing Covid-19 crisis, voting in person is simply too high a risk to her health and life. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 317: Not disputed.

318. If the cancer comes back, Plaintiff Kohlbeck might need additional surgery in the future. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 318: Not disputed.

319. Just as Plaintiff Kohlbeck could not risk contracting Covid-19 by voting in person in the April 7th election, she cannot risk contracting it in the November elections. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 319: Not disputed.

320. So, if Plaintiff Kohlbeck's ballot does not arrive in the mail on time, she wants to either be able to access and download her absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 320: Not disputed.

321. Plaintiff Kohlbeck has access to a computer, a printer, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that ballot back. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 321: Not disputed.

322. Plaintiff Kohlbeck hopes it does not come to that and that her ballot arrives in the mail on time, but her right to vote should not and cannot be left to chance. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 322: Not disputed.

323. If Plaintiff Kohlbeck cannot vote by mail in these elections, she will not be able to vote. Kohlbeck Decl. ¶ 11.

RESPONSE NO. 323: Not disputed.

324. Plaintiff Kohlbeck believes it should not be this hard to vote in America, especially for people who are at high risk from Covid-19. Kohlbeck Decl. ¶ 12.

RESPONSE NO 324: Not disputed.

325. Plaintiff Kohlbeck is still angry that she did not get to vote in the April 7th election. Kohlbeck Decl. ¶ 12.

RESPONSE NO. 325: Not disputed.

326. It was the first one in over 50 years in which Plaintiff Kohlbeck could not vote. Kohlbeck Decl. ¶ 12.

RESPONSE NO. 326: Not disputed.

327. Plaintiff Bonibet Bahr Olsan is 77 years old and a resident of Appleton, Wisconsin. Olsan Decl. ¶ 1.

RESPONSE NO. 327: Not disputed.

328. Plaintiff Olsan is a United States citizen and a registered Wisconsin voter. Olsan Decl. ¶ 2.

RESPONSE NO. 328: Not disputed.

329. Plaintiff Olsan has never lost their right to vote by reason of a felony conviction or a court order. Olsan Decl. ¶ 2.

RESPONSE NO. 329: Not disputed.

330. Plaintiff Olsan wants to vote in the November general election. Olsan Decl. ¶ 2.

RESPONSE NO. 330: Not disputed.

331. Plaintiff Olsan lives with their husband, and they have been quarantining themselves during the COVID-19 pandemic. Olsan Decl. ¶ 3.

RESPONSE NO. 331: Not disputed.

332. Plaintiff Olsan has never voted absentee in their entire life, but at their age, COVID-19 poses a serious risk to their health and life. Olsan Decl. ¶ 4.

RESPONSE NO. 332: Not disputed.

333. Because of Plaintiff Olsan's age, they attempted to vote by mail for the first time in the April 7, 2020 election. Olsan Decl. ¶ 4.

RESPONSE NO. 333: Not disputed.

334. To avoid voting in person and the dangers of COVID-19, in mid-March, Plaintiff Olsan requested an absentee ballot by mail using the request form. Olsan Decl. ¶ 5.

RESPONSE NO. 334: Not disputed.

335. Plaintiff Olsan filled out and mailed in this absentee ballot request form along with a printed photo they took of their Wisconsin driver's license using their phone camera. Olsan Decl. ¶ 5.

RESPONSE NO. 335: Not disputed.

336. Plaintiff Olsan requested that their ballot be mailed to them. Olsan Decl. ¶ 5.

RESPONSE NO. 336: Not disputed.

337. Plaintiff Olsan never received their ballot, not even after Election Day. Olsan Decl. ¶ 6.

RESPONSE NO. 337: Not disputed.

338. Plaintiff Olsan's husband requested his ballot at the same time as they did and received it a week before Election Day. Olsan Decl. ¶ 6.

RESPONSE NO. 338: Not disputed.

339. Before Election Day, Plaintiff Olsan checked myvote.wi.gov, and it showed that their absentee ballot had been mailed out to them on March 28th. Olsan Decl. ¶ 6.

RESPONSE NO. 339: Not disputed.

340. Plaintiff Olsan did not contact the Appleton city clerk's office. Olsan Decl. ¶ 7.

RESPONSE NO. 340: Not disputed.

341. Plaintiff Olsan thought their ballot was delayed but still coming, and that as long as it arrived soon, they could vote it and drop it off or mail it in time. Olsan Decl. ¶ 7.

RESPONSE NO. 341: Not disputed.

342. Plaintiff Olsan waited until the very last minute on April 7, Election Day, but the ballot still had not arrived in their mailbox and they were out of time. Olsan Decl. ¶ 7.

RESPONSE NO. 342: Not disputed.

343. Plaintiff Olsan was forced to make the difficult decision not to vote because the only option left to them was to vote in person, and they did not want to risk the exposure to Covid-19. Olsan Decl. ¶ 8.

RESPONSE NO. 343: Not disputed.

344. Plaintiff Olsan and their husband have been self-quarantining since mid-March. Olsan Decl. ¶ 8.

RESPONSE NO. 344: Not disputed. Olsan Decl. ¶ 3.

345. Plaintiff Olsan and their husband walk their dog, and they make a trip to the grocery store once every two weeks, wearing a mask and gloves. This grocery store takes strict precautions. For example, employees have to wear masks and remain behind a plexiglass screen at check-out. Olsan Decl. ¶ 8.

RESPONSE NO. 345: Not disputed.

346. There was no way Plaintiff Olsan was going to vote in person given their age; the risk of contracting COVID-19 is simply too high. Olsan Decl. ¶ 8.

RESPONSE NO. 346: Not disputed.

347. Plaintiff Olsan wants to vote by mail in the November general election. Olsan Decl. ¶ 9.

RESPONSE NO. 347: Not disputed.

348. For the November election, Plaintiff Olsan has already requested an absentee ballot be delivered to their home by mail. Olsan Decl. ¶ 10.

RESPONSE NO. 348: Not disputed.

349. Plaintiff Olsan does not want to deal with accessing and downloading a ballot online at myvote.wi.gov and printing it or printing an emailed ballot and assembling the envelope for its mailing. Olsan Decl. ¶ 10.

RESPONSE NO. 349: Not disputed. In addition, downloading a ballot is not allowed by Wisconsin law for Plaintiff Olsan.

350. However, if that requested ballot does not arrive by mail in time for them to cast and return it, then Plaintiff Olsan needs a back-up because they cannot safely vote in person at the polls on or before Election Day. Olsan Decl. ¶ 10.

RESPONSE NO. 350: Objection. This proposed fact is argument.

351. Because of Plaintiff Olsan's age and the ongoing COVID-19 crisis, voting is simply too high a risk to their health and life. Olsan Decl. ¶ 10.

RESPONSE NO. 351: Not disputed.

352. If Plaintiff Olsan's ballot does not arrive in the mail on time, they want to be permitted to access and download a ballot online at myvote.wi.gov or emailed an absentee ballot. Olsan Decl. ¶ 10.

RESPONSE NO. 352: Not disputed.

353. Plaintiff Olsan has access to a computer, a printer, their email account, envelopes, and tape: everything they need to print off, assemble, cast, and mail that emailed ballot back. Olsan Decl. ¶ 10.

RESPONSE NO. 353: Not disputed.

354. Plaintiff Olsan hopes it does not come to that, and their ballot arrives in the mail on time, but their right to vote should not and cannot be left to chance. Olsan Decl. ¶ 10.

RESPONSE NO. 354: Not disputed.

355. If Plaintiff Olsan cannot vote by mail in these elections, they will not be able to vote. Olsan Decl. ¶ 10.

RESPONSE NO. 355: Not disputed.

356. Plaintiff Olsan says it should not be this hard to vote in America, especially for people who are at high risk from the coronavirus. Olsan Decl. ¶ 11.

RESPONSE NO. 356: Not disputed.

357. On all counts, Plaintiff Olsan is extremely upset that they had to choose their personal safety over exercising their constitutional right to vote. Olsan Decl. ¶ 11.

RESPONSE NO. 357: Not disputed.

358. Plaintiff Olsan feels they should never be forced to make this choice in any future elections. Olsan Decl. ¶ 11.

RESPONSE NO. 358: Not disputed.

359. Plaintiff Claire Whelan is a 64-year-old retiree and a resident of Appleton, Wisconsin. Whelan Decl. ¶ 1.

RESPONSE NO. 359: Not disputed.

360. Plaintiff Whelan lives alone in her apartment. Whelan Decl. ¶ 1.

RESPONSE NO. 360: Not disputed.

361. Plaintiff Whelan is a United States citizen and a registered Wisconsin voter. Whelan Decl. ¶ 2.

RESPONSE NO. 361: Not disputed.

362. Plaintiff Whelan has never lost her right to vote by reason of a felony conviction or a court order. Whelan Decl. ¶ 2.

RESPONSE NO. 362: Not disputed.

363. Plaintiff Whelan is a member of the League of Women Voters of Wisconsin of Appleton and a member of the League of Women Voters of Wisconsin. Whelan Decl. ¶ 3.

RESPONSE NO. 363: Not disputed.

364. Plaintiff Whelan is at risk of severe complications from COVID-19 because of her age and chronic asthma. Whelan Decl. ¶ 4.

RESPONSE NO. 364: Not disputed.

365. Plaintiff Whelan knows what it is like to struggle for breath. Whelan Decl. ¶ 4.

RESPONSE NO. 365: Not disputed.

366. When the season changed and the weather became hot and humid, one night Plaintiff Whelan forgot to close the windows at night and woke up wheezing. Whelan Decl. ¶ 4.

RESPONSE NO. 366: Not disputed.

367. Once Plaintiff Whelan closed the windows, it took all day for her breathing to calm down, and she was completely exhausted and had to just sit and wait to recover. Whelan Decl. ¶ 4.

RESPONSE NO. 367: Not disputed.

368. To protect herself, Plaintiff Whelan has been self-quarantining at her apartment since mid-March. Whelan Decl. ¶ 5.

RESPONSE NO. 368: Not disputed.

369. Plaintiff Whelan makes her regular grocery store run at 5:30 a.m., wearing a mask, when there are only a very few other people in the store. Putting the groceries away can entail up to thirty hand washings to eliminate any risk of infection. Whelan Decl. ¶ 5.

RESPONSE NO. 369: Not disputed.

370. Plaintiff Whelan does not feel safe going to a laundromat or even the laundry room in her apartment building, and she has not been to either since March 10. Whelan Decl. ¶ 5.

RESPONSE NO 370: Not disputed.

371. To protect her health, Plaintiff Whelan is handwashing her clothes in her kitchen sink. Whelan Decl. ¶ 5.

RESPONSE NO. 371: Not disputed.

372. Plaintiff Whelan wants to take every precaution to reduce the chance that she is exposed to Covid-19, because she wants to continue to be able to visit her mother, who is 93 years old and lives in a nursing home nearby. Whelan Decl. ¶ 6.

RESPONSE NO. 372: Not disputed.

373. Plaintiff Whelan's mother's nursing home went on lockdown on March 13 and, up until very recently, she was not able to visit her mother at all. Whelan Decl. ¶ 6.

RESPONSE NO. 373: Not disputed.

374. During the lockdown, all visitors, family, and volunteers were prohibited from entering Plaintiff Whelan's mother's nursing home, except in end-of-life circumstances. Now the nursing home permits limited visitation with strict requirements and supervision. Whelan Decl. ¶ 6.

RESPONSE NO. 374: Not disputed.

375. On June 30 and again on July 8th, Plaintiff Whelan has been able to have a supervised visit with her mother for 15 minutes and only outside. Whelan Decl. ¶ 6.

RESPONSE NO. 375: Not disputed.

376. Plaintiff Whelan wears a mask at all times. Plaintiff Whelan fears bringing the virus into that facility and takes the highest precautions for that reason. Whelan Decl. ¶ 6.

RESPONSE NO. 376: Not disputed.

377. To protect her health, Plaintiff Whelan is limiting herself to only essential trips like her mom's nursing home, grocery stores, and the post office. Whelan Decl. ¶ 7.

RESPONSE NO. 377: Not disputed.

378. Plaintiff Whelan must vote by mail-in absentee ballot to avoid the severe risks to her health and life, as well as her mother's life and the lives of everyone at her mother's nursing home, that would come with voting in person. Whelan Decl. ¶ 7.

RESPONSE NO. 378: Not disputed.

379. Plaintiff Whelan wants to vote by mail-in absentee ballot in the November general election. Whelan Decl. ¶ 8.

RESPONSE NO. 379: Not disputed.

380. For the November election, Plaintiff Whelan wants to request an absentee ballot be delivered to her home by mail. Whelan Decl. ¶ 9.

RESPONSE NO. 380: Not disputed.

381. Plaintiff Whelan does not want to deal with downloading and printing a ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Whelan Decl. ¶ 9.

RESPONSE NO. 381: Not disputed. In addition, downloading a ballot is not an option for Plaintiff Whelan under Wisconsin law.

382. However, if that requested ballot does not arrive by mail in time for her to cast and return it on time, then Plaintiff Whelan needs a back-up option because she cannot safely vote in person at the polls on or before Election Day. Whelan Decl. ¶ 9.

RESPONSE NO. 382: Objection. This proposed fact is argument.

383. Because of Plaintiff Whelan's age and chronic asthma, her mother's health, the lives of all those who reside and work at her mother's nursing home, and the ongoing Covid-19 crisis, voting in person is simply too high a risk to her health and life. Whelan Decl. ¶ 9.

RESPONSE NO. 383: Not disputed.

384. If Plaintiff Whelan's ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Whelan Decl. ¶ 9.

RESPONSE NO. 384: Not disputed.

385. Plaintiff Whelan has access to a computer, a printer, an Internet connection, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that ballot back. Plaintiff Whelan hopes it does not come to that, and her ballot arrives on time. Whelan Decl. ¶ 9.

RESPONSE NO. 385: Not disputed.

386. But Plaintiff Whelan believes her right to vote should not and cannot be left to chance, and she should not be forced to choose between voting and exposing herself to a deadly virus. Whelan Decl. ¶ 9.

RESPONSE NO. 386: Not disputed.

387. If Plaintiff Whelan cannot vote by mail in these elections, she will not be able to vote. Whelan Decl. ¶ 9.

RESPONSE NO. 387: Disputed in part. The WEC and its staff are undertaking measures to improve voter safety. There are alternative ways to vote.

388. Plaintiff Sylvia Gear is 84 years old and lives on her own in Cudahy, Wisconsin. Gear Decl. ¶ 1.

RESPONSE NO. 388: Not disputed.

389. Plaintiff Gear is a United States citizen and a registered Wisconsin voter, and has never lost her right to vote due to a felony conviction or by court order. Gear Decl. ¶ 2.

RESPONSE NO. 389: Not disputed.

390. Plaintiff Gear is a retired teacher and a member of the Wisconsin Alliance for Retired Americans. Gear Decl. ¶ 3.

RESPONSE NO. 390: Not disputed.

391. Plaintiff Gear is at risk of severe complications from Covid-19 because of her age and because she has received treatment for cancer in the past. Gear Decl. ¶ 4.

RESPONSE NO. 391: Not disputed.

392. As a result, Plaintiff Gear has self-quarantined since March. Gear Decl. ¶ 4.

RESPONSE NO. 392: Not disputed.

393. Since March, Plaintiff Gear has only left her home about once a week to go grocery shopping or to obtain prescription medications. Gear Decl. ¶ 5.

RESPONSE NO. 393: Not disputed.

394. Plaintiff Gear always wears a mask or a face covering like a scarf. Gear Decl. ¶ 5.

RESPONSE NO. 394: Not disputed.

395. Also, since March, Plaintiff Gear has not been to any of her regular social activities, including Sisters of St. Francis in St. Francis, Wisconsin or a gathering with her teacher friends at a weekly fish fry at a local restaurant. Gear Decl. ¶ 5.

RESPONSE NO. 395: Not disputed.

396. Plaintiff Gear stopped going to her sister's house entirely and had to miss her granddaughter's and grandnephew's birthdays. Gear Decl. ¶ 5.

RESPONSE NO. 396: Not disputed.

397. Plaintiff Gear would prefer to vote in person in the November election, but if the COVID-19 pandemic continues to pose a threat to her health, as seems likely, she will again apply to vote by mail-in absentee ballot to protect her health. Gear Decl. ¶ 6.

RESPONSE NO 397: Not disputed.

398. Because Plaintiff Gear has been quarantining herself to protect her health, she must also vote by mail-in absentee ballot to avoid serious risks to her health and life. Gear Decl. ¶ 6.

RESPONSE NO. 398: Not disputed.

399. For the November election, Plaintiff Gear wants to request an absentee ballot be delivered to her home by mail. Gear Decl. ¶ 7.

RESPONSE NO. 399: Not disputed.

400. Plaintiff Gear does not want to deal with downloading and printing a ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Gear Decl. ¶ 7.

RESPONSE NO. 400: Not disputed. In addition, Wisconsin law does not allow Plaintiff Gear to download a ballot.

401. However, if that requested ballot does not arrive by mail in time for Plaintiff Gear to cast and return it on time, then she needs a back-up option because she cannot safely vote in person at the polls on or before Election Day. Gear Decl. ¶ 7.

RESPONSE NO. 401: Disputed in part. The WEC and its staff are undertaking measures to improve voter safety.

402. Because of Plaintiff Gear's age and the ongoing Covid-19 crisis, voting in person is simply too high a risk to her health and life. Gear Decl. ¶ 7.

RESPONSE NO 402: Not disputed.

403. If her ballot does not arrive in the mail on time, Plaintiff Gear wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Gear Decl. ¶ 7.

RESPONSE NO. 403: Not disputed.

404. Plaintiff Gear has access to a computer, a printer, an Internet connection, an email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that ballot back. Gear Decl. ¶ 7.

RESPONSE NO. 404: Not disputed.

405. Plaintiff Gear hopes it does not come to that, and her ballot arrives on time. Gear Decl. ¶ 7.

RESPONSE NO. 405: Not disputed.

406. But Plaintiff Gear believes her right to vote should not and cannot be left to chance, and she should not be forced to choose between voting and exposing herself to a deadly virus. Gear Decl. ¶ 7.

RESPONSE NO. 406: Not disputed.

407. If Plaintiff Gear cannot vote by mail in these elections, she will not be able to vote. Gear Decl. ¶ 7.

RESPONSE NO. 407: Disputed in part. The WEC and its staff are undertaking measures to improve voter safety. There are alternative ways to vote.

Witnesses

408. Declarant Krejci is 70 years old and a resident of Milwaukee, Wisconsin. Krejci Decl. ¶ 1.

RESPONSE NO. 408: Not disputed.

409. Declarant Krejci is a United States citizen and a registered Wisconsin voter. Krejci Decl. ¶ 2.

RESPONSE NO. 409: Not disputed.

410. Declarant Krejci has never lost her right to vote by reason of a felony conviction or a court order. Krejci Decl. ¶ 2.

RESPONSE NO. 410: Not disputed.

411. Declarant Krejci wants to vote in the November general election. Krejci Decl. ¶ 2.

RESPONSE NO. 411: Not disputed.

412. Since the middle of March, Declarant Krejci has been strictly quarantined. Outside of grocery shopping, which she does once a week during the defined senior hours, she has only left the house sparingly to sign checks for her business. Krejci Decl. ¶ 3.

RESPONSE NO. 412: Not disputed.

413. Since Memorial Day, Declarant Krejci has spent weekends visiting her cottage which is southwest of Milwaukee, where social distancing is easier. Krejci Decl. ¶ 3.

RESPONSE NO. 413: Not disputed.

414. In April, Declarant Krejci's husband even quarantined himself from her. Two of his employees had tested positive for the virus and, in the interest of caution, he spent about two weeks living at his sister's house while she was out of town, so as not to infect Declarant Krejci. Krejci Decl. ¶ 4.

RESPONSE NO. 414: Not disputed.

415. Declarant Krejci is at a high risk for COVID-19. Not only is she over 65 years of age, but she has suffered from asthma since the age of 16. Additionally, she has atrial fibrillation, a form of cardiac arrhythmia, which puts her at risk of complications if she does contract the virus. Based on everything she read about COVID-19 and how it affects people, she is not in a position to risk exposure to the virus. Krejci Decl. ¶5.

RESPONSE NO. 415: Not disputed.

416. Declarant Krejci typically votes in person on Election Day. She has voted in every state-wide and national election since the very first election she voted in in 1972. Krejci Decl. ¶ 6.

RESPONSE NO 416: Not disputed.

417. Within days of entering quarantine, Declarant Krejci requested an absentee ballot through myvote.wi.gov because she did not think she would be able to go to the polls this year. Krejci Decl. ¶ 6.

RESPONSE NO. 417: Not disputed.

418. As Election Day drew closer and closer, Declarant Krejci thought that the election surely would be postponed. She spoke with a friend of hers, who is a poll worker, and her assessment was the same as her own. There was a lot of controversy about what was going to happen, but Declarant Krejci felt fairly certain that she would be able to vote somehow. Krejci Decl. ¶ 7.

RESPONSE NO. 418: Not disputed.

419. Declarant Krejci heard about other people, friends and family, receiving their ballots and just kept assuming that hers would arrive in the mail the next day or the next day. Looking back, Declarant Krejci feels naïve for trusting that process. Krejci Decl. ¶ 7.

RESPONSE NO. 419: Not disputed.

420. Declarant Krejci checked the mail routinely, but she never received her ballot in the mail, not even after Election Day. Krejci Decl. ¶ 7.

RESPONSE NO. 420: Not disputed.

421. On April 7th, Declarant Krejci did not go to the polls. Krejci Decl. ¶ 8

RESPONSE NO. 421: Not disputed.

422. One of the five polling places (out of 180) that remained open in Milwaukee is a short walk away from Declarant Krejci's house, about eight blocks. She briefly considered going in person but was unsure if people would be social distancing and staying safe. Krejci Decl. ¶ 8

RESPONSE NO. 422: Not disputed.

423. A friend of Declarant Krejci's son, who owns a house within a few blocks of that polling place, sent her pictures of the long lines of people waiting to vote. They were there for hours and this convinced Declarant Krejci that it would not be safe for her to go in person. Krejci Decl. ¶ 8.

RESPONSE NO. 423: Not disputed.

424. Declarant Krejci never dreamed that being disenfranchised would have such a profound effect on her. Voting had never been difficult for her before and she sincerely resents that she was denied this opportunity in 2020. In light of this experience, she feels a need to get involved and help remedy this terrible situation. Krejci Decl. ¶ 9.

RESPONSE NO. 424: Disputed in part. To the extent that the plaintiffs are suggesting that these defendants were the cause of people being unable to vote by the use of the word disenfranchised, that is an inaccurate characterization of the events.

425. Declarant Krejci has requested an absentee ballot for all remaining elections in 2020. Krejci Decl. ¶ 10.

RESPONSE NO. 425: Not disputed.

426. Declarant Krejci's hope is that, if she gets her ballot for the August 11th partisan primary, she will feel more confident about her ballot coming in November. This is not necessarily an election in which she would ordinarily cast a ballot — however, it will be useful to her as a trial run for the fall. Krejci Decl. ¶ 10.

RESPONSE NO. 426: Not disputed.

427. If her ballot does not arrive in the mail on time, Declarant Krejci would prefer to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Krejci Decl. ¶ 10.

RESPONSE NO. 427: Not disputed.

428. Declarant Krejci has access to a computer, a printer, my email account, envelopes, and tape: everything she need to print off, assemble, cast, and mail that downloaded or emailed ballot back. Krejci Decl. ¶ 10.

RESPONSE NO. 428: Not disputed.

429. Declarant Krejci hopes it does not come to that, and her ballot arrives in the mail on time, but after this experience, she cannot be sure of it. Krejci Decl. ¶ 10.

RESPONSE NO. 429: Not disputed.

430. Declarant Michele Harrell is 55 years old and a resident of Oshkosh, Wisconsin. Harrell Decl. ¶ 1.

RESPONSE NO. 430: Not disputed.

431. Declarant Harrell is a United States citizen and a registered Wisconsin voter. Harrell Decl. ¶ 2.

RESPONSE NO. 431: Not disputed.

432. Declarant Harrell has never lost her right to vote by reason of a felony conviction or a court order. Harrell Decl. ¶ 2.

RESPONSE NO. 432: Not disputed.

433. Declarant Harrell wants to vote in the November general election. Harrell Decl. ¶ 2.

RESPONSE NO. 433: Not disputed.

434. Declarant Harrell lives alone, and has been quarantining since early March. Declarant Harrell only leave the house for groceries, essential medical appointments, and to care for her mother, and always wears a mask when she does so. Harrell Decl. ¶ 3.

RESPONSE NO. 434: Not disputed.

435. Declarant Harrell has been voting since she was 18 years old, and usually votes in person on Election Day. Harrell Decl. ¶ 4.

RESPONSE NO. 435: Not disputed.

436. Because Declarant Harrell is a caretaker for her mother, who is 77 years old and has end-stage kidney disease and diabetes, she attempted to vote by mail in April. Harrell Decl. ¶ 4.

RESPONSE NO. 436: Not disputed.

437. To avoid voting in person and the dangers of Covid-19, in mid-March, Declarant Harrell went on myvote.wi.gov and requested an absentee ballot. Harrell Decl. ¶ 5.

RESPONSE NO. 437: Not disputed.

438. Declarant Harrell never received her ballot and still does not know what happened with it. Harrell Decl. ¶ 5.

RESPONSE NO. 438: Not disputed.

439. On April 6th, Declarant Harrell called the clerk's office to ask about the whereabouts of her ballot. They told her not to worry about the delay because she would have until April 13th to return her ballot. The clerk's staff did not offer to email her an absentee ballot or permit her to access and download her ballot online. Harrell Decl. ¶ 5.

RESPONSE NO. 439: Not disputed.

440. Declarant Harrell checked her mailbox later that day and did not find her ballot there. Harrell Decl. ¶ 7.

RESPONSE NO. 440: Not disputed.

441. The same day, Declarant Harrell heard the news that the Supreme Court had ruled that ballots needed to be postmarked on Election Day. Harrell Decl. ¶ 7.

RESPONSE NO. 441: Not disputed.

442. Election Day came, and Declarant Harrell ultimately decided to vote in person at the polls. Declarant Harrell voted late in the morning at her usual polling place. Harrell Decl. ¶ 8.

RESPONSE NO. 442: Not disputed.

443. Declarant Harrell is very nervous about trying to vote by mail again based on her experience, but would still rather vote by mail than vote in person given the risk of contracting COVID-19 and passing it on to her mother. Harrell Decl. ¶ 9.

RESPONSE NO. 443: Not disputed.

444. Declarant Harrell is absolutely confident that Covid-19 will still be around during the November election. Harrell Decl. ¶ 9.

RESPONSE NO. 444: Disputed in part. The course of COVID-19 is unknown.

445. Declarant Harrell does not want to deal with downloading and printing an absentee ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. However, if her requested ballot does not arrive by mail in time for her to cast and return it on time, then she wants a back-up option. Harrell Decl. ¶ 10.

RESPONSE NO. 445: Not disputed. In addition, Wisconsin law does not allow Ms. Harrell to download a ballot.

446. Given the danger of Covid-19, Declarant Harrell would prefer not to vote in person at a polling place. Harrell Decl. ¶ 10.

RESPONSE NO. 446: Not disputed.

447. If her ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Harrell Decl. ¶ 10.

RESPONSE NO. 447: Not disputed.

448. Declarant Harrell has access to a computer, a printer, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that downloaded or emailed ballot back. Harrell Decl. ¶ 10.

RESPONSE NO. 448: Not disputed.

449. She hopes it does not come to that, and her ballot arrives in the mail on time, but her right to vote should not and cannot be left to chance. Harrell Decl. ¶ 10.

RESPONSE NO. 449: Not disputed.

450. Declarant Harrell's confidence in the voting process has been shaken by this experience. To this day, Declarant Harrell has still not received any explanation for what happened to her ballot. For all Declarant Harrell knows, it could be among the tubs of undelivered ballots that were discovered after the election. Harrell Decl. ¶ 11.

RESPONSE NO. 450: Objection. This conclusion is speculative.

451. Declarant Halee Newby is 24 years old and a resident of Milwaukee, Wisconsin. Newby Decl. ¶ 1.

RESPONSE NO. 451: Not disputed.

452. Declarant Newby is a United States citizen and a registered Wisconsin voter.
Newby Decl. ¶ 2.

RESPONSE NO. 452: Not disputed.

453. Declarant Newby has never lost her right to vote by reason of a felony conviction or a court order. Newby Decl. ¶ 2.

RESPONSE NO. 453: Not disputed.

454. Declarant Newby wants to vote in the November general election. Newby Decl. ¶ 2.

RESPONSE NO. 454: Not disputed.

455. Declarant Newby lives with her boyfriend, and they have been quarantining since early March. Newby Decl. ¶ 3.

RESPONSE NO. 455: Not disputed.

456. Aside from occasionally visiting her parents, who have themselves self-quarantined specifically so she can visit, and her boyfriend going to the grocery store, they have continued to social distance. Newby Decl. ¶ 3.

RESPONSE NO. 456: Not disputed.

457. Declarant Newby has historically voted in person on Election Day at her previous polling place in Mequon, Wisconsin. Newby Decl. ¶ 4.

RESPONSE NO. 457: Not disputed.

458. Declarant Newby has only voted by mail once before, in the Spring 2016 Presidential Primary, while in college away from home at UW-Madison. Newby Decl. ¶ 4.

RESPONSE NO. 458: Not disputed.

459. Declarant Newby voted in Milwaukee for the first time in the February 18, 2020 Spring Primary, in person, on Election Day. Newby Decl. ¶ 4.

RESPONSE NO. 459: Not disputed.

460. COVID-19 poses a serious risk to Declarant Newby's health and life because she has lupus and is consequently immunocompromised. Newby Decl. ¶ 4.

RESPONSE NO. 460: Not disputed.

461. To avoid voting in person and the dangers of COVID-19, in mid-March, Declarant Newby and her boyfriend went on myvote.wi.gov and requested their absentee ballots be mailed to us, but they never received them. Newby Decl. ¶ 5.

RESPONSE NO. 461: Not disputed.

462. Beginning on or around March 30, Declarant Newby called and e-mailed the Milwaukee municipal clerk's office multiple times asking about our ballots. Newby Decl. ¶ 6.

RESPONSE NO. 462: Not disputed.

463. No one had an answer as to the whereabouts of Declarant Newby and her boyfriend's ballots, and their ballot status on myvote.wi.gov never showed that they had been mailed. Newby Decl. ¶ 6.

RESPONSE NO. 463: Not disputed.

464. The clerk's staff did not offer to email Declarant Newby and her boyfriend their absentee ballots or to enable them to access and download their ballots online. Newby Decl. ¶ 6

RESPONSE NO. 464: Not disputed that the clerk followed the law.

465. Declarant Newby continued to hope that she would receive her ballot in time to vote, or that some accommodation would be made for those who did not receive their ballots in time to vote. Newby Decl. ¶ 7.

RESPONSE NO. 465: Not disputed.

466. However, the evening before Election Day, Declarant Newby saw a news report indicating that the Supreme Court decision meant that they would not have the additional six days we thought we would to receive and mail back our ballots, and that no such accommodations would be made. This meant that they had no choice but to risk their health by voting in person or not vote at all. Newby Decl. ¶ 7.

RESPONSE NO. 466: Objection. This conclusion is speculative.

467. On Election Day, my Declarant Newby and her boyfriend checked their mailbox several times but their ballots had not arrived. Newby Decl. ¶ 8.

RESPONSE NO. 467: Not disputed.

468. Additionally, Declarant Newby and her boyfriend checked periodically for reduced foot traffic at the municipal building since they live two blocks away, but the lines to vote were long all day due to the reduction of polling locations. Newby Decl. ¶ 8.

RESPONSE NO. 468: Not disputed.

469. Declarant Newby emailed the municipal clerk specifically asking to receive her ballot by email but received no response. Newby Decl. ¶ 8.

RESPONSE NO. 469: Not disputed.

470. Ultimately, Declarant Newby and her boyfriend made the difficult decision not to vote because of the risk of contracting COVID-19 was too great. Newby Decl. ¶ 8.

RESPONSE NO. 470: Not disputed.

471. Declarant Newby has always voted in person, and she would prefer to do so again this August and November, but she believes that COVID-19 will continue to present a significant risk to her health and safety. Newby Decl. ¶ 9.

RESPONSE NO. 471: Disputed in part. The course of COVID-19 is unknown.

472. For the August and November elections, Declarant Newby has already requested an absentee ballot be delivered to her home by mail. Newby Decl. ¶ 10.

RESPONSE NO. 472: Not disputed.

473. Declarant Newby does not want to deal with downloading and printing an absentee ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Newby Decl. ¶ 11.

RESPONSE NO. 473: Not disputed. In addition, Wisconsin law does not allow Ms. Newby to download a ballot.

474. However, if that requested ballot does not arrive by mail in time for Declarant Newby to cast and return it on time, then she wants a back-up option. Newby Decl. ¶ 11.

RESPONSE NO. 474: Not disputed.

475. Given the danger of COVID-19, Declarant Newby would prefer not to vote in person at a polling place. Newby Decl. ¶ 11.

RESPONSE NO. 475: Not disputed.

476. If Declarant Newby's ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Newby Decl. ¶ 11.

RESPONSE NO. 476: Not disputed.

477. Declarant Newby has access to a computer, a printer, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that downloaded or emailed ballot back. Newby Decl. ¶ 11.

RESPONSE NO. 477: Not disputed.

478. Declarant Newby hopes it does not come to that, and her ballot arrives in the mail on time, but her right to vote should not and cannot be left to chance. Newby Decl. ¶ 11.

RESPONSE NO. 478: Not disputed.

479. Declarant Newby was incredibly disappointed to have not been able to vote in the April 7 Primary Election, as it is the only election she has missed since turning 18. While she does not always agree with the decisions elected officials make, she at least feels as though she has done my part to ensure her voice was heard. Newby Decl. ¶ 12.

RESPONSE NO. 479: Not disputed.

480. The fact that she never received my absentee ballot, coupled with the fact that the Wisconsin Supreme Court made no effort to provide provisional protections for immunocompromised voters, made Declarant Newby feel all but invisible. Not only did the State not care if she voted, but it also didn't care if she put myself at risk in the process. Newby Decl. ¶ 12.

RESPONSE NO. 480: Disputed in part to the extent that the Plaintiffs are inferring that the Defendants were responsible.

481. Declarant Newby ultimately decided that she would rather live to see the next election than vote in its primary, but it was a very difficult decision that she hopes to never be forced to make again. Newby Decl. ¶ 12.

RESPONSE NO. 481: Not disputed.

482. Declarant Megan Lohrenz is 32 years old and a resident of Milwaukee, Wisconsin. Lohrenz Decl. ¶ 1.

RESPONSE NO. 482: Not disputed.

483. Declarant Lohrenz is a United States citizen and a registered Wisconsin voter. Lohrenz Decl. ¶ 2.

RESPONSE NO. 483: Not disputed.

484. Declarant Lohrenz has never lost her right to vote by reason of a felony conviction or a court order. Lohrenz Decl. ¶ 2.

RESPONSE NO. 484: Not disputed.

485. Declarant Lohrenz wants to vote in the November general election. Lohrenz Decl. ¶ 2.

RESPONSE NO. 485: Not disputed.

486. Declarant Lohrenz lives with her boyfriend and they have been quarantining since March 18 when the library she works at was shut down. Lohrenz Decl. ¶ 3.

RESPONSE NO. 486: Not disputed.

487. Aside from returning to work as the library has partially reopened, occasionally picking up take-out, and a few outdoor meetings with friends, Declarant Lohrenz has continued socially distancing. She avoid indoor gatherings of all kinds. Lohrenz Decl. ¶ 3.

RESPONSE NO. 487: Not disputed.

488. Declarant Lohrenz has been voting consistently since they were 18, typically in person on Election Day. Lohrenz Decl. ¶ 4.

RESPONSE NO. 488: Not disputed.

489. The April election was the first time Declarant Lohrenz attempted to vote by mail in Wisconsin. Lohrenz Decl. ¶ 4.

RESPONSE NO. 489: Not disputed.

490. COVID-19 poses an elevated risk to Declarant Lohrenz's health and life because she has asthma. Lohrenz Decl. ¶ 4.

RESPONSE NO. 490: Not disputed.

491. To avoid voting in person and the dangers of COVID-19, Declarant Lohrenz requested an absentee ballot on myvote.wi.gov on March 22. Lohrenz Decl. ¶ 5.

RESPONSE NO. 491: Not disputed.

492. Myvote.wi.gov indicated that her ballot had been mailed on March 23, but Declarant Lohrenz never received it, even after Election Day. Lohrenz Decl. ¶ 5.

RESPONSE NO. 492: Not disputed.

493. On Election Day, it became clear that Declarant Lohrenz's ballot had not arrived. Lohrenz Decl. ¶ 6.

RESPONSE NO. 493: Not disputed.

494. Declarant Lohrenz called the county clerk's office, who also told her that her ballot had been mailed, and that they could not do anything more. She was told that if she did not have her ballot she would have to vote in person. Lohrenz Decl. ¶ 6.

RESPONSE NO. 494: Not disputed.

495. Declarant Lohrenz was not offered an opportunity to receive her ballot by email or download her ballot. Lohrenz Decl. ¶ 6.

RESPONSE NO. 495: Not disputed that the clerk followed the law.

496. After her call with the clerk, Declarant Lohrenz called the Election Protection hotline, ultimately speaking to someone at the ACLU, to see if anything could be done. They essentially confirmed that at this point, if she wanted to vote, she would have to go do it in person. Lohrenz Decl. ¶ 7.

RESPONSE NO. 496: Not disputed.

497. It was a difficult decision, but Declarant Lohrenz and her boyfriend ultimately decided against voting in person because the risk to her health and life was too high. Lohrenz Decl. ¶ 8.

RESPONSE NO. 497: Not disputed.

498. Declarant Lohrenz is confident that COVID-19 will persist through November, and will probably get worse, so she plans to vote by mail for the rest of the year. Lohrenz Decl. ¶ 8.

RESPONSE NO. 498: Disputed in part. The course of COVID-19 is unknown. Objection. This conclusion is speculative.

499. For the August and November elections, Declarant Lohrenz has already requested an absentee ballot be delivered to her home by mail. Lohrenz Decl. ¶ 9.

RESPONSE NO. 499: Not disputed.

500. Declarant Lohrenz does not want to deal with downloading and printing an absentee ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Lohrenz Decl. ¶ 10.

RESPONSE NO. 500: Not disputed. In addition, Wisconsin law does not allow Ms. Lohrenz to download a ballot.

501. However, if that requested ballot does not arrive by mail in time for Declarant Lohrenz to cast and return it on time, then she wants a back-up option. Lohrenz Decl. ¶ 10.

RESPONSE NO. 501: Not disputed.

502. Given the danger of COVID-19, Declarant Lohrenz would prefer not to vote in person at a polling place. Lohrenz Decl. ¶ 10.

RESPONSE NO. 502: Not disputed.

503. If Declarant Lohrenz's ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Lohrenz Decl. ¶ 10.

RESPONSE NO. 503: Not disputed.

504. Declarant Lohrenz has access to a computer, a printer, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that downloaded or emailed ballot back. Lohrenz Decl. ¶ 10.

RESPONSE NO. 504: Not disputed.

505. Declarant Lohrenz hopes it does not come to that, and her ballot arrives in the mail on time, but her right to vote should not and cannot be left to chance. Lohrenz Decl. ¶ 10.

RESPONSE NO. 505: Not disputed.

506. Declarant Christopher Wood is 41 years old and a resident of Milwaukee, Wisconsin. Wood Decl. ¶ 1.

RESPONSE NO. 506: Not disputed.

507. Declarant Wood is a United States citizen and a registered Wisconsin voter. Wood Decl. ¶ 2.

RESPONSE NO. 507: Not disputed.

508. Declarant Wood has never lost his right to vote by reason of a felony conviction or a court order. Wood Decl. ¶ 2.

RESPONSE NO. 508: Not disputed.

509. Declarant Wood wants to vote in the November general election. Wood Decl. ¶ 2.

RESPONSE NO. 509: Not disputed.

510. Declarant Wood lives with his wife, and they have been quarantining themselves during the COVID-19 pandemic. Wood Decl. ¶ 3.

RESPONSE NO. 510: Not disputed.

511. Declarant Wood and his wife have been fairly strict in maintaining their quarantine, in part because his wife's mother is a cancer survivor who has had a number of recent surgeries and they do not want the risk of either of them contracting the virus to foreclose the possibility of going to help her. Wood Decl. ¶ 3.

RESPONSE NO. 511: Not disputed.

512. Even since some of the restrictions were lifted, Declarant Wood and his wife rarely leave the house and practice social distancing when they do so. Wood Decl. ¶ 3.

RESPONSE NO. 512: Not disputed.

513. Declarant Wood typically votes in person on Election Day, for both primary and general elections. Wood Decl. ¶ 4.

RESPONSE NO. 513: Not disputed.

514. The April 7th primary is the first time Declarant Wood has not voted since he became eligible to vote. Wood Decl. ¶ 4.

RESPONSE NO. 514: Not disputed.

515. Declarant Wood requested an absentee ballot on March 16th. Wood Decl. ¶ 5.

RESPONSE NO. 515: Not disputed.

516. According to what Declarant Wood read, this left him enough time to receive it, vote, and return it in time for it to be counted. He has checked his browser history to confirm that he requested a ballot on that day. Wood Decl. ¶ 5.

RESPONSE NO 516: Not disputed.

517. Declarant Wood never received his ballot. Even after Election Day, it never came. Wood Decl. ¶ 6.

RESPONSE NO. 517: Not disputed.

518. Declarant Wood thought about going to vote in person, but after a discussion with his wife and upon learning that only five of the polling places in Milwaukee would be open, they decided that it would be too big of a risk of exposure. Wood Decl. ¶ 6.

RESPONSE NO. 518: Not disputed.

519. Declarant Wood was not sure how to follow up or who to contact about receiving a ballot. Wood Decl. ¶ 6.

RESPONSE NO. 519: Not disputed.

520. Declarant Wood's wife received her ballot and believed, with the deadline extension, that she would be able to return it in time. However, when the governor's order granting the extension was reversed, she was unable to complete it in time. Wood Decl. ¶ 7.

RESPONSE NO. 520: Disputed. The Court of Appeals reversed Judge Conley's decision allowing the extension.

521. This experience has left Declarant Wood disheartened when it comes to the democratic process. Wood Decl. ¶ 8.

RESPONSE NO. 521: Not disputed.

522. At first, Declarant Wood thought that it may have only been him who had trouble voting, and that it could be the result of some sort of glitch. Wood Decl. ¶ 8.

RESPONSE NO. 522: Not disputed.

523. After Election Day, though, Declarant Wood has seen that there are much larger, systemic problems. Wood Decl. ¶ 8.

RESPONSE NO. 523: Objection. This conclusion is speculative and vague.

524. Declarant Wood has heard from friends in Wisconsin that they have had similar difficulties, and he fears that these issues are making a complete sham of the democratic process. Wood Decl. ¶ 8.

RESPONSE NO. 524: Objection. This conclusion is speculative.

525. Knowing that the mail is not necessarily a reliable way of receiving a ballot, Declarant Wood is not sure what he will do for the November election. Wood Decl. ¶ 9.

RESPONSE NO. 525: Objection. This conclusion is speculative.

526. Declarant Wood would be thrilled to have another option that he is able to count on. He has access to a computer, a printer, his email account, envelopes, and tape: everything he needs to print off, assemble, cast, and return a downloaded or emailed ballot back, if it were made available to him. Wood Decl. ¶ 9.

RESPONSE NO. 526: Not disputed.

527. Declarant Wood hopes it does not come to that, and his ballot arrives in the mail on time, but his right to vote should not and cannot be left to chance. Wood Decl. ¶ 9.

RESPONSE NO. 527: Not disputed.

528. Declarant Barbara Keretsy volunteered and was assigned to work the polls for the April 7th, 2020 primary at the Fire Station located at 400 South Point Road, Madison for Wards 105 and 107. Keretsy Decl. ¶ 1.

RESPONSE NO. 528: Not disputed. Note that the source should be Keresty Decl. (the last name is spelled incorrectly).

529. The team of people Declarant Keretsy worked with on election day was a very dedicated, committed group. They worked tirelessly through difficult conditions. Keretsy Decl. ¶ 2.

RESPONSE NO. 529: Not disputed.

530. However, the operation of the polls was riddled with challenges that risked exposing both poll workers and voters to COVID-19. Keretsy Decl. ¶ 2.

RESPONSE NO. 530: Objection. This conclusion is speculative.

531. To begin with, Declarant Keretsy says there was not adequate space at the vote site to adhere to proper social distancing guidelines. Keretsy Decl. ¶ 3.

RESPONSE NO. 531: Not disputed.

532. Declarant Keretsy says the room for voters and poll workers was approximately 15 feet by 17 feet, with approximately seven poll workers and two or three voters in the room at any given time. Keretsy Decl. ¶ 3.

RESPONSE NO. 532: Not disputed.

533. The lack of space at the polling site made it impossible to maintain six feet of distance, as recommended by health authorities. Keretsy Decl. ¶ 3.

RESPONSE NO. 533: Not disputed.

534. Voting stations were also set up back-to-back in a small circle, not six feet apart. Voters were therefore within two feet of each other when filling out their ballots. Keretsy Decl. ¶ 3.

RESPONSE NO. 534: Not disputed.

535. Although provided, a number of poll workers at Declarant Keretsy's site did not wear masks or gloves. Keretsy Decl. ¶ 4.

RESPONSE NO. 535: Not disputed.

536. Similarly, many voters at Declarant Keretsy's site did not wear masks or gloves. Keretsy Decl. ¶ 4.

RESPONSE NO. 536: Not disputed.

537. Declarant Keretsy says poll workers had to sit approximately two feet apart throughout the day. Keretsy Decl. ¶ 5.

RESPONSE NO. 537: Not disputed.

538. There were four tables for poll workers at the Madison site: two with plexiglass for assisting registered voters; one without plexiglass for assisting new registrants; and one without plexiglass for poll workers collecting absentee ballots. Keretsy Decl. ¶ 5.

RESPONSE NO. 538: Not disputed.

539. Poll workers, including Declarant Keretsy, had the use of only one unisex bathroom, which was never cleaned throughout the day. Keretsy Decl. ¶ 5.

RESPONSE NO. 539: Not disputed.

540. The set-up of Declarant Keretsy's site meant that poll workers were forced to come in close contact with both each other and voters. Keretsy Decl. ¶ 5.

RESPONSE NO. 540: Not disputed.

541. At Declarant Keretsy's site, poll workers who were sitting behind plexiglass were not fully protected, either. Keretsy Decl. ¶ 6.

RESPONSE NO. 541: Not disputed.

542. Poll workers sitting behind plexiglass at the Madison site would slide a registration book under the glass for voters to sign; however, there was no mechanism for either poll workers or voters to clean the book. Keretsy Decl. ¶ 6.

RESPONSE NO. 542: Not disputed.

543. Similarly, Declarant Keretsy recounts that poll workers outside helping with curbside voting were not able to maintain six feet of distance from voters. Keretsy Decl. ¶ 7.

RESPONSE NO. 543: Not disputed.

544. Declarant Cheryl Riley is 71 years old and a resident of Hudson, Wisconsin. Riley Decl. ¶ 1.

RESPONSE NO. 544: Not disputed.

545. Declarant Riley is a United States citizen and a registered Wisconsin voter. Riley Decl. ¶ 2.

RESPONSE NO. 545: Not disputed.

546. Declarant Riley has never lost her right to vote by reason of a felony conviction or a court order. Riley Decl. ¶ 2.

RESPONSE NO. 546: Not disputed.

547. Declarant Riley wants to vote in the November general election. Riley Decl. ¶ 2.

RESPONSE NO. 547: Not disputed.

548. Declarant Riley and her husband live in Wisconsin on a permanent basis, but usually spend around four months of the year at a winter home in Tucson, Arizona, usually returning to Hudson in late March or early April. Riley Decl. ¶ 3.

RESPONSE NO. 548: Not disputed.

549. This past March, Declarant Riley and her husband were returning from a three-week vacation in New Zealand when the COVID-19 pandemic began. Riley Decl. ¶ 3.

RESPONSE NO. 549: Not disputed.

550. Declarant Riley and her husband returned on March 25th. Riley Decl. ¶ 3.

RESPONSE NO. 550: Not disputed.

551. Declarant Riley and her husband had planned to be in Wisconsin to vote in person for the April 7th primary. Riley Decl. ¶ 4.

RESPONSE NO. 551: Not disputed.

552. Declarant Riley was very interested in the state supreme court election. Riley Decl. ¶ 4.

RESPONSE NO. 552: Not disputed.

553. Declarant Riley and her husband typically vote in person on Election Day, or early in person. Riley Decl. ¶ 4.

RESPONSE NO. 553: Not disputed.

554. Declarant Riley and her husband have voted by absentee ballot once or twice when they were away. Riley Decl. ¶ 4.

RESPONSE NO. 554: Not disputed.

555. Since they had been in a foreign country and had flown home on a very crowded plane, Declarant Riley and her husband felt it important to self-quarantine for 14 days as was recommended. Riley Decl. ¶ 4.

RESPONSE NO. 555: Not disputed.

556. It also became clear that it was unsafe to travel, and that Declarant Riley and her husband needed to extend their stay in Arizona for health reasons. Riley Decl. ¶ 4.

RESPONSE NO. 556: Not disputed.

557. In addition to them both being over the age of 65, which puts them at risk of contracting the virus, Declarant Riley's husband has been diagnosed with arrhythmia and is on blood thinners and blood pressure medicine, which compounds that risk. Riley Decl. ¶ 5.

RESPONSE NO. 557: Not disputed.

558. Declarant Riley and her husband have taken their isolation very seriously, leaving the house only sparingly, avoiding crowds and always wearing masks. Riley Decl. ¶ 5.

RESPONSE NO. 558: Not disputed.

559. Declarant Riley and her husband are not taking any chances. Riley Decl. ¶ 5.

RESPONSE NO. 559: Not disputed.

560. When it became clear that they would be in Arizona for Election Day, Declarant Riley and her husband thought they would be unable to vote. Riley Decl. ¶ 6.

RESPONSE NO. 560: Not disputed.

561. When they saw through the news that the deadline for absentee voting had been extended, however, Declarant Riley and her husband thought that we might be able to vote once more. Riley Decl. ¶ 6.

RESPONSE NO. 561: Not disputed.

562. Declarant Riley's husband immediately called the county clerk's office, which was closed. Riley Decl. ¶ 6.

RESPONSE NO. 562: Not disputed.

563. Declarant Riley's husband then contacted the Wisconsin Election Commission and was directed to its website. Riley Decl. ¶ 6.

RESPONSE NO. 563: Not disputed.

564. Declarant Riley's husband uploaded photos of their drivers' licenses and requested that their ballots be sent to the address where they were in Arizona. Riley Decl. ¶ 7.

RESPONSE NO. 564: Not disputed.

565. These ballots never arrived. Riley Decl. ¶ 7.

RESPONSE NO. 565: Not disputed.

566. Upset by this, Declarant Riley emailed letters to the Star Tribune, as well as the offices of Senators Tammy Baldwin and Ron Johnson and her state senator Patty Schachtner, to express her frustration. Riley Decl. ¶ 7.

RESPONSE NO. 566: Not disputed.

567. For the May special election in their congressional district, Declarant Riley and her husband were still in Arizona and they did receive ballots, but only a few days before the election. Riley Decl. ¶ 8.

RESPONSE NO. 567: Not disputed.

568. Declarant Riley and her husband returned their ballots by priority mail, spending \$26 to make sure that they arrived on time. Riley Decl. ¶ 8.

RESPONSE NO. 568: Not disputed.

569. There was a less expensive option, but the post office could not guarantee that they would arrive in time. Riley Decl. ¶ 8.

RESPONSE NO. 569: Not disputed.

570. Declarant Riley and her husband did not want to risk it, so they selected the option that would get the ballots there on Monday. Riley Decl. ¶ 8.

RESPONSE NO. 570: Not disputed.

571. When they returned home to Hudson on May 21st, Declarant Riley and her husband were surprised to find that their April election ballots had been sent to their address in Wisconsin. Riley Decl. ¶ 9.

RESPONSE NO. 571: Not disputed.

572. This made no sense because Declarant Riley and her husband had ordered their ballots sent to their Arizona address. Riley Decl. ¶ 9.

RESPONSE NO. 572: Not disputed.

573. Nothing will keep Declarant Riley or her husband from voting in November. Riley Decl. ¶ 10.

RESPONSE NO. 573: Not disputed.

574. Declarant Riley and her husband have ordered absentee ballots for all elections for the rest of the year. Riley Decl. ¶ 10.

RESPONSE NO. 574: Not disputed.

575. Declarant Riley and her husband would prefer to not vote in person given the current ongoing pandemic and reports of long lines at polling places. Riley Decl. ¶ 10.

RESPONSE NO. 575: Not disputed.

576. If there is once again a mix-up with their ballots and they do not arrive on time, Declarant Riley and her husband hope for some kind of back-up option. Riley Decl. ¶ 10.

RESPONSE NO. 576: Not disputed.

577. If her ballot does not arrive in the mail on time, Declarant Riley wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Riley Decl. ¶ 10.

RESPONSE NO. 577: Not disputed.

578. Declarant Riley has access to a computer, a printer, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail back a downloaded or emailed ballot. Riley Decl. ¶ 10.

RESPONSE NO. 578: Not disputed.

579. She hopes it does not come to that, and her ballot arrives in the mail on time, but Declarant Riley's right to vote should not and cannot be left to chance. Riley Decl. ¶ 10.

RESPONSE NO. 579: Not disputed.

580. Voting is a right, even an obligation, that Declarant Riley takes very seriously as a citizen of the United States. Riley Decl. ¶ 10.

RESPONSE NO. 580: Not disputed.

581. Declarant Blair Braun is 26 years old and a resident of Appleton, Wisconsin. Braun Decl. ¶ 1.

RESPONSE NO. 581: Not disputed.

582. Declarant Braun is a United States citizen and a registered Wisconsin voter. Braun Decl. ¶ 2.

RESPONSE NO. 582: Not disputed.

583. Declarant Braun has never lost her right to vote by reason of a felony conviction or a court order. Braun Decl. ¶ 2.

RESPONSE NO. 583: Not disputed.

584. Declarant Braun wants to vote in the November general election. Braun Decl. ¶ 2.

RESPONSE NO. 584: Not disputed.

585. Declarant Braun is a student at Kent State University in Kent, Ohio, but has been living with her parents in Appleton since mid-March, when quarantine began. Braun Decl. ¶ 3.

RESPONSE NO. 585: Not disputed.

586. Declarant Braun has only left her house to go to the grocery store since March. Braun Decl. ¶ 3.

RESPONSE NO. 586: Not disputed.

587. Declarant Braun is not at elevated risk of contracting COVID-19, but her father is an essential worker at a paper and sanitary products mill, so her family has been especially careful about their exposure to the virus. Braun Decl. ¶ 3.

RESPONSE NO. 587: Not disputed.

588. Declarant Braun typically votes by absentee ballot, because she is usually away at college. Braun Decl. ¶ 4.

RESPONSE NO. 588: Not disputed.

589. This year, Declarant Braun requested her ballot well in advance of the April 7th election, to be sent to her college address. Braun Decl. ¶ 4.

RESPONSE NO. 589: Not disputed.

590. Declarant Braun made this request through myvote.wi.gov. Braun Decl. ¶ 4.

RESPONSE NO. 590: Not disputed.

591. Declarant Braun's ballot arrived at her house at school after her term had been suspended and moved online, due to COVID-19. Braun Decl. ¶ 5.

RESPONSE NO. 591: Not disputed.

592. Declarant Braun's roommate told her that it had arrived. Braun Decl. ¶ 5.

RESPONSE NO. 592: Not disputed.

593. Declarant Braun asked her if she could forward it to Declarant Braun's address via the post office and, after confirming with postal worker that it was allowed, she did so. Braun Decl. ¶ 5.

RESPONSE NO. 593: Not disputed.

594. Despite the fact that her roommate forwarded Declarant Braun's ballot to her at least two and nearly three weeks ahead of the April election, Declarant Braun never received it. Braun Decl. ¶ 5.

RESPONSE NO. 594: Not disputed.

595. It had never occurred to Declarant Braun that her ballot might not arrive in time, so she did not have a plan for what to do when it did not. Braun Decl. ¶ 5.

RESPONSE NO. 595: Not disputed.

596. Though she was conflicted about the prospect of going in person to vote and fearful of the exposure to COVID-19 that might come with it, Declarant Braun decided to go to a polling place in person on April 7th. Braun Decl. ¶ 6.

RESPONSE NO. 596: Not disputed.

597. The state supreme court election was extremely important to Declarant Braun and she wanted to make sure her voice was heard. Braun Decl. ¶ 6.

RESPONSE NO. 597: Not disputed.

598. Declarant Braun was not comfortable voting in person. Braun Decl. ¶ 7.

RESPONSE NO. 598: Not disputed.

599. Almost no one in the polling place Declarant Braun went to was wearing any personal protective equipment (PPE). Braun Decl. ¶ 7.

RESPONSE NO. 599: Not disputed.

600. The poll workers handing out ballots were behind plastic barriers, but they handed Declarant Braun her ballot without gloves on. Braun Decl. ¶ 7.

RESPONSE NO. 600: Not disputed.

601. This made Declarant Braun worry about her exposure to the virus. Braun Decl. ¶ 7.

RESPONSE NO. 601: Not disputed.

602. Declarant Braun voted after 8:30AM, attempting to avoid the rush that usually hits polling places around 7AM. Braun Decl. ¶ 8.

RESPONSE NO. 602: Not disputed.

603. Declarant Braun's state representative, Ron Tusler, posted several pictures on social media at polling places in AD 3 without a mask on, which she thought was extremely irresponsible. Braun Decl. ¶ 8.

RESPONSE NO. 603: Disputed in part. This statement makes assumptions not supported by the source.

604. When Declarant Braun returned home from voting, she took precautions to limit her exposure. Braun Decl. ¶ 9.

RESPONSE NO. 604: Not disputed.

605. Declarant Braun thoroughly washed her hands, as she have seen surgeons do on television and in movies. Braun Decl. ¶ 9.

RESPONSE NO. 605: Not disputed.

606. Declarant Braun also promptly showered and changed her clothes, washing the ones that she had worn to vote. Braun Decl. ¶ 9.

RESPONSE NO. 606: Not disputed.

607. Declarant Braun wanted to do whatever she could to make sure that she was staying safe. Braun Decl. ¶ 9.

RESPONSE NO. 607: Not disputed.

608. Declarant Braun has signed up for absentee ballots to be sent to her in all future elections. Braun Decl. ¶ 10.

RESPONSE NO. 608: Not disputed.

609. Declarant Braun was extremely disappointed and frustrated that she was forced to choose between her right to vote and not only her health and well-being, but also her family's. She ultimately chose to risk their health to exercise her right to vote, but she is committed to it never happening again. Braun Decl. ¶ 10.

RESPONSE NO. 609: Not disputed.

610. If Declarant Braun's ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Braun Decl. ¶ 10.

RESPONSE NO. 610: Not disputed.

611. Declarant Braun has access to a computer, a printer, my email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that downloaded or emailed ballot back. Braun Decl. ¶ 10.

RESPONSE NO. 611: Not disputed.

612. Declarant Braun hopes that it does not come to that, and her ballot arrives in the mail on time, but after this experience, she cannot be sure of it. Braun Decl. ¶ 10.

RESPONSE NO. 612: Not disputed.

613. Declarant Katherine Thompson is 32 years old and a resident of Milwaukee, Wisconsin. Thompson Decl. ¶ 1.

RESPONSE NO. 613: Not disputed.

614. Declarant Thompson is a member of the League of Women Voters of Wisconsin, and has been since April 2020. Thompson Decl. ¶ 2.

RESPONSE NO. 614: Not disputed.

615. Declarant Thompson is a United States citizen and a registered Wisconsin voter. Thompson Decl. ¶ 3.

RESPONSE NO. 615: Not disputed.

616. Declarant Thompson has never lost her right to vote by reason of a felony conviction or a court order. Thompson Decl. ¶ 3.

RESPONSE NO. 616: Not disputed.

617. Declarant Thompson wants to vote in the November general election. Thompson Decl. ¶ 3.

RESPONSE NO. 617: Not disputed.

618. Declarant Thompson lives with her boyfriend in an apartment in Milwaukee, where they are both essential workers. She work at a grocery store and he is a truck driver. Thompson Decl. ¶ 4.

RESPONSE NO. 618: Not disputed.

619. Because of their jobs, Declarant Thompson and her boyfriend are very strict in maintaining their quarantine. She generally washes her hands between sixty and seventy times a day, and they have been limiting all contact with anyone except one another because it is not worth it to get sick. Thompson Decl. ¶ 4.

RESPONSE NO. 619: Not disputed.

620. While Declarant Thompson is not at elevated risk for COVID-19, her mother is. She is not only over 65 years of age, but she has had a number of surgeries in the past year, she is diabetic, and she has a chronic protein deficiency. Thompson Decl. ¶ 4.

RESPONSE NO. 620: Not disputed.

621. Declarant Thompson has limited contact with her mother, and takes the precautions that she does in part to make sure that she would be able to get to her in case of a medical emergency. Thompson Decl. ¶ 4.

RESPONSE NO. 621: Not disputed.

622. Declarant Thompson is a regular voter, and she usually casts her ballot in person on Election Day. Thompson Decl. ¶ 5.

RESPONSE NO. 622: Not disputed.

623. For the April 7th primary election, Declarant Thompson requested her ballot online at myvote.wi.gov at least three days before the relevant deadline. Thompson Decl. ¶ 5.

RESPONSE NO. 623: Not disputed.

624. However, Declarant Thompson's ballot did not come before Election Day. Thompson Decl. ¶ 5.

RESPONSE NO. 624: Not disputed.

625. Declarant Thompson used the online tool to track her ballot and the website said that it would arrive on the 7th. It did not arrive until three days after the election. Thompson Decl. ¶ 5.

RESPONSE NO. 625: Not disputed.

626. On Election Day, Declarant Thompson was home sick with a cough and a slight fever. She had not ruled out the possibility that this illness was COVID-19, but she still considered going to the polls in person because she was committed to voting. Thompson Decl. ¶ 6.

RESPONSE NO. 626: Not disputed.

627. Declarant Thompson drove over to her polling place to see what the situation was and found that the line was several blocks in length. At several points in the line, people were clumped together and not six feet apart. Thompson Decl. ¶ 6.

RESPONSE NO. 627: Not disputed.

628. Declarant Thompson later learned that people were standing in that line for four hours. Thompson Decl. ¶ 6.

RESPONSE NO. 628: Not disputed.

629. Declarant Thompson's boyfriend requested his ballot within two hours of her requesting hers, also well in advance of the deadline. Thompson Decl. ¶ 7.

RESPONSE NO. 629: Not disputed.

630. Declarant Thompson's boyfriend's ballot did not arrive in time and, because his work hours are between 4AM and 7PM, going to the polls in person was never an option for him. Thompson Decl. ¶ 7.

RESPONSE NO. 630: Not disputed.

631. Ultimately, his ballot did not arrive until July 7th, 2020. Thompson Decl. ¶ 7.

RESPONSE NO. 631: Not disputed.

632. Declarant Thompson has ordered absentee ballots for all elections for the rest of the year. Thompson Decl. ¶ 8.

RESPONSE NO. 632: Not disputed.

633. Declarant Thompson would prefer to not vote in person. If there is once again a mix-up with her ballot and it does not arrive on time, she hopes for some kind of back-up option. Thompson Decl. ¶ 8.

RESPONSE NO. 633: Not disputed.

634. If Declarant Thompson's ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Thompson Decl. ¶ 8.

RESPONSE NO. 634: Not disputed.

635. Declarant Thompson has access to a computer, a printer, her email account, envelopes, and tape: everything she need to print off, assemble, cast, and mail that downloaded or emailed ballot back. Thompson Decl. ¶ 8.

RESPONSE NO. 635: Not disputed.

636. Declarant Thompson hopes it does not come to that, and her ballot arrives in the mail on time, but her right to vote should not and cannot be left to chance. Thompson Decl. ¶ 8.

RESPONSE NO. 636: Not disputed.

637. Declarant Denine Ackerbauer is 67 years old and a resident of Sun Prairie, Wisconsin. Ackerbauer Decl. ¶ 1.

RESPONSE NO. 637: Not disputed.

638. Declarant Ackerbauer is a United States citizen and a registered Wisconsin voter. Ackerbauer Decl. ¶ 2.

RESPONSE NO. 638: Not disputed.

639. Declarant Ackerbauer has never lost her right to vote by reason of a felony conviction or a court order. Ackerbauer Decl. ¶ 2.

RESPONSE NO. 639: Not disputed.

640. Declarant Ackerbauer wants to vote in the November general election. Ackerbauer Decl. ¶ 2.

RESPONSE NO. 640: Not disputed.

641. Declarant Ackerbauer lives with her husband, and they have been quarantining themselves during the Covid-19 pandemic. Ackerbauer Decl. ¶ 3.

RESPONSE NO. 641: Not disputed.

642. Declarant Ackerbauer typically votes in person on Election Day or at an early voting site at City Hall. Ackerbauer Decl. ¶ 4.

RESPONSE NO. 642: Not disputed.

643. Covid-19 poses a serious risk to Declarant Ackerbauer's health and life because of her age. Ackerbauer Decl. ¶ 5.

RESPONSE NO. 643: Not disputed.

644. To avoid voting in person and the dangers of Covid-19, in mid-March, Declarant Ackerbauer and her husband went on myvote.wi.gov and requested their absentee ballots be mailed to them. Ackerbauer Decl. ¶ 6.

RESPONSE NO. 644: Not disputed.

645. Declarant Ackerbauer and her husband never received their absentee ballots. Ackerbauer Decl. ¶ 6.

RESPONSE NO. 645: Not disputed.

646. On April 3rd, the Friday before the election, Declarant Ackerbauer and her husband realized that their ballots had not arrived in the mail yet. Ackerbauer Decl. ¶ 7.

RESPONSE NO. 646: Not disputed.

647. Declarant Ackerbauer emailed her State Senator and Alderman, who told her to contact the city clerk's office. Ackerbauer Decl. ¶ 7.

RESPONSE NO. 647: Not disputed.

648. Declarant Ackerbauer went to the city clerk's office and was told that they could not hand her a replacement ballot. Ackerbauer Decl. ¶ 7.

RESPONSE NO. 648: Not disputed.

649. Declarant Ackerbauer emailed the city clerk, not expecting a resolution but just to be on the record that they had requested and not received their absentee ballots. Ackerbauer Decl. ¶ 8.

RESPONSE NO. 649: Not disputed.

650. The city clerk emailed Declarant Ackerbauer back on Sunday and informed her that she would send her a replacement absentee ballot in the mail, and that Declarant Ackerbauer had enough time to cast it, because the election had been extended through April 13th. Ackerbauer Decl. ¶ 8.

RESPONSE NO. 650: Not disputed.

651. The clerk did not offer to email them their absentee ballots or permit them to access and download their ballots in any way. Ackerbauer Decl. ¶ 8.

RESPONSE NO. 651: Not disputed.

652. Declarant Ackerbauer's ballot did not arrive on Monday, which was the day that the Supreme Court ruled that the ballots needed to be postmarked by Tuesday, the day of the election. Ackerbauer Decl. ¶ 9.

RESPONSE NO. 652: Not disputed.

653. Declarant Ackerbauer did not think the replacement ballot was going to arrive in time for her to cast it. Ackerbauer Decl. ¶ 9.

RESPONSE NO. 653: Not disputed.

654. Declarant Ackerbauer and her husband's mail travels from the Sun Prairie post office to Milwaukee and then back to Sun Prairie, and it was not likely to make that route in one day. Ackerbauer Decl. ¶ 9.

RESPONSE NO. 654: Not disputed.

655. Also, Declarant Ackerbauer's postman does not usually arrive to deliver mail in their neighborhood until late afternoon, sometimes after 5:00 PM. Ackerbauer Decl. ¶ 9.

RESPONSE NO. 655: Not disputed.

656. Election Day came, and Declarant Ackerbauer decided to vote in person at the polls. Declarant Ackerbauer's polling options were reduced to just one polling site. Ackerbauer Decl. ¶ 10.

RESPONSE NO. 656: Not disputed.

657. Declarant Ackerbauer went early to be in line before the polls opened to ensure that she did not have a long wait at the single polling place. Ackerbauer Decl. ¶ 10.

RESPONSE NO. 657: Not disputed.

658. Declarant Ackerbauer used the option of curbside voting and returned home. Ackerbauer Decl. ¶ 10.

RESPONSE NO. 658: Not disputed.

659. Declarant Ackerbauer's mail delivery person arrived that day at 4:00 p.m. with their mail. Ackerbauer Decl. ¶ 11.

RESPONSE NO. 659: Not disputed.

660. Since Declarant Ackerbauer has a mailbox, the mail delivery person usually does not come to the door, but this time the mail delivery person knocked on the door. Ackerbauer Decl. ¶ 11.

RESPONSE NO. 660: Not disputed.

661. The mail person handed Declarant Ackerbauer her replacement mail-in absentee ballot and offered to deliver mail to every house on the block and come back to pick up the completed ballot and ensure it was postmarked that day, Election Day. Ackerbauer Decl. ¶ 11.

RESPONSE NO. 661: Not disputed.

662. Declarant Ackerbauer thanked the mail person, but informed them that she had already voted in person earlier that day. Ackerbauer Decl. ¶ 11.

RESPONSE NO. 662: Not disputed.

663. Due to Declarant Ackerbauer's age and other uncertainties about Covid-19, she was and remain extremely worried about Covid-19. Ackerbauer Decl. ¶ 12.

RESPONSE NO. 663: Not disputed.

664. From what Declarant Ackerbauer has read in the press, it seems that Covid-19 will be with us in the fall. Ackerbauer Decl. ¶ 12.

RESPONSE NO. 664: Not disputed.

665. Declarant Ackerbauer wants to vote by mail in the November general election. Ackerbauer Decl. ¶ 13.

RESPONSE NO. 665: Not disputed.

666. Declarant Ackerbauer has already signed up for mail-in absentee ballots for the remaining elections in 2020. Ackerbauer Decl. ¶ 13.

RESPONSE NO. 666: Not disputed.

667. For the November election, Declarant Ackerbauer has already requested an absentee ballot be delivered to her home by mail. Ackerbauer Decl. ¶ 14.

RESPONSE NO. 667: Not disputed.

668. Declarant Ackerbauer does not want to deal with downloading and printing an absentee ballot from myvote.wi.gov or printing off an emailed ballot and assembling the certificate envelope for its mailing. Ackerbauer Decl. ¶ 14.

RESPONSE NO. 668: Not disputed. In addition, Wisconsin law does not allow Ms. Ackerbauer to download a ballot.

669. However, if her requested ballot does not arrive by mail in time for her to cast and return it on time, then Declarant Ackerbauer wants a back-up option. Ackerbauer Decl. ¶ 14.

RESPONSE NO. 669: Not disputed.

670. Given the danger of Covid-19, Declarant Ackerbauer would prefer not to vote in person at a polling place. Ackerbauer Decl. ¶ 14.

RESPONSE NO. 670: Not disputed.

671. Declarant Ackerbauer especially does not want to vote in person if the number of polling places available is substantially reduced, as they were in April. Ackerbauer Decl. ¶ 14.

RESPONSE NO. 671: Not disputed.

672. If Declarant Ackerbauer's ballot does not arrive in the mail on time, she wants to either be able to access and download an absentee ballot online at myvote.wi.gov or be emailed an absentee ballot. Ackerbauer Decl. ¶ 14.

RESPONSE NO. 672: Not disputed.

673. Declarant Ackerbauer has access to a computer, a printer, her email account, envelopes, and tape: everything she needs to print off, assemble, cast, and mail that downloaded or emailed ballot back. Ackerbauer Decl. ¶ 14.

RESPONSE NO. 673: Not disputed.

674. Declarant Ackerbauer hopes it does not come to that, and her ballot arrives in the mail on time, but her right to vote should not and cannot be left to chance. Ackerbauer Decl. ¶ 14.

RESPONSE NO. 674: Not disputed.

675. Voting is important to Declarant Ackerbauer. Ackerbauer Decl. ¶ 15.

RESPONSE NO. 675: Not disputed.

676. Had Declarant Ackerbauer not had transportation, she would not have been able to get to the single consolidated polling place to vote in person. Ackerbauer Decl. ¶ 15.

RESPONSE NO. 676: Not disputed.

677. The combination of not receiving an absentee ballot by mail and possible lack of transportation would have prevented Declarant Ackerbauer from voting entirely. Ackerbauer Decl. ¶ 15.

RESPONSE NO. 677: Not disputed.

678. Declarant Maribeth Witzel-Behl is the City Clerk for Madison, Wisconsin and, in this capacity, she administers elections for the city's voters. Witzel-Behl Decl. ¶ 1.

RESPONSE NO. 678: Not disputed.

679. Declarant Witzel-Behl has been asked by Plaintiffs' counsel in *Gear v. Bostelmann*, 20-cv-278, to describe: (a) the burdens her office faced in meeting the demand for mail-in absentee ballots in the April 7 election; (b) the burdens they anticipate facing given the likely increased demand for mail-in absentee ballots in the November general election; and (c) what the Plaintiffs' requested back-up options for absentee ballot delivery failure would mean for their office and voters in the November elections. Witzel-Behl Decl. ¶ 2.

RESPONSE NO. 679: Not disputed.

680. The April 7 election was among the most challenging elections Declarant Witzel-Behl has ever worked. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 680: Not disputed.

681. Declarant Witzel-Behl's staff worked around the clock, including on weekends, struggling to meet the unprecedented demand for mail-in absentee ballots. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 681: Not disputed.

682. Declarant Witzel-Behl and her staff were barely able to send all these requested ballots out, and it took all of the city's resources, as well as volunteer help, to accomplish this. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 682: Not disputed.

683. It was not humanly possible to keep up with the volume of requests on their own, even though Declarant Witzel-Behl's staff was working 110 hours a week. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 683: Not disputed.

684. At times, the computer system Declarant Witzel-Behl and her staff were using became so bogged down by the volume of applications that it only began working quickly after 10 p.m. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 684: Not disputed.

685. Absentee ballot request processing and data entry were handled by Declarant Witzel-Behl's full-time and part-time staff, with just a few other trained employees from the city's Planning and Library departments. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 685: Not disputed.

686. Other City of Madison municipal departments' employees worked on absentee ballot mailings, specifically the manual work of affixing labels and mailing out the ballots. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 686: Not disputed.

687. The staff and other departments' employees worked over the weekend to complete these mailings and were compelled to rely on outside help from League of Women Voters of Dane County volunteers. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 687: Not disputed.

688. For the April 7 election, Declarant Witzel-Behl and her staff had over 100 city employees from other departments helping us; now Declarant Witzel-Behl and her staff only have 7 available to them. Witzel-Behl Decl. ¶ 3.

RESPONSE NO. 688: Not disputed.

689. For weeks, Declarant Witzel-Behl and her staff were unable to meet our legal requirement to send voters their absentee ballot within one business day of receiving their absentee request. Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 689: Not disputed.

690. Their backlog of requests to process was as high as 12,000 absentee requests. Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 690: Not disputed.

691. Ultimately, Declarant Witzel-Behl's office was able to clear the backlog for the April 7 election, and there were no unfulfilled absentee ballot requests. Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 691: Not disputed.

692. However, despite their best efforts and pushing her staff and our volunteers to the maximum, Declarant Witzel-Behl and her staff nevertheless received thousands of calls and emails from voters in Madison informing them that they had never received their requested absentee ballot in the mail. Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 692: Not disputed.

693. Declarant Witzel-Behl and her staff sent thousands of replacement ballots to such voters in the weeks before the election, and it is unclear how many of them were ultimately able to cast a ballot. Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 693: Not disputed.

694. Some surely gave up and went to the polls, but others told Declarant Witzel-Behl and her staff they could not safely do so and that they would just wait and hope their absentee ballot would arrive by mail in time to cast it. Witzel-Behl Decl. ¶ 4.

RESPONSE NO. 694: Not disputed.

695. Declarant Witzel-Behl's understanding from discussions with other municipal clerks after Election Day is that there were common U.S. Postal Service problems statewide. Witzel-Behl Decl. ¶ 5.

RESPONSE NO. 695: Not disputed.

696. Although it typically takes two to three days for a ballot mailed in Madison to reach a voter at a Madison address, most of the voters who called Declarant Witzel-Behl's office in late March and early April had been waiting over a week since their ballot had been placed in the mail, and it had not yet been delivered. Witzel-Behl Decl. ¶ 5.

RESPONSE NO. 696: Not disputed.

697. Eleven weeks after the April 7 election, Declarant Witzel-Behl's office is receiving ballots back from the Post Office, marked as undeliverable. Witzel-Behl Decl. ¶ 5.

RESPONSE NO. 697: Not disputed.

698. The Madison City Clerk's office has not been given the resources and money necessary to meet the anticipated demand for mail-in absentee ballots in November. Witzel-Behl Decl. ¶ 6.

RESPONSE NO. 698: Objection. The Gear plaintiffs cited this exact fact as Fact number 79 which is repetitive and unnecessary. Without waiving this objection, the proposed fact is still disputed in part. It is not disputed that the Madison clerk has not been given resources at this point. However, Madison qualifies for CARES subgrants which the Madison clerk can use to hire additional staff, pay for postage, or other enumerated uses of the CARES grant, and the WEC has purchased PPE, cleaning supplies and other election materials in anticipation of the November election. In addition, the WEC has made changes to the computer systems that will make it easier for the Madison clerk to administer the election. (DKT. 247; Wolfe dep. part 1 pp. 74:21-75:16).

699. For one, with other departments going back to work, Declarant Witzel-Behl's staff now only has a few dozen League of Women Voters volunteers available to help. Witzel-Behl Decl. ¶ 6.

RESPONSE NO. 699: Disputed in part, see response to 698.

700. The Wisconsin Elections Commission ("WEC") is implementing intelligent bar codes for mail-in absentee ballots starting with the August primary, but better tracking of ballots with anticipated delivery dates listed on myvote.wi.gov can only do so much to alleviate the burden on Declarant Witzel-Behl's staff. Witzel-Behl Decl. ¶ 6.

RESPONSE NO. 700: Not disputed.

701. Although they anticipate that the intelligent bar codes may reduce the number of telephone inquiries they receive, this will not make it easier to process a massive volume of absentee ballot requests—according to the WEC, an estimated 1.8 million statewide. Witzel-Behl Decl. ¶ 6.

RESPONSE NO. 701: Not disputed.

702. Most voters of course want to receive their ballot in the mail, as that is the most convenient and hassle-free way to receive a ballot. Witzel-Behl Decl. ¶ 7.

RESPONSE NO. 702: Not disputed.

703. But email delivery is one alternative to avoid delays and other problems, if the voter is able to access an email account and print out their ballot and the certificate for the envelope. Witzel-Behl Decl. ¶ 7.

RESPONSE NO. 703: Objection. This option violates Wisconsin law. Without waiving this objection, it is not disputed that it is physically possible to e-mail a ballot.

704. For the April 7 election, Declarant Witzel-Behl and her staff delivered 2,225 mail-in absentee ballots by email upon voters' requests. Witzel-Behl Decl. ¶ 7.

RESPONSE NO. 704: Not disputed.

705. As Election Day approached, if Declarant Witzel-Behl and her staff received a call from a voter asking about a ballot that had been mailed out a week or more ago, they would try email delivery if the voter had the ability to access it that way. Witzel-Behl Decl. ¶ 7.

RESPONSE NO. 705: Not disputed.

706. If any voter called and said their ballot had not arrived and they wanted a replacement by email, Declarant Witzel-Behl and her staff honored that request. Witzel-Behl Decl. ¶ 7.

RESPONSE NO. 706: Not disputed.

707. Declarant Witzel-Behl and her staff have already emailed 861 mail-in absentee ballots for the August 11 election, and they anticipate that many more voters will request email delivery for the November election. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 707: Disputed in part. The law has changed with respect to e-mail ballots and thus Ms. Witzel-Behl's prediction is speculative.

708. They typically offer this when the voter is overseas, or when the voter is in another state and they are within a week of Election Day. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 708: Not disputed.

709. They typically do not offer this when the voter is within the United States and there appears to be plenty of time for the voter to receive and return their ballot prior to Election Day. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 709: Not disputed.

710. For some voters, particularly voters in counties with unreliable mail delivery, receiving a ballot via email is the only way to guarantee the voter will have an adequate amount of time to send their ballot back to the City Clerk's Office. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 710: Objection. Foundation, speculation. Without waiving this objection it is not disputed that Ms. Witzel-Behl's declaration states this information.

711. The Clerk's Office sends the voter an email message with instructions, a pdf file of their ballot, and a pdf file of the certificate envelope bearing the voter's name, address, and voter registration number. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 711: Not disputed.

712. Declarant Witzel-Behl and her staff instruct the voter to print out and mark their ballot, insert it in an envelope, and print and affix the certificate to the outside of that envelope. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 712: Not disputed.

713. Once the voter has signed the certificate and obtained the signature and address of a witness, they place the certificate envelope in a larger envelope and mail it to the City Clerk's Office. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 713: Not disputed.

714. One benefit of this delivery method is it saves a lot of time for the voters. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 714: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify to the length of time it might take an average voter to print 2 "pdf" files, mark, insert into an envelope, affix certificates, and mail. The time for a voter to process that emailed application versus the time for that voter to fill out and return a ballot by mail would vary depending on individual circumstances of the voter, including access to a printer and having postage readily available. Voters who do not have postage available would still need to obtain postage, and so may have to go in public and wait in line. Also, as noted by the witness herself, receiving a ballot by email may take more time if the email gets caught in a spam folder, Witzel-Beth Dec. par. 8. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), as the witness did not observe the voters attempting to return emailed ballots, and the witness lacks the specialized knowledge to testify about general voter ability.

715. Unfortunately, though, it is slower for Declarant Witzel-Behl and her staff to process ballots for email delivery than for mail delivery, because they cannot just batch-print them

and they need to send the scanned ballot, scanned certificate, and the instructions to a specific email address. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 715: Not disputed.

716. With email delivery, Declarant Witzel-Behl and her staff still need to generate the label, affix it to the certificate, and scan that certificate so it can be attached to the email to the voter. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 716: Not disputed.

717. For some voters, receipt of the ballot is delayed because the email message gets caught in their spam filter. Witzel-Behl Decl. ¶ 8.

RESPONSE NO. 717: Not disputed.

718. The better alternative to mail and email delivery for both the voter and Declarant Witzel-Behl's staff is online access and download through the myvote.wi.gov portal. Witzel-Behl Decl. ¶ 9.

RESPONSE NO. 718: Objection. Foundation, speculation. Without waiving this objection, disputed to the extent that the law does not allow the process described in this proposed fact and the WEC may not change the law.

719. Military and overseas voters are able to request that a mail-in absentee ballot be made available online, and then that voter can securely access it and download it. Witzel-Behl Decl. ¶ 9.

RESPONSE NO. 719: Not disputed.

720. The certificate is also made available to them. Witzel-Behl Decl. ¶ 9.

RESPONSE NO. 720: Not disputed.

721. That certificate must be printed and affixed to one of the two envelopes that the voter provides. Witzel-Behl Decl. ¶ 9.

RESPONSE NO. 721: Not disputed.

722. There is nothing that Declarant Witzel-Behl's office needs to do to enable online access and download of a mail-in absentee ballot through myvote.wi.gov. Witzel-Behl Decl. ¶ 10.

RESPONSE NO. 722: Not disputed.

723. The real benefit of this method is that it puts the burden on the voter to access their ballot; Declarant Witzel-Behl and her staff do not have to send it to them and it will not get caught in email spam filters. Witzel-Behl Decl. ¶ 10.

RESPONSE NO. 723: Not disputed as far as overseas and military voters are concerned.

724. In processing the ballot request and making the ballot available for download through myvote.wi.gov, the system automatically draws on the voter's records in the WisVote database and generates a ballot for that voter's residential address and ward. Witzel-Behl Decl. ¶ 10.

RESPONSE NO. 724: Not disputed.

725. So Declarant Witzel-Behl and her staff do not need to assemble the ballot and certificate, print a mailing label, affix a label, or affirmatively mail or email the ballot. Witzel-Behl Decl. ¶ 10.

RESPONSE NO. 725: Not disputed.

726. As a practical matter, leaving aside Wisconsin law, this online access and download system through myvote.wi.gov could be adapted and extended for every registered voter in Wisconsin, whether they are a domestic civilian voter or a military or overseas voter. Witzel-Behl Decl. ¶ 11.

RESPONSE NO. 726: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for every registered voter, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

727. This extension can be limited to voters who have previously requested that a ballot be mailed to them and who are seeking a replacement ballot. Witzel-Behl Decl. ¶ 11.

RESPONSE NO. 727: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for this purpose, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

728. The WisVote database already knows if a particular voter has requested a ballot or not and, because of the intelligent bar code, it will know whether that ballot is in the mail or not and how long it has been out. Witzel-Behl Decl. ¶ 11.

RESPONSE NO. 728: Objection foundation. Without waiving this objection, disputed. The intelligent bar code is for use by post office.

729. So there are ways to limit the use of this feature for domestic civilian voters and make it available only to those who truly need a replacement ballot for one that did not arrive in the mail. Witzel-Behl Decl. ¶ 11.

RESPONSE NO. 729: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for this purpose, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

730. Of course, the myvote.wi.gov portal has no way to know whether the originally-requested ballot has been received or not, but that ballot will be cancelled such that it cannot be cast, and the Commission's staff or website programmers could also add a feature requiring the voter to certify that they have not received their ballot in the mail. Witzel-Behl Decl. ¶ 11.

RESPONSE NO. 730: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for this purpose, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

731. Declarant Witzel-Behl's office will not need to do much to accommodate a change in the delivery method for an individual voter's absentee ballot request. Witzel-Behl Decl. ¶ 12.

RESPONSE NO. 731: Not disputed.

732. If a voter has previously requested that the ballot be delivered by a different method, such as mail, but did not receive it, then Declarant Witzel-Behl and her staff think they would need to cancel the outstanding ballot in the state system and deactivate the voter's absentee request. Witzel-Behl Decl. ¶ 12.

RESPONSE NO. 732: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for every registered voter, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

733. The voter could then go to myvote.wi.gov to submit a new request and request a ballot by online access and downloading. Witzel-Behl Decl. ¶ 12.

RESPONSE NO. 733: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for every registered voter, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception

of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

734. WEC could also adjust WisVote to allow Declarant Witzel-Behl and her staff to simply change the ballot delivery method to online; then voters would not need to submit a new request. Witzel-Behl Decl. ¶ 12.

RESPONSE NO. 734: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for every registered voter, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

735. That would be preferable—while the voter is contacting Declarant Witzel-Behl and her staff, they might as well have the power to quickly change the ballot delivery method. Witzel-Behl Decl. ¶ 12.

RESPONSE NO. 735: Disputed. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for every registered voter, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception

of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

736. The last option that Plaintiffs suggest as an alternative relief for voters who do not receive their absentee ballot in the mail is to permit domestic civilian voters to cast a Federal Write-in Absentee Ballot (“FWAB”). Witzel-Behl Decl. ¶ 13.

RESPONSE NO. 736: Objection This proposed fact is argument. Without waiving this objection, disputed to the extent that the proposed relief violates Wisconsin law.

737. Declarant Witzel-Behl and her staff receive a fair number of these in a presidential election and have experience with processing them. Witzel-Behl Decl. ¶ 13.

RESPONSE NO. 737: Not disputed.

738. It is not cumbersome or difficult to interpret these write-in absentee ballots. Witzel-Behl Decl. ¶ 13.

RESPONSE NO. 738: Not disputed.

739. All three of these alternative delivery methods—online access, email delivery, and the FWAB—will require some work on the back end during the canvassing at polling places. Witzel-Behl Decl. ¶ 14.

RESPONSE NO. 739: Objection, speculation as these methods are not allowed under Wisconsin law.

740. All ballots delivered in these ways must be duplicated or re-made on a blank official absentee ballot, so that the voter’s selections can be scanned by a machine. Witzel-Behl Decl. ¶ 14.

RESPONSE NO. 740: Not disputed.

741. Declarant Witzel-Behl and her staff already do this for many ballots, but the volume will increase if these back-up options are required by the Court. Witzel-Behl Decl. ¶ 14.

RESPONSE NO. 741: Not disputed.

742. This would pose some minor inconvenience on the back end, but Declarant Witzel-Behl wants to state clearly that, in her view, the value to voters who are trying to vote—and vote safely—would far outweigh any inconvenience or burden to her staff and those canvassing ballots at polling places. Witzel-Behl Decl. ¶ 14.

RESPONSE NO. 742: Objection speculation. Without waiving this objection, it is not disputed that Ms. Witzel-Behl's declaration states that it would be a minor inconvenience.

743. Declarant Witzel-Behl is also mindful that every voter she and her staff permit to vote by mail is a voter who does not show up at the polls, straining our already-taxed in-person voting resources in an environment with far fewer poll workers and potentially increasing the risk of COVID-19 transmission. Witzel-Behl Decl. ¶ 14.

RESPONSE NO. 743: Not disputed.

744. Declarant Witzel-Behl supports creating a mandatory back-up option for domestic civilian voters who do not receive their ballot in the mail. Witzel-Behl Decl. ¶ 15.

RESPONSE NO. 744: Objection, relevance. The requested relief is a violation of Wisconsin law. Without waiving this objection, not disputed.

745. Of the three methods Plaintiffs have proposed to ensure voters have a way to safely cast a ballot during this pandemic, Declarant Witzel-Behl prefers extending the online access and download option to all registered Wisconsin voters, but any of the methods will be preferable to mailing replacement ballots. Witzel-Behl Decl. ¶ 15.

RESPONSE NO. 745: Objection, relevance. The requested relief is a violation of Wisconsin law Without waiving this objection, not disputed.

746. These back-up options should also be made available to voters through Election Day. Witzel-Behl Decl. ¶ 15.

RESPONSE NO. 746: Objection, relevance. The requested relief is a violation of Wisconsin law Without waiving this objection, not Disputed.

747. Currently, a voter can only request a replacement ballot up until the normal absentee ballot request deadline of 5:00pm on the Thursday before Election Day, but many voters will understandably assume or hope that their ballot is still in the mail and not seek a replacement until after that deadline, increasing the risk that they will not be able to vote at all. Witzel-Behl Decl. ¶ 15.

RESPONSE NO. 747: Objection, this proposed fact is argument.

748. With back-up options like these, Declarant Witzel-Behl's office can ensure that even as late as Election Day itself, a voter has a way to access and cast an absentee ballot by the deadline. Witzel-Behl Decl. ¶ 15.

RESPONSE NO. 748: Objection. This proposed fact is argument.

749. Giving voters these back-up options is only fair. Witzel-Behl Decl. ¶ 16.

RESPONSE NO. 749: Objection. This proposed fact is argument.

750. Declarant Witzel-Behl's staff is working so hard to put mail-in absentee ballots in voters' hands. Witzel-Behl Decl. ¶ 16.

RESPONSE NO. 750: Not disputed.

751. If, for whatever reason, they do not arrive at a voter's residence on time, voters should not lose their right to vote because of delays or human or computer errors, or because in-

person voting conditions cannot be made safe enough for vulnerable, at-risk voters. Witzel-Behl Decl. ¶ 16.

RESPONSE NO. 751: Objection this proposed fact is argument.

752. Creating these options as a last resort is the right thing to do, given the pandemic and the way it has already drastically changed the way Wisconsin votes and our ability to serve voters. Witzel-Behl Decl. ¶ 16.

RESPONSE NO. 752: Disputed. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Witzel-Behl's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

753. Declarant Tara Coolidge is the City Clerk for Racine, Wisconsin and, in this capacity, she administers elections for the City's voters. Coolidge Decl. ¶ 1.

RESPONSE NO. 753: Not disputed.

754. Declarant Coolidge has been asked by Plaintiffs' counsel in Gear v. Bostelmann, 20-cv-278, to describe: (a) the burdens her office faced in meeting the demand for mail-in absentee ballots in the April 7 election; (b) the burdens she anticipates facing given the likely increased demand for mail-in absentee ballots in the November general election; and (c) what the Plaintiffs' requested back-up options for absentee ballot delivery failure would mean for her office and voters in the November elections. Coolidge Decl. ¶ 2.

RESPONSE NO. 754: Not disputed.

755. The April 7 election was unique given the unprecedented demand for mail-in absentee ballots within the City of Racine. Coolidge Decl. ¶ 3.

RESPONSE NO. 755: Not disputed.

756. In previous election years, Declarant Coolidge's office typically received about 1,500 requests for absentee ballots, per election. Coolidge Decl. ¶ 3.

RESPONSE NO. 756: Not disputed.

757. For the April 7 election, we received 11,083 timely requests for absentee ballots, meaning they were requested by the Friday before election day. Coolidge Decl. ¶ 3.

RESPONSE NO. 757: Not disputed.

758. Of the 11,083 absentee ballots timely requested and mailed out by Declarant Coolidge's office, she and her staff received back approximately 9,000 ballots in time for processing and counting. Coolidge Decl. ¶ 3.

RESPONSE NO. 758: Not disputed.

759. Hundreds of ballots were returned to Declarant Coolidge's office after the deadline, none of which could be processed. Coolidge Decl. ¶ 3.

RESPONSE NO. 759: Not disputed.

760. In the days and weeks leading up to the April 7 election, Declarant Coolidge's office received hundreds of phone calls, emails and text messages from voters complaining that they never received their absentee ballots as requested. Coolidge Decl. ¶ 4.

RESPONSE NO. 760: Not disputed.

761. It is unclear how many of those people eventually received their ballots, returned them, or went to the polls to vote in person. Coolidge Decl. ¶ 4.

RESPONSE NO. 761: Not disputed.

762. In addition to the 11,083 timely requests for absentee ballots, Declarant Coolidge's office also received hundreds of requests for absentee ballots after the cut-off date allowed by law. Coolidge Decl. ¶ 5.

RESPONSE NO. 762: Not disputed.

763. None of these requests were fulfilled, and it is unclear how many of those people ultimately voted in person at the polls. Coolidge Decl. ¶ 5.

RESPONSE NO. 763: Not disputed.

764. In order to meet the demand for processing absentee ballots for the April 7 election, Declarant Coolidge had to recruit approximately 40 City employees from other departments to assist her staff in the days and weeks leading up to the election, including nights and weekends. Coolidge Decl. ¶ 6.

RESPONSE NO. 764: Not disputed.

765. At this time, Declarant Coolidge does not know how many other City employees will be available to assist with the August and November elections. Coolidge Decl. ¶ 6.

RESPONSE NO. 765: Not disputed.

766. This does not include the additional number of workers needed to process absentee ballots at the polls on Election Day, many of whom were members of the National Guard, who may or may not be required to assist with the August and November elections. Coolidge Decl. ¶ 6.

RESPONSE NO. 766: Not disputed.

767. For the August 11 election, Declarant Coolidge's office has so far received and mailed out approximately 6,000 absentee ballots. Coolidge Decl. ¶ 7.

RESPONSE NO. 767: Not disputed.

768. Based on the April 7 election, she and her staff anticipate at least another 5,000 requests for mail-in absentee ballots for the August 11 election, and an even larger number for the November presidential election. Coolidge Decl. ¶ 7.

RESPONSE NO. 768: Not disputed.

769. In order to timely process these requests, Declarant Coolidge will again need additional assistance from members outside of her office. Coolidge Decl. ¶ 7.

RESPONSE NO. 769: Not disputed.

770. Of Plaintiffs' three proposals for alternative delivery methods for absentee ballots, Declarant Coolidge believe the best option by far is to have voters access and download their replacement ballots through the myvote.wi.gov portal. Coolidge Decl. ¶ 8.

RESPONSE NO. 770: Disputed. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Coolidge's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

771. There is nothing that Declarant Coolidge's office needs to do to enable online access and download of a mail-in absentee ballot through myvote.wi.gov. Coolidge Decl. ¶ 8.

RESPONSE NO. 771: Not disputed.

772. In processing the ballot request and making the ballot available for download through myvote.wi.gov, the system automatically draws on the voter's records in the WisVote database and generates a ballot for that voter's residential address and ward. Coolidge Decl. ¶ 8.

RESPONSE NO. 772: Not disputed.

773. Declarant Coolidge believe this to be a very secure and reliable method for voters to obtain their absentee ballots. Coolidge Decl. ¶ 8.

RESPONSE NO. 773: Disputed. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Coolidge's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

774. Even with the use of myvote.wi.gov to download and print out absentee ballots, Declarant Coolidge would still need to staff each of the City's 14 polling locations with two additional poll workers to re-create and process such ballots. Coolidge Decl. ¶ 9.

RESPONSE NO. 774: Not disputed.

775. Accordingly, it would be helpful to set some sort of deadline for downloading and printing absentee ballots, so that she can properly staff each polling location. Coolidge Decl. ¶ 9.

RESPONSE NO. 775: Disputed. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Coolidge's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

776. With advance notice of how many downloaded absentee ballots have been requested and are to be expected for each polling location, Declarant Coolidge does not foresee any difficulties in staffing polling places to adequately process such ballots once they are cast. Coolidge Decl. ¶ 9.

RESPONSE NO. 776: Not disputed.

777. This alternative would pose some minor inconvenience on the back end, but Declarant Coolidge believes that any inconvenience to my staff and poll workers would be far outweighed by the value to voters. Coolidge Decl. ¶ 10.

RESPONSE NO. 777: Disputed. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Coolidge's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

778. Additionally, every voter we permit to vote by mail is a voter who does not show up at the polls, straining Declarant Coolidge and her staff's already-taxed in-person voting

resources in an environment with far fewer poll workers and potentially increasing the risk of Covid-19 transmission. Coolidge Decl. ¶ 10.

RESPONSE NO. 778: Not disputed.

779. Depending on the timing and nature of the request to change the delivery method for an individual voter's absentee ballot request, Declarant Coolidge's office would have to do minimal work to accommodate the change. Coolidge Decl. ¶ 11.

RESPONSE NO. 779: Not disputed.

780. If a voter has previously requested that the ballot be delivered by mail, for example, but did not receive it, a member of Declarant Coolidge's staff would have to log onto WisVote to manually cancel the outstanding ballot. Coolidge Decl. ¶ 11.

RESPONSE NO. 780: Not disputed.

781. This would take just a few minutes for each voter. Coolidge Decl. ¶ 11.

RESPONSE NO. 781: Not disputed.

782. The voter could then go to myvote.wi.gov to submit a new request and request a ballot by online access and downloading through myvote.wi.gov. Coolidge Decl. ¶ 11.

RESPONSE NO. 782: Not disputed.

783. Overall, Declarant Coolidge supports creating a mandatory back-up option for domestic civilian voters who do not receive their ballot in the mail for whatever reason. Coolidge Decl. ¶ 12.

RESPONSE NO. 783: Disputed. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Coolidge's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

784. Of the three methods Plaintiffs have proposed to ensure voters have a way to safely cast a ballot during this pandemic, Declarant Coolidge prefers extending the online access and download option to all registered Wisconsin voters. Coolidge Decl. ¶ 12.

RESPONSE NO. 784: Disputed. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Coolidge's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

785. This back-up option should also be made available to voters with a deadline, to allow me to properly staff each polling location. Coolidge Decl. ¶ 12.

RESPONSE NO. 785: Disputed. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Coolidge's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

786. Declarant Debra Cronmiller is the Executive Director for the League of Women Voters of Wisconsin ("LWVWI"). Cronmiller Decl. ¶ 1.

RESPONSE NO. 786: Not disputed.

787. LWVWI is a nonpartisan, nonprofit, non-stock corporation organized under the laws of the State of Wisconsin with its principal office located at 612 West Main St., Suite 200, in the City of Madison, Dane County, Wisconsin. Cronmiller Decl. ¶ 1.

RESPONSE NO. 787: Not disputed.

788. LWVWI is part of The League of Women Voters of the United States, which has over 700 state and local Leagues in all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Hong Kong. Cronmiller Decl. ¶ 1.

RESPONSE NO. 788: Not disputed.

789. LWVWI works to expand informed, active participation in state and local government, giving a voice to all Wisconsinites. Cronmiller Decl. ¶ 1.

RESPONSE NO. 789: Not disputed.

790. LWVWI, a nonpartisan community-based organization, was formed in 1920, immediately after the enactment of the Nineteenth Amendment granting women's suffrage. Cronmiller Decl. ¶ 2.

RESPONSE NO. 790: Not disputed.

791. The LWVWI is dedicated to encouraging its members and the people of Wisconsin to exercise their right to vote as protected by the Constitution and the Voting Rights Act of 1965. Cronmiller Decl. ¶ 2.

RESPONSE NO. 791: Not disputed.

792. The mission of LWVWI is to empower voters and defend democracy. The League promotes political responsibility through informed and active participation in government and acts on many governmental issues. Cronmiller Decl. ¶ 2.

RESPONSE NO. 792: Not disputed.

793. The League seeks to maximize eligible voter participation through its voter registration efforts and encourage civic engagement through registration and voting. The LWVWI impacts public policies, promotes citizen education, and makes democracy work by, among other things, removing unnecessary barriers to full participation in the electoral process. Cronmiller Decl. ¶ 2.

RESPONSE NO. 793: Not disputed.

794. Currently LWVWI has 20 local Leagues and approximately 2,500 members. Cronmiller Decl. ¶ 2.

RESPONSE NO. 794: Not disputed.

795. LWVWI works with and through 20 local Leagues in the following cities, counties, and areas throughout Wisconsin: Appleton, Ashland/Bayfield Counties, Beloit, Dane County, Door County, the Greater Chippewa Valley, Greater Green Bay, Janesville, the La Crosse area, Manitowoc County, Milwaukee County, the Northwoods, Ozaukee County, the Ripon area, Sheboygan County, the Stevens Point area, the Upper St. Croix Valley, the Whitewater area, Winnebago County, and the Wisconsin Rapids area. Cronmiller Decl. ¶ 2.

RESPONSE NO. 795: Not disputed.

796. LWVWI began as an organization focused on the needs of women and training women voters. It has evolved into an organization concerned with educating, advocating for, and empowering all Wisconsinites. Cronmiller Decl. ¶ 2.

RESPONSE NO. 796: Not disputed.

797. With members in nearly every county in the State, the LWVWI's local Leagues are engaged in numerous activities, including hosting public forums and open discussions on issues of importance to the community. Cronmiller Decl. ¶ 2.

RESPONSE NO. 797: Not disputed.

798. Individual League members invest substantial time and effort in voter training and civic engagement activities, including voter registration and get-out-the-vote ("GOTV") efforts. LWVWI has developed the statewide Election Observation Program and the Vote411 voter guide. Cronmiller Decl. ¶ 2.

RESPONSE NO. 798: Not disputed.

799. LWVWI also devotes substantial time and effort to ensuring that government at every level works as effectively and fairly as possible. This work involves continual attention to

and advocacy concerning issues of transparency, a strong, diverse and impartial judiciary, fair and equal nonpartisan redistricting, and appropriate government oversight. Cronmiller Decl. ¶ 2.

RESPONSE NO. 799: Not disputed.

800. In 2018, 949 of LWVWI's members and volunteers participated in election activities, and 6,580 hours of volunteer time were spent on election activities. Cronmiller Decl. ¶ 3.

RESPONSE NO. 800: Not disputed.

801. LWVWI's local Leagues direct voters to use mymote.wi.gov to register to vote, assist with changes of address and navigating MyVote and the DMV's website, direct voters to Vote411.org to find candidate information, and ensure voters have a valid form of photo ID to obtain and cast their ballots. Cronmiller Decl. ¶ 3.

RESPONSE NO. 801: Not disputed.

802. If anything, these figures are undercounted or under-reported. Cronmiller Decl. ¶ 3.

RESPONSE NO. 802: Not disputed.

803. LWVWI is the umbrella organization for 20 local Leagues across Wisconsin, including in Ozaukee, Waukesha, Milwaukee, and Dane counties, and works with and through these 20 local Leagues. Cronmiller Decl. ¶ 4.

RESPONSE NO. 803: Not disputed.

804. Members of the local Leagues are members of LWVWI, as well as the national League of Women Voters, and their efforts and work are part of local, state, and national operations and done on behalf of the state and national Leagues. Cronmiller Decl. ¶ 4.

RESPONSE NO. 804: Not disputed.

805. Plaintiff Claire Whelan is a member of LWVWI by virtue of being a member of the League of Women Voters of Wisconsin of Appleton. Cronmiller Decl. ¶ 4.

RESPONSE NO. 805: Not disputed.

806. LWVWI offers guidance, resources, materials, trainings, and financing in support of the local Leagues and their activities. Cronmiller Decl. ¶ 5.

RESPONSE NO. 806: Not disputed.

807. LWVWI distributes voter information in the form of thousands of flyers, infocards, guides, and stickers. Cronmiller Decl. ¶ 5.

RESPONSE NO. 807: Not disputed.

808. LWVWI engages hundreds of thousands of individuals through its website and social media platforms in the months prior to the November elections. LWVWI believes that these efforts contribute to the high voter engagement and turnout for elections, which in turn help LWVWI accomplish its mission and policy goals. Cronmiller Decl. ¶ 5.

RESPONSE NO. 808: Not disputed.

809. Declarant Cronmiller believes that the health and safety of LWVWI members and our communities is paramount. Cronmiller Decl. ¶ 6.

RESPONSE NO. 809: Not disputed.

810. As the Covid-19 pandemic continues to affect more and more communities across the country and in the State of Wisconsin, LWVWI has been forced to divert resources and develop new guidelines and resources for volunteer workers so that our volunteers can help voters while keeping both themselves and those they assist safe. For example, some local Leagues have attempted to offer assistance to those voters who are having difficulty finding a friend, neighbor, or relative able to serve as a witness for their mail-in absentee ballot. Cronmiller Decl. ¶ 6.

RESPONSE NO. 810: Not disputed.

811. While League volunteers offering such assistance will attempt to assist using appropriate social distancing, Declarant Cronmiller believes that some voters will not be able to accept such help because of self-quarantine and other compromising situations. Cronmiller Decl. ¶ 6.

RESPONSE NO. 811: Not disputed.

812. In addition, LWVWI does not have enough volunteers across the state to assist all of the thousands of voters who live alone in Wisconsin. Cronmiller Decl. ¶ 6.

RESPONSE NO. 812: Not disputed.

813. Many of LWVWI's members are 65 years old or older, whom the CDC notes are at higher risk for serious illness or death from the virus. Cronmiller Decl. ¶ 7.

RESPONSE NO. 813: Not disputed.

814. Even if a voter is not a member of a high-risk population, that voter can still risk exposing high-risk individuals to the virus. Cronmiller Decl. ¶ 7.

RESPONSE NO. 814: Not disputed.

815. Given these facts, the organization's members will overwhelmingly rely on voting by mail. Cronmiller Decl. ¶ 7.

RESPONSE NO. 815: Disputed. Fed. R. Evid. 602. The witness has no foundation to testify about what individual members of the League will or will not do about the issues presented by voting during the pandemic, so the statement is merely speculation.

816. Their ability to vote—and, by extension, the organization's ability to carry out its mission of promoting voter engagement and turnout and to successfully implement its policy

goals—will depend not only on their ability to receive and cast a ballot, but also to have it count. Cronmiller Decl. ¶ 7.

RESPONSE NO. 816: Not disputed.

817. In this regard, LWVWI is extremely concerned about the widespread absentee ballot delivery failures seen in the April 7th election and the requirement that voters must have another person witness and sign their mail-in ballots for these ballots to count. Both of these issues unnecessarily put LWVWI's members' health and lives at risk and run the risk of disenfranchising them. Cronmiller Decl. ¶ 7.

RESPONSE NO. 817: Not disputed.

818. The interests LWVWI seeks to protect in this action, the voting rights of its members and all eligible Wisconsin voters, are germane to the organization's purpose. Cronmiller Decl. ¶ 8.

RESPONSE NO. 818: Not disputed.

819. For the April 7, 2020 election, LWVWI fielded calls, texts, emails, and social media messages from voters who were struggling to comply with the witness requirement, and LWVWI members offered to help voters by serving as Plaintiffs' witnesses. Cronmiller Decl. ¶ 9.

RESPONSE NO. 819: Not disputed.

820. LWVWI also worked with partners to create educational materials around the witness requirement for voters and volunteers assisting voters. Cronmiller Decl. ¶ 9.

RESPONSE NO. 820: Not disputed.

821. LWVWI communicated with clerks and others to identify absentee ballot drop-boxes with volunteers ready to serve as witnesses and to relay this information to voters. Cronmiller Decl. ¶ 9.

RESPONSE NO. 821: Not disputed.

822. As changes to the witness requirement were made, LWVWI communicated them with the League of Women Voters national office (“LWVUS”) to ensure their national voter education resource, VOTE411.org, was up to date with the latest information. Cronmiller Decl. ¶ 9.

RESPONSE NO. 822: Not disputed.

823. To understand the scope of issues faced by voters during this unprecedented election, LWVWI created a survey to collect stories from voters, including challenges to finding a witness and issues with receiving an absentee ballot. Cronmiller Decl. ¶ 9.

RESPONSE NO. 823: Not disputed.

824. LWVWI analyzed the results along with other relevant data sets to write the Wisconsin Election Protection: 2020 Spring Election Report, which highlights barriers voters faced and gives recommendations to improve future elections. Voter experiences and recommendations regarding the burdensome witness requirement and the failures to deliver absentee ballots are included in the report. Cronmiller Decl. ¶ 9.

RESPONSE NO. 824: Not disputed.

825. Additionally, LWVWI-Dane County and LWVWI-Ashland and Bayfield Counties worked with Meals on Wheels and educated its delivery people on how to serve as witnesses for people who live alone. Cronmiller Decl. ¶ 9.

RESPONSE NO. 825: Not disputed.

826. LWVWI-Dane County also worked with the Dane County Voter ID Coalition to mobilize their Voter ID helpline to identify voters in need of a witness and to provide assistance as needed. Cronmiller Decl. ¶ 9.

RESPONSE NO. 826: Not disputed.

827. All of this work was specific to and undertaken for the first time because of the COVID-19 pandemic. LWVWI had never done any of this specific work on the witness requirement previously or diverted any of its resources or staff time to helping voters navigate the witness requirement. Cronmiller Decl. ¶ 9.

RESPONSE NO. 827: Not disputed.

828. All told in the three weeks leading up to the April 7th election and after the Governor issued the Safer at Home Executive Order #12, LWVWI's Voter Education Manager Eileen Newcomer spent an estimated 20.5 hours, the equivalent of \$512.50 in salary, working on various activities to educate voters about the witness requirement and help them successfully navigate it. Cronmiller Decl. ¶ 9.

RESPONSE NO. 828: Not disputed.

829. Furthermore, LWVWI responded to voters' concerns about not receiving in the mail absentee ballots they had timely requested. Cronmiller Decl. ¶ 10.

RESPONSE NO. 829: Not disputed.

830. LWVWI worked with partners to develop educational materials around what to do if a requested absentee ballot does not arrive in the mail—including how to track an absentee ballot's status, who to contact to follow up on your ballot, and what the voters' options are to still vote in the election. Cronmiller Decl. ¶ 10.

RESPONSE NO. 830: Not disputed.

831. LWVWI fielded calls from municipal clerks who said they could not handle the volume of absentee ballot requests and needed more resources and funding to purchase more

envelopes and ballots. Additionally, the municipal clerks said they needed WEC to intervene and make up the shortfall in ballots so soon before the election. Cronmiller Decl. ¶ 10.

RESPONSE NO. 831: Not disputed.

832. Many printers had been shut down as non-essential businesses under Executive Order #12, and only the Commission could procure the necessary hundreds of thousands of ballots on short notice. Cronmiller Decl. ¶ 10.

RESPONSE NO. 832: Not disputed.

833. These clerks wanted LWVWI to raise awareness on the issue. Cronmiller Decl. ¶ 10.

RESPONSE NO. 833: Not disputed.

834. In late March, when WEC realized they had an insufficient number of ballots statewide, WEC made an emergency request to print more ballots and secured a printer through the state procurement process. Cronmiller Decl. ¶ 10.

RESPONSE NO. 834: Not disputed.

835. All told, LWVWI's Voter Education Manager Eileen Newcomer spent an estimated 35.5 hours, the equivalent of \$887.50 in salary, working on various activities to educate voters about ballot tracking and options for casting one's ballot in the event a requested absentee ballot was not timely delivered. Cronmiller Decl. ¶ 10.

RESPONSE NO. 835: Not disputed.

836. LWVWI's work on educating voters about and helping voters with absentee ballot delivery failures and the witness requirement will continue through the August and November elections. LWVWI intends to do more of the same for August and November elections, when they

reasonably anticipate the same challenges with receiving ballots on time and complying with the witness requirement will return in force. Cronmiller Decl. ¶ 11.

RESPONSE NO. 836: Not disputed.

837. As to the witness requirement, LWVWI will be working with local Leagues and municipal clerks to identify volunteers to serve as witnesses and possibly staff absentee drop-off locations. Cronmiller Decl. ¶ 12.

RESPONSE NO. 837: Not disputed.

838. LWVWI will also work with the Voter ID Coalition to expand their efforts to provide witness information and support statewide. Cronmiller Decl. ¶ 12.

RESPONSE NO. 838: Not disputed.

839. LWVWI will continue to provide educational materials around the witness requirement and is exploring creating new digital resources. Cronmiller Decl. ¶ 12.

RESPONSE NO. 839: Not disputed.

840. LWVWI will continue to respond to voter inquiries about the witness requirement. Cronmiller Decl. ¶ 12.

RESPONSE NO. 840: Not disputed.

841. Additionally, LWVWI will continue to follow up with voters who responded to its post-election survey and identified that they had difficulty safely complying with the witness requirement and provide assistance in future elections. Cronmiller Decl. ¶ 12.

RESPONSE NO. 841: Not disputed.

842. LWVWI will work with local League members to provide training or resources around this specific requirement. Cronmiller Decl. ¶ 12.

RESPONSE NO. 842: Not disputed.

843. LWVWI will continue its advocacy efforts to remove or relax the witness requirement. Cronmiller Decl. ¶ 12.

RESPONSE NO. 843: Not disputed.

844. But for the unconstitutional enforcement of the witness requirement during this COVID-19 pandemic, LWVWI would not be compelled to divert resources, money, and staff time to educating and helping voters struggling with this law. Cronmiller Decl. ¶ 12.

RESPONSE NO. 844: Objection. The proposed fact is argument. Without waiving this objection, the claim that the enforcement of the witness requirement was ‘unconstitutional’ is a conclusion of law, and under Fed. R. Evid. 602 and 701, this witness lacks the foundation to testify to whether or not enforcement of the witness requirement was ‘unconstitutional’ in the April 7 election.

845. As to absentee ballot delivery failures, LWVWI will continue to follow up with voters who responded to LWVWI’s survey and identified that they did not receive their ballot and provide assistance as needed. Cronmiller Decl. ¶ 13.

RESPONSE NO. 845: Not disputed.

846. LWVWI will continue its advocacy efforts to ensure voters receive the absentee ballots they have requested and to which they are entitled by Wisconsin law. Specifically, LWVWI will support ballot tracking, which will increase transparency as ballots are in transit, and send voters absentee ballot applications. Cronmiller Decl. ¶ 13.

RESPONSE NO. 846: Not disputed.

847. LWVWI will continue to respond to voter inquiries about ballot delivery failures, and continue to provide educational materials about this issue, and work with local League members to provide training and resources. Cronmiller Decl. ¶ 13.

RESPONSE NO. 847: Not disputed.

848. But for the unconstitutional dual failure to provide voters with absentee ballots in the mail or any fail-safe option in those circumstances, LWVWI would not be compelled to divert resources, money, and staff time to educating and helping voters struggling to vote by absentee ballot in a timely manner. Cronmiller Decl. ¶ 13.

RESPONSE NO. 848: Objection. This proposed fact is argument. Without waiving this objection, disputed. The claim that the issues identified were “unconstitutional” is a conclusion of law, and under Fed. R. Evid. 602 and 701, this witness lacks the foundation to testify to whether or not the issues identified were “unconstitutional.”

849. LWVWI estimates that it will expend approximately \$5,000 on its activities to educate and help voters with respect to the failures to prepare and deliver mail-in absentee ballots and the witness requirement. Cronmiller Decl. ¶ 13.

RESPONSE NO. 849: Not disputed.

850. Declarant Cronmiller believes that it is important that we all work together to curb the spread of this virus as much as possible by not taking unnecessary risks. Cronmiller Decl. ¶ 14.

RESPONSE NO. 850: Not disputed.

851. Given the inherent health risks posed by the Covid-19 pandemic and the position voters are put in under these circumstances by having to choose between their health and their voting rights, it is now questionable whether LWVWI is truly able to fulfill its mission to guarantee that all eligible Wisconsin voters can vote. Cronmiller Decl. ¶ 14.

RESPONSE NO. 851: Disputed. The witness does not provide facts from which this conclusory opinion can be drawn, and the facts in her affidavit suggest that the League is able to do what it deems necessary to meet its goals; in her affidavit, the witness estimates the cost of

the League implementing its goals would be \$5,000, Cronmiller Dec. Par. 13, but provides no facts from which the Court could discern how much of a burden the expenditure is. Further, the witness lacks the foundation to testify to this under Fed. R. Evid. 602, insofar as the League works through “20 local leagues,” Id. at par. 2, and the witness lacks foundation to testify about the burden or impact on those local leagues.

852. Declarant Gary Mitchell is the President of Wisconsin Alliance for Retired Americans (“Wisconsin Alliance”). Mitchell Decl. ¶ 1.

RESPONSE NO. 852: Not disputed.

853. Declarant Mitchell took this position on May 27, 2010. Mitchell Decl. ¶ 1.

RESPONSE NO. 853: Not disputed.

854. Declarant Mitchell is a retired member of the American Federation of State, County and Municipal Employees (AFSCME) Union. Mitchell Decl. ¶ 1.

RESPONSE NO. 854: Not disputed.

855. Wisconsin Alliance was founded on March 14, 2005 and has 103,611 members, composed of retirees from public and private sector unions, community organizations and individual activists. Mitchell Decl. ¶ 2.

RESPONSE NO. 855: Not disputed.

856. Wisconsin Alliance is incorporated in the State of Wisconsin as a 501(c)(4) social welfare organization under the Internal Revenue Code. Mitchell Decl. ¶ 2.

RESPONSE NO. 856: Not disputed.

857. Alliance for Retired Americans is a national organization with more than 4.3 million members in all 50 states. Mitchell Decl. ¶ 3.

RESPONSE NO. 857: Not disputed.

858. The national Alliance charters state organizations, such as the Wisconsin Alliance, which then elect officers, form governing boards, affiliate local chapters and organize members in the state. Mitchell Decl. ¶ 3.

RESPONSE NO. 858: Not disputed.

859. Declarant Mitchell presides over Wisconsin Alliance's board, which includes a treasurer, secretary and vice president representatives from the largest affiliates. Mitchell Decl. ¶ 4.

RESPONSE NO. 859: Not disputed.

860. Wisconsin Alliance's board holds monthly meetings. Mitchell Decl. ¶ 4.

RESPONSE NO. 860: Not disputed.

861. Wisconsin Alliance's board organizes activities, initiates programs, and maintains the governance of Wisconsin Alliance in the state. Mitchell Decl. ¶ 4.

RESPONSE NO. 861: Not disputed.

862. Wisconsin Alliance participates in an organizing calendar that resembles and reflects the national Alliance for Retired Americans, with Wisconsin-specific additions. This calendar includes engaging local, state and federal representatives about issues and laws that affect retirees and seniors, highlighting May as Older Americans Month and celebrating the anniversaries of Social Security and Medicare. Mitchell Decl. ¶ 5.

RESPONSE NO. 862: Not disputed.

863. Wisconsin Alliance also engages in member education about elections. Historically, Wisconsin Alliance has provided information to members about how their elected leaders have voted on issues that impact the lives of seniors and provided information about how to cast a ballot. Mitchell Decl. ¶ 6.

RESPONSE NO. 863: Not disputed.

864. The interests Wisconsin Alliance seeks to protect in this lawsuit, the voting rights of its members and of all retired Wisconsinites, are germane to the organization's purpose as detailed above. Mitchell Decl. ¶ 7.

RESPONSE NO. 864: Not disputed.

865. As a membership organization, Wisconsin Alliance is proud to represent and defend its members' interests and rights, especially the right to vote. Mitchell Decl. ¶ 8.

RESPONSE NO. 865: Not disputed.

866. In 2016, the Wisconsin Alliance shared with membership information about voting, including information about voting by mail. Mitchell Decl. ¶ 8.

RESPONSE NO. 866: Not disputed.

867. The majority of this work took place through electronic communication over email and through social media. Mitchell Decl. ¶ 8.

RESPONSE NO. 867: Not disputed.

868. The overwhelming majority of the work of the Wisconsin Alliance for Retired Americans is conducted through volunteer hours by the members of its board, local leaders and activists. Mitchell Decl. ¶ 9.

RESPONSE NO. 868: Not disputed.

869. Prior to February 1, 2020, the Wisconsin Alliance for Retired Americans planned to engage with members about the options available to vote, including by mail. Mitchell Decl. ¶ 9.

RESPONSE NO. 869: Not disputed.

870. Because so many of the issues that disproportionately affect Wisconsin Alliance's members - Social Security, Medicare and cost of prescription drugs - were on the ballot, Declarant Mitchell knew the work of the Wisconsin Alliance would be most critical to the extent we could ensure its members were able to cast their votes. Mitchell Decl. ¶ 10.

RESPONSE NO. 870: Not disputed.

871. Though he had not yet begun outreach about the different modes of voting, including by mail, Declarant Mitchell knew it would be part of his work. Mitchell Decl. ¶ 10.

RESPONSE NO. 871: Not disputed.

872. In response to COVID-19 concerns, Declarant Mitchell asked the board of the Wisconsin Alliance to begin working with the Wisconsin AFL-CIO to engage in extraordinary messaging about voting - including organizing virtual phone banks and social media posts - in order to encourage members to vote in the safest form possible. Mitchell Decl. ¶ 11.

RESPONSE NO. 872: Not disputed.

873. Though no money has yet been spent, responding to COVID-19 concerns will constitute a significant reallocation of Declarant Mitchell's time and the resources for the Wisconsin Alliance. Mitchell Decl. ¶ 11.

RESPONSE NO. 873: Not disputed.

874. For the Spring Election, Declarant Mitchell has asked the board of the Wisconsin Alliance to consider changing its plans and coordinate with the Wisconsin AFL-CIO in response to COVID-19. Mitchell Decl. ¶ 12.

RESPONSE NO. 874: Not disputed.

875. Moving forward, Wisconsin Alliance's plans for the November general election will differ significantly than had COVID-19 not so dramatically altered the landscape. Mitchell Decl. ¶ 12.

RESPONSE NO. 875: Not disputed.

876. The volunteer hours of Declarant Mitchell, the Wisconsin Alliance board, and its members are the most valuable resources of the Wisconsin Alliance and are the resources that have already been reallocated to responding to COVID-19. Mitchell Decl. ¶ 12.

RESPONSE NO. 876: Not disputed.

877. The disenfranchisement of Wisconsin Alliance members could have a crippling effect on Wisconsin Alliance and our members. Election outcomes have impacted the lives of Wisconsin Alliance members in terms of issues such as access to health care and other resources. Mitchell Decl. ¶ 13.

RESPONSE NO. 877: Not disputed.

878. Because such disenfranchisement would be so detrimental, Declarant Mitchell has asked the Board of Wisconsin Alliance to consider making this issue central to the work we do. Mitchell Decl. ¶ 13.

RESPONSE NO. 878: Not disputed.

879. The Wisconsin Alliance plans to produce, publish, and distribute educational literature and materials on voting in the November election, specifically around the process of obtaining absentee ballots, including the difficulties voters face when the ballot is not timely delivered, and the witness signature requirement. Mitchell Decl. ¶ 14.

RESPONSE NO. 879: Not disputed.

880. The Wisconsin Alliance Executive Director is a paid staffer and will be diverting time normally used for get-out-the-vote efforts to make and distribute these materials. Mitchell Decl. ¶ 14.

RESPONSE NO. 880: Disputed. The purpose of the Wisconsin Alliance already includes “provid[ing] information about how to cast a ballot,” Mitchell Dec. Par 6. The proposed finding ignores that the tasks the Alliance says will “divert” the Director from his job is already, in fact, the Director’s job.

881. The Wisconsin Alliance will distribute electronic materials through social media and email, and printed materials in person and via mail. Mitchell Decl. ¶ 14.

RESPONSE NO. 881: Not disputed.

882. Declarant Mitchell anticipates Wisconsin Alliance will receive a high volume of voter contacts and inquiries as members try to navigate voting during this pandemic. Mitchell Decl. ¶ 14.

RESPONSE NO. 882: Not disputed.

883. Plaintiff Sylvia Gear is a member of the Wisconsin Alliance. Mitchell Decl. ¶ 15.

RESPONSE NO. 883: Not disputed.

884. From May 1987 to May 2011, Declarant Debra Salas was employed in various capacities in the City of Kenosha, Wisconsin City Clerk/Treasurer’s (City Clerk’s) office. Salas Decl. ¶ 1.

RESPONSE NO. 884: Not disputed.

885. In the City of Kenosha the offices of City Clerk and Treasurer are combined as a single department. Salas Decl. ¶ 1.

RESPONSE NO. 885: Not disputed.

886. The department is responsible for discharging the duties of the City Clerk as defined in Wisconsin Statutes. Salas Decl. ¶ 1.

RESPONSE NO. 886: Not disputed.

887. From May 2011 to January 2012 Declarant Salas was employed as Village Clerk/Treasurer for the Village of Mount Pleasant, Wisconsin. Salas Decl. ¶ 1.

RESPONSE NO. 887: Not disputed.

888. From February 2012 until her retirement on July 6, 2020, Declarant Salas was employed as the City Clerk/Treasurer for the City of Kenosha. Salas Decl. ¶ 1.

RESPONSE NO. 888: Not disputed.

889. Throughout her 33-plus year career in municipal clerk/treasurer offices, Declarant Salas was directly involved in and responsible for the processing, fulfillment and oversight of mail-in absentee voting requests in nearly 100 elections. Salas Decl. ¶ 1.

RESPONSE NO. 889: Not disputed.

890. Declarant Salas has been asked by Plaintiffs' counsel in *Gear v. Bostelmann*, 20-cv-278, to describe: (a) the burdens her Office faced in meeting the demand for mail-in absentee ballots in the April 7, 2020 election; (b) the burdens anticipated for the Office given the likely increased demand for mail-in absentee ballots in the November 3, 2020 General and Presidential election; and (c) what the Plaintiffs' requested back-up options for absentee ballot delivery failure would mean for the Office and voters in the November 3, 2020 General and Presidential election. Salas Decl. ¶ 2.

RESPONSE NO. 890: Not disputed.

891. The April 7 election was among the most challenging elections Declarant Salas has ever worked. Her staff worked around the clock, including on weekends, struggling to meet the unprecedented demand for mail-in absentee ballots. Salas Decl. ¶ 3.

RESPONSE NO. 891: Not disputed.

892. City Clerk/Treasurer staff took laptops home to process absentee ballot applications. Salas Decl. ¶ 3.

RESPONSE NO. 892: Not disputed.

893. It was not unusual to begin work at 5:00 a.m., continuing well into the evening without breaks, even to use the bathroom. Salas Decl. ¶ 3.

RESPONSE NO. 893: Not disputed.

894. Requests were coming in at a rate of several per minute. Salas Decl. ¶ 3.

RESPONSE NO. 894: Not disputed.

895. For the April 7 election, absentee ballot request processing was handled by four of the six regular full-time City Clerk/Treasurer staff, including Declarant Salas. In addition, three part-time college interns were recruited to assist. Salas Decl. ¶ 4.

RESPONSE NO. 895: Not disputed.

896. Due to the unanticipated volume of absentee ballot requests, City Clerk/Treasurer staff quickly realized additional assistance was needed. Therefore, roughly fifteen City of Kenosha municipal employees from the Libraries, Museums and Parks Departments were diverted from their regular duties and assigned by City Administration to assist them. Salas Decl. ¶ 4.

RESPONSE NO. 896: Not disputed.

897. The City Clerk/Treasurer's office also reached out to pollworkers for volunteers. Approximately 3 to 4 pollworkers volunteered each day. Staff were forced to quickly train these individuals on the spot. Salas Decl. ¶ 4.

RESPONSE NO. 897: Not disputed.

898. Processing the absentee ballot requests required review of photo identification, data entry in WisVote, the statewide voter registration system, labeling envelopes, pulling ballots, stuffing envelopes, applying postage and transporting the envelopes to the post office for delivery. Salas Decl. ¶ 4.

RESPONSE NO. 898: Not disputed.

899. In addition, everyone involved was recording and filing returned ballots, communicating with people by phone and correspondence when applications could not be processed due to unacceptable photo identification or other issues, and answering phones and emails. Salas Decl. ¶ 4.

RESPONSE NO. 899: Not disputed.

900. Due to the volume of absentee ballot requests and the Covid-19 precautions City Clerk/Treasurer staff were taking, in-person absentee voting was limited to the two weeks before the election by appointment only during a limited number of hours from 7:00 a.m. to 9:00 a.m. Monday through Friday. Salas Decl. ¶ 4.

RESPONSE NO. 900: Not disputed.

901. This was in addition to performing the regular duties and responsibilities of the City Clerk/Treasurer's office, including but not limited to daily audit and deposit of all funds collected by City departments, agenda and back up documentation preparation in paper and electronic format for and attendance at all Board of Review, Finance Committee, License and Permit

Committee and Common Council meetings, licensing, tax collection, public record requests, and the mail room. Salas Decl. ¶ 4.

RESPONSE NO. 901: Not disputed.

902. In order to properly handle the expected volume of absentee ballot requests for the August 11, 2020 Partisan Primary and November 3, 2020 general election, the City Clerk/Treasurer's office will need to hire and train substantially more people than were involved in the April 7 election. Salas Decl. ¶ 4.

RESPONSE NO. 902: Not disputed.

903. A total of 13,672 mail-in absentee ballots were requested for the April 7 election. Salas Decl. ¶ 5.

RESPONSE NO. 903: Not disputed.

904. Due to the Herculean efforts of all involved, all valid requests were processed, and there was no backlog of requests by the judicially-established deadline. Salas Decl. ¶ 5.

RESPONSE NO. 904: Not disputed.

905. In order to accomplish this, staff and volunteers worked incredibly long hours, balancing other responsibilities and adapting to working remotely due to the closing of the municipal building as a result of Covid-19. Salas Decl. ¶ 5.

RESPONSE NO. 905: Not disputed.

906. Once all absentee ballot requests were processed, and with only three days left prior to Election Day, City Clerk/Treasurer staff were then forced to shift their focus to preparations for Election Day. This included preparing documents, packing materials, assembling poll books, locating, assembling and distributing personal protection equipment and making arrangements for the delivery of the voting machines and set-up of the polling locations. Preparation also involved

coordination and staffing for the absentee ballot canvass (central count) on April 7. Salas Decl.

¶ 5.

RESPONSE NO. 906: Not disputed.

907. Some staff broke down, crying, from the pressure. One person resigned. Salas Decl.

¶ 5.

RESPONSE NO. 907: Not disputed.

908. One person developed Covid-19 symptoms and had to quarantine herself until her test results came back negative. Salas Decl. ¶ 5.

RESPONSE NO. 908: Not disputed.

909. It is anticipated that approximately 32,000 absentee ballots will be issued for the November general election. Salas Decl. ¶ 5.

RESPONSE NO. 909: Objection, foundation. The declaration fails to state the basis for this belief such as the number of registered voters, the percentage of voters who voted absentee in the April 2020 election or the historical percentage of voters who vote absentee in the presidential elections.

910. Declarant Salas' understanding from communications and meetings with the Wisconsin Elections Commission and from the news media after April 7 is that there were delays in U.S. Postal Service delivery statewide. Salas Decl. ¶ 6.

RESPONSE NO. 910: Not disputed.

911. Without substantial additional resources, funding, and staff, the Kenosha City Clerk/Treasurer's office will not be prepared to meet the anticipated demand for mail-in absentee ballot requests for the November general election. Salas Decl. ¶ 7.

RESPONSE NO. 911: Not disputed.

912. Some government funding has been made available. Under the Coronavirus Aid, Relief and Economic Security (“CARES”) Act, the WEC has awarded funds to municipalities to help “prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.” Salas Decl. ¶ 7.

RESPONSE NO. 912: Not disputed.

913. The WEC produced a plan to distribute a majority of these funds to municipalities through the WEC CARES Subgrant program to help them prepare for the remainder of the 2020 election year. Salas Decl. ¶ 7.

RESPONSE NO. 913: Not disputed.

914. The City of Kenosha received a \$52,335.60 WEC CARES Subgrant. Salas Decl. ¶ 7.

RESPONSE NO. 914: Not disputed.

915. As a result of Declarant Salas’s retirement, the position of City Clerk/Treasurer is vacant leaving the Office with five full-time employees. Salas Decl. ¶ 8.

RESPONSE NO. 915: Not disputed.

916. The three college students who assisted in the April 7 election will return to school and work part-time in the fall. Salas Decl. ¶ 8.

RESPONSE NO. 916: Not disputed.

917. The WEC implemented the U.S. Post Office’s Intelligent Mail Barcodes system to track absentee ballot envelopes beginning with the August Primary. Salas Decl. ¶ 8.

RESPONSE NO. 917: Not disputed.

918. However, Declarant Salas believes that better tracking of absentee ballot envelopes with anticipated delivery dates listed on myvote.wi.gov can only do so much to alleviate the burden on Clerk/Treasurer staff. Salas Decl. ¶ 8.

RESPONSE NO. 918: Not disputed.

919. Although use of the U.S. Post Office's Intelligent Mail Bar Codes system may reduce the number of voter inquiries, it will have no effect on the burdens of processing the anticipated massive volume of absentee ballot requests—according to the WEC, an estimated 1.8 million statewide. Salas Decl. ¶ 8.

RESPONSE NO. 919: Not disputed.

920. Declarant Salas believes that voters want to receive their ballot in the mail, as that is the most convenient, hassle-free and traditional way to receive an absentee ballot. But email delivery is an alternative to receiving a ballot by mail. Salas Decl. ¶ 9.

RESPONSE NO. 920: Objection. This proposed fact is argument. Without waiving this objection, disputed. Email delivery is not an option under Wisconsin law to most voters.

921. As the April 7th Election Day approached, if City Clerk/Treasurer staff received an inquiry from a voter asking about a ballot that had been mailed out a week or more ago, they would offer to reissue the ballot by email delivery if the voter had the ability to access it that way. If any voter called and said their ballot had not arrived and they wanted a replacement ballot by email, City Clerk/Treasurer staff honored that request. Salas Decl. ¶ 9.

RESPONSE NO. 921: Not disputed.

922. Despite the Seventh Circuit's recent decision, once again restricting email delivery of absentee ballots to military and overseas voters, it is anticipated that many domestic civilian

voters will request email delivery of absentee ballots for the November general election. Salas Decl. ¶ 10.

RESPONSE NO. 922: Not disputed.

923. For some domestic civilian voters, particularly those that are temporarily away, or in counties with unreliable mail delivery, receiving a ballot via email was the only way to guarantee the voter would have an adequate amount of time to send their ballot back to the City Clerk's Office. Salas Decl. ¶ 10.

RESPONSE NO. 923: Not disputed.

924. To send an absentee ballot by email, the absentee ballot label which bears the voter's name, address and voter registration number, generated from WisVote, is applied to a scan of the front of the certificate envelope. Salas Decl. ¶ 10.

RESPONSE NO. 924: Not disputed.

925. After the label is applied to the certificate it is scanned as a PDF. Salas Decl. ¶ 10.

RESPONSE NO. 925: Not disputed.

926. Then the appropriate ballot for the voter's ward is initialed and scanned as a PDF. Salas Decl. ¶ 10.

RESPONSE NO. 926: Not disputed.

927. These two PDF documents, along with a PDF containing instructions are delivered as attachments to an email message. Salas Decl. ¶ 10.

RESPONSE NO. 927: Not disputed.

928. The voter is instructed to print out all of the attachments, mark their ballot, insert it in a plain envelope, and seal it. Salas Decl. ¶ 10.

RESPONSE NO. 928: Not disputed.

929. Then the voter is instructed to affix the certificate to the outside of that envelope. Once the voter has signed the certificate and obtained the signature and address of a witness, they must place the envelope with the certificate attached to the outside, into a larger envelope and mail it to the City Clerk/Treasurer's Office. Salas Decl. ¶ 10.

RESPONSE NO. 929: Not disputed.

930. One benefit of this delivery method is it ensures delivery to the voter, and the voter receives the ballot much faster. Salas Decl. ¶ 10.

RESPONSE NO. 930: Not disputed.

931. However, for some voters, receipt of the ballot is delayed because the staff may enter the email address incorrectly when sending the message with the attachments, or the email message gets caught in the voter's spam filter. Salas Decl. ¶ 10.

RESPONSE NO. 931: Not disputed.

932. In the Kenosha City Clerk/Treasurer's Office, only one or two people are trained to handle email delivery of absentee ballot requests. Salas Decl. ¶ 10.

RESPONSE NO. 932: Not disputed.

933. When a domestic civilian voter does not receive their absentee ballot sent by U.S. mail, or is in need of a replacement ballot, the better alternative to U.S. mail and email delivery for both the voter and City Clerk/Treasurer staff is online access and downloading through the myvote.wi.gov portal. Salas Decl. ¶ 11.

RESPONSE NO. 933: Objection. Foundation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

934. According to Wisconsin Statutes Section 6.80(2)(c), any elector who, by accident or mistake, spoils or erroneously prepares a ballot may receive another, by returning the defective ballot, but not to exceed three ballots in all. Salas Decl. ¶ 11.

RESPONSE NO. 934: Not disputed.

935. Military and overseas voters already are able to request access to a mail-in absentee ballot online. Salas Decl. ¶ 11.

RESPONSE NO. 935: Not disputed.

936. The voter securely accesses their certificate in PDF format, bearing their name, address and voter number and the PDF ballot for their ward and the instructions. Salas Decl. ¶ 11.

RESPONSE NO. 936: Not disputed.

937. The voter is instructed to print out all of the documents, mark their ballot, insert it in a plain envelope, and seal it. Salas Decl. ¶ 11.

RESPONSE NO. 937: Not disputed.

938. Then the voter is instructed to affix the certificate to the outside of that envelope. Salas Decl. ¶ 11.

RESPONSE NO. 938: Not disputed.

939. Once the voter has signed the certificate and obtained the signature and address of a witness, they must place the envelope with the certificate attached to the outside, into a larger envelope and mail it to the City Clerk/Treasurer's Office. Salas Decl. ¶ 11.

RESPONSE NO. 939: Not disputed.

940. This option also provides military and overseas voters the ability to vote without having to request additional ballots from the City Clerk/Treasurer when making a mistake. Salas Decl. ¶ 11.

RESPONSE NO. 940: Not disputed.

941. The WisVote system allows only one ballot to be recorded as returned. Salas Decl. ¶ 11.

RESPONSE NO. 941: Not disputed.

942. If on-line access were made available to domestic civilian voters through myvote.wi.gov there is nothing that the City Clerk/Treasurer's office would need to do to provide domestic civilian voters with replacement ballots. Salas Decl. ¶ 12.

RESPONSE NO. 942: Objection, this proposed fact is argument.

943. The benefit of this method is that it puts the burden on the voter to access their replacement ballot. The replacement ballot does not have to be emailed to the voter, avoiding the risk of an undeliverable email or the message getting caught in email spam filters. Salas Decl. ¶ 12.

RESPONSE NO. 943: Objection, this proposed fact is argument.

944. In processing the ballot replacement request and making the replacement ballot available for download through myvote.wi.gov, the system automatically draws on the voter's record in the WisVote database and generates a replacement ballot for that voter's residential address and ward. Salas Decl. ¶ 12.

RESPONSE NO. 944: Not disputed as far as military and overseas voters.

945. City Clerk/Treasurer staff would not need to assemble the replacement ballot and certificate, print a mailing label, affix a label, scan documents or affirmatively deliver the replacement ballot by U.S. mail or email. Salas Decl. ¶ 12.

RESPONSE NO. 945: Not disputed as far as military and overseas voters..

946. The online access and download system through myvote.wi.gov, which is in place for military and overseas voters, could be adapted and extended for domestic civilian voters who request a replacement ballot. Salas Decl. ¶ 13.

RESPONSE NO. 946: Objection. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for every registered voter, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

947. The WisVote database records whether a particular voter has previously requested a ballot or not and, because of the U.S. Post Office Intelligent Bar Code, the system identifies whether that ballot is in the mail, and if so, for how long. Salas Decl. ¶ 13.

RESPONSE NO. 947: Not disputed.

948. There are ways to limit the use of this feature for domestic civilian voters and make it available only to those who request a replacement ballot for one that did not arrive in the U.S. mail or because the voter made a mistake and is statutorily entitled to a replacement ballot. Salas Decl. ¶ 13.

RESPONSE NO. 948: Objection, Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for this purpose, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at

one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

949. When a military or overseas voter accesses their absentee ballot online at myvote.wi.gov, they also access the statutorily prescribed certificate according to Wis. Stats. 6.87(2) which contains their name, address and ward. Salas Decl. ¶ 13.

RESPONSE NO. 949: Not disputed.

950. This certificate contains a unique identification number and bar code assigned by the WisVote system. Salas Decl. ¶ 13.

RESPONSE NO. 950: Not disputed.

951. The voter is instructed to affix this certificate to the sealed envelope containing their voted ballot. Salas Decl. ¶ 13.

RESPONSE NO. 951: Not disputed.

952. No matter how many times the ballot is accessed and printed, the identification number on the certificate will be the same. Salas Decl. ¶ 13.

RESPONSE NO. 952: Not disputed.

953. When the envelope containing the voted ballot is received, the unique identification number is scanned into the WisVote system confirming that the ballot has been received. Salas Decl. ¶ 13.

RESPONSE NO. 953: Not disputed.

954. On election day, the envelopes received, containing the voted ballots, are submitted to the Absentee Board of Canvassers for counting. Salas Decl. ¶ 13.

RESPONSE NO. 954: Not disputed.

955. The canvassers view the certificate, announce the name and address of the voter, assign a number, write the number on the certificate envelope and in the ballot log next to the voter's name and address. Salas Decl. ¶ 13.

RESPONSE NO. 955: Not disputed.

956. They view each envelope, one at a time, and perform the same procedure for each certificate envelope. Salas Decl. ¶ 13.

RESPONSE NO. 956: Not disputed.

957. The certificate envelopes are then opened. Salas Decl. ¶ 13.

RESPONSE NO. 957: Not disputed.

958. The canvassers remove the ballots and place the envelopes in a sealed container. Salas Decl. ¶ 13.

RESPONSE NO. 958: Not disputed.

959. Then ballots are then inserted into the voting machines for tabulation. Salas Decl. ¶ 13.

RESPONSE NO. 959: Disputed. The ballots have to be recreated before they can be inserted in the voting machine.

960. Once tabulated, the ballots are removed from the voting machine and placed into the ballot container according to Wisconsin Statutes Section 7.52(4)(g). Salas Decl. ¶ 13.

RESPONSE NO. 960: Not disputed.

961. In the rare instance where more than one certificate envelope containing a marked ballot is received from an individual voter, the unique identification number assigned by the

WisVote system in addition to multiple procedural safeguards in place according to WEC rules and Wisconsin Statutes prevent more than one ballot from being counted. Salas Decl. ¶ 13.

RESPONSE NO. 961: Not disputed.

962. If a domestic civilian voter was permitted to request a replacement ballot through myvote.wi.gov, the WisVote system could be adjusted to cancel the original ballot certification number sent by U.S. Mail so that should a ballot be returned to the City Clerk/Treasurer inside an envelope containing the original certification number, the original ballot could not be counted. Salas Decl. ¶ 14.

RESPONSE NO. 962: Objection. Fed. R. Evid. 602. The witness provides no facts from which the Court can determine she has the foundation to testify to changes that could be made to the WisVote system, and has no factual basis for asserting that such changes or adjustments could be made, let alone that they could be made in a safe manner by the upcoming elections, or what said adjustments would cost. Fed. R. Evid. 701(c). The witness' opinion about what is possible requires specialized knowledge this witness does not possess.

963. The myvote.wi.gov and WisVote systems could be further modified to require the voter to certify that either they have not received their ballot in the mail or that they spoiled their ballot and need a replacement. The voter would then access a second ballot online. Salas Decl. ¶ 14.

RESPONSE NO. 963: Objection. Fed. R. Evid. 602. The witness provides no facts from which the Court can determine she has the foundation to testify to changes that could be made to the WisVote system, and has no factual basis for asserting that such changes or adjustments could be made, let alone that they could be made in a safe manner by the upcoming elections, or

what said adjustments would cost. Fed. R. Evid. 701(c). The witness' opinion about what is possible requires specialized knowledge this witness does not possess.

964. The City Clerk/Treasurer would also have the ability to change the ballot delivery method if contacted by the voter to do so. Salas Decl. ¶ 14.

RESPONSE NO. 964: Objection. Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for every registered voter, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

965. Throughout any of these transactions, the WisVote system will keep track of the number of ballots issued and/or accessed to ensure compliance with Wisconsin Statutes Section 6.80(2)(c). Salas Decl. ¶ 14.

RESPONSE NO. 965: Objection, Fed. R. Evid. 602. The witness offers no foundation to testify as to the ability of the myvote system to be adapted statewide for every registered voter, including no ability to testify as to how long such adaptation might take, what changes might need to be made to the system to keep it from freezing up or otherwise glitching if too many requests are made at one time, or to the cost of such adaptation. To the extent the testimony is lay opinion, it is inadmissible under Fed. R. Evid. 701(a) and (c), because the witness has no direct perception of the scaling up of the myvote system, and does not demonstrate that she has the specialized knowledge to testify on this subject.

966. If this online access system is extended to domestic civilian absentee voters when requesting a replacement mail-in ballot, acceptable photo ID will already be on file in the WisVote system because their previous request for a mail-delivered ballot was processed. Salas Decl. ¶ 14.

RESPONSE NO. 966: Not disputed.

967. The last option that Plaintiffs suggest as alternative relief for voters who do not receive their absentee ballot in the mail is to permit domestic civilian voters to cast a Federal Write-in Absentee Ballot (“FWAB”), which is currently available only to military and overseas voters. Salas Decl. ¶ 15.

RESPONSE NO. 967: Not disputed that the plaintiffs are requesting this alternate relief, however it is a violation of Wisconsin law for most voters.

968. The City Clerk/Treasurer’s office receives a fair number of these in a presidential election and has experience with processing them. Salas Decl. ¶ 15.

RESPONSE NO. 968: Not disputed.

969. Declarant Salas believes that it is not cumbersome or difficult to process these write-in absentee ballots. Salas Decl. ¶ 15.

RESPONSE NO. 969: Not disputed.

970. Online access, email delivery, and the FWAB—require some additional work during the canvassing at the Absentee Board of Canvassers. Salas Decl. ¶ 16.

RESPONSE NO. 970: Objection, speculation with respect to how many ballots would be included if the law were changed to allow this option for the November 2020 election.

971. Ballots accessed online, delivered by email, or voted by FWAB are remade on a blank official absentee ballot, so that the voter’s selections can be scanned and tabulated by a voting machine. Salas Decl. ¶ 16.

RESPONSE NO. 971: Not disputed.

972. Canvassers already do this for many ballots. Salas Decl. ¶ 16.

RESPONSE NO. 972: Not disputed.

973. Declarant Salas believe that any increase in the volume of ballots to be remade if these back-up options are required by the Court would only pose minor inconvenience. Salas Decl. ¶ 16.

RESPONSE NO. 973: Objection, speculation.

974. Declarant Salas believes that the value to voters who are trying to vote and vote safely far outweighs any inconvenience posed by any increased volume. Salas Decl. ¶ 16.

RESPONSE NO. 974: Objection. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Salas's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

975. Additionally, every voter able to vote by mail is a voter who does not show up at the polls, thereby reducing the pressure on in-person voting resources especially in an environment with far fewer poll workers and the risk of contracting Covid-19. Salas Decl. ¶ 16.

RESPONSE NO. 975: Not disputed.

976. In Declarant Salas' opinion, extending online access through myvote.wi.gov to all registered Wisconsin voters who do not receive their absentee ballot in the mail is preferable. However, any of the methods proposed by the Plaintiffs are preferable to mailing replacement absentee ballots. Salas Decl. ¶ 17.

RESPONSE NO. 976: Objection, Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Salas's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

977. Declarant Salas believes that any of these back-up options which may be ordered by the court should also be made available to voters through Election Day. Salas Decl. ¶ 17.

RESPONSE NO. 977: Objection. Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Salas's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

978. Currently, a voter can request a replacement absentee ballot up until 5:00 p.m. on the Thursday before Election Day, but many voters will understandably assume or hope that their ballot is still in the mail and not seek a replacement absentee ballot until after that deadline. This increases the risk that their vote will not count. Salas Decl. ¶ 17.

RESPONSE NO. 978: Objection, speculation.

979. With any of the back-up options to access a replacement absentee ballot as outlined above, City Clerk/Treasurer staff can ensure that even as late as Election Day itself, a voter has a way to access and cast an absentee ballot. Salas Decl. ¶ 17.

RESPONSE NO. 979: Objection, Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Salas's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

980. Declarant Salas believes that providing voters with any of the foregoing back-up options is safe, secure, fair and reasonable. Salas Decl. ¶ 18.

RESPONSE NO. 980: Objection, Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Salas's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

981. These options are already available to certain voters, i.e. military and overseas voters. Salas Decl. ¶ 18.

RESPONSE NO. 981: Not disputed.

982. The existing safeguards to ensure the ability to vote, which are provided to overseas and military voters, and Declarant Salas believes they can and should be extended to all registered Wisconsin voters. Due to recent changes to the voting environment in Wisconsin, she would encourage these accommodations to better serve all Wisconsin voters and allow them to cast their vote safely and securely. Salas Decl. ¶ 18.

RESPONSE NO. 982: Objection, Fed. R. Evid. 701(b): The statement is presented as a statement of fact, but is simply Salas's opinion, and is not helpful to understand her testimony or determine a fact in issue but is simply a statement of belief.

Dated: July 20, 2020

LAWTON & CATES, S.C.

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