

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

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DEMOCRATIC NATIONAL COMMITTEE, et al.,  
Plaintiffs,

v.

MARGE BOSTELMANN, et al.,  
Defendants,

Civil Action No.: 3:20-cv-249-wmc

and

REPUBLICAN NATIONAL COMMITTEE, et al.,  
Intervening Defendants.

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SYLVIA GEAR, et al.,

Plaintiffs,

v.

MARGE BOSTELMANN, et al.,  
Defendants,

Civil Action No.: 3:20-cv-278-wmc

and

REPUBLICAN NATIONAL COMMITTEE, et al.,  
Intervening Defendants.

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CHRYSTAL EDWARDS, et al.,

Plaintiffs,

v.

ROBIN VOS, et al.,  
Defendants.

Civil Action No. 3:20-cv-340-wmc

and

REPUBLICAN NATIONAL COMMITTEE, et al.,  
Intervening Defendants.

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JILL SWENSON, et al.,

Plaintiffs,

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v.  
MARGE BOSTELMANN, et al.,  
and  
REPUBLICAN NATIONAL COMMITTEE, et al.,  
Intervening Defendants.

Civil Action No. 3:20-cv-459-wmc

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**WEC DEFENDANTS' ADDITIONAL  
PROPOSED FINDINGS OF FACT**

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1. The Wisconsin Elections Commission (WEC) is comprised of six Commissioners: Marge Bostelmann, Julie M. Glancey, Ann S. Jacobs, Dean Knudson, Robert F. Spindell, and Mark L. Thomsen. (Wolfe Dec. ¶3.)
2. The WEC also has an Administrator, Meagan Wolfe, and a staff of twenty-nine. (Wolfe Dec. ¶¶1, 3.)
3. The WEC's duties are defined by statute. In general, the WEC administers and enforces Wisconsin's election law. (Wolfe Dec. ¶4.); (Wolfe Dep., Dkt. No. 247, 11:15-12:8).
4. Any action by the WEC, except an action relating to its own internal procedures, requires a two-thirds vote of the Commissioners. Wis. Stats. § 5.05(1e). Subject to limited exceptions, WEC meetings are public and recordings of those meetings are publicly available. Wis. Stat. §§ 19.81 (2); 19.83 (1); 19.851; 5.05 (6a)(a)1; [https://wiseye.org/category/meetings/?refinementList%5Btaxonomies.post\\_tag%5D%5B0%5D=Elections](https://wiseye.org/category/meetings/?refinementList%5Btaxonomies.post_tag%5D%5B0%5D=Elections). Deliberations regarding advisory opinions not open to the public. Wis. Stat. § 5.05 (6a)(a)1.

5. In administering elections, the WEC works in conjunction with Wisconsin's 72 county clerks and 1,850 municipal clerks. Over 60 % of the State's municipal clerks are part-time. (Wolfe Dec. ¶4.); (Wolfe Dep., Dkt. No. 247, 114:12-115:3).
6. The WEC provides technical and direct support to municipal clerks on all aspects of election management. This includes providing access to and maintaining the WisVote system and MyVote website, along with technical assistance for both. (Wolfe Dec. ¶5.) (Wolfe Dep., Dkt. No. 247, 55:12-56:4).
7. WisVote is the statewide voter registration data base and election administration system where local officials enter voter registration information, among other things. It allows clerks to track absentee requests across elections, creates records for issued ballots, and records whether the voter participated in the election and by what method. This system also permits the WEC to monitor compliance with Federal and State Uniformed Overseas Citizens Absentee Voting Act requirements. MyVote is the user interface for voters to be able to interact with data included in WisVote. (Wolfe Dec. ¶6.); (Wolfe Dep., Dkt. No. 247, 147:8-148:18).
8. Wisconsin held its Spring Presidential Preference and Spring Election on April 7, 2020. The Spring Election included a race for Justice of the Wisconsin Supreme Court and many local offices. Ballots became available February 20, 2020. (Wolfe Dec. ¶7.); (Wolfe Dec. Exh. C, p. 6.)
9. At the time, Wisconsin was the only state to conduct a statewide election while operating under a "stay at home" order related to the COVID-19 pandemic. (Wolfe Dec. ¶8.); (Wolfe Dec. Exh. C, p. 6.)

10. On March 22, 2020, Governor Evers and Lieutenant Governor Barnes issued a letter which, among other things, encouraged voters to cast absentee ballots. (Wolfe Dec. ¶9.)
11. In anticipation of the April 7, 2020 Election, the WEC undertook various projects in order to improve its role in administering the election and to assist local election officials. (Wolfe Dec. ¶10.); (Wolfe Dec. Exh. C, p. 6.)
12. Prior to the April 7 Election, the WEC worked with the State Emergency Operations Center (“SEOC”) to find, procure and distribute sanitation supplies and personal protective equipment to polling places throughout Wisconsin. (Wolfe Dec. ¶11.); (Wolfe Dec. Exh. C, pp. 10-11.)
13. Those supplies included over 8,000-liter bottles of ethyl alcohol solution for use as a hand and surface sanitizer; 10,000 plastic spray bottles; 500,000 isopropyl alcohol wipes; surgical masks, latex gloves; 1.5 million ballpoint pens; approximately 2,000 rolls of painter’s tape; and over 10,000 social distancing and public health signs. (Wolfe Dec. ¶11.); (Wolfe Dec. Exh. C, pp. 10-11.)
14. The Wisconsin National Guard then helped package and distribute supplies to regional facilities around the state. County governments distributed the supplies from the regional facilities. (Wolfe Dec. ¶12.); (Wolfe Dec. Exh. C, p. 10.)
15. On March 13, 2020, the WEC issued a press release encouraging anyone who was concerned about COVID-19 exposure to make plans to vote absentee for the April 7, 2020 Election and providing information on how voters could request an absentee ballot and providing information about indefinitely confined voters, photo ID requirements and the absentee ballot receipt deadline. (Wolfe Dec. ¶13.); (Wolfe Dec. Exh. H.)

16. Prior to the April 7 Election, WEC performed a number of updates to WisVote to accommodate changes to the deadlines for absentee ballot requests and online registration. (Wolfe Dec. ¶14.); (Wolfe Dec. Exh. C, p. 14.)
17. As a result of increased absentee ballot requests along with attached photo ID's, WEC staff also made multiple memory increases to WisVote and continuously monitored its capacity. The WEC staff also created a new report within WisVote to assist jurisdictions with consolidated polling places. (Wolfe Dec. ¶15.); (Wolfe Dec. Exh. C, p. 14.)
18. The WEC also increased capacity and made changes to MyVote, the WEC's public-facing website. The circumstances of the April 7 Election and COVID-19 crisis resulted in an unprecedented use of MyVote features. (Wolfe Dec. ¶16.); (Wolfe Dec. Exh. C, p. 18.)
19. WEC staff also had to make coding changes to MyVote to adjust deadlines and workflows. Due to the pandemic, the WEC was unable to conduct usability tests of these changes. (Wolfe Dec. ¶16.); (Wolfe Dec. Exh. C, p. 18.)
20. WEC staff adjusted load testing plans to address the high volume of MyVote traffic and changes in voter behavior. (Wolfe Dec. ¶16.); (Wolfe Dec. Exh. C, p. 18.)
21. Municipal clerks had purchased absentee ballot supplies, including envelopes and supplies, prior to the start of the COVID-19 crisis in Wisconsin and based on pre-2020 absentee ballot behavior. (Wolfe Dec. ¶17.); (Wolfe Dec. Exh. C, p. 22.)
22. As voters increasingly shifted to voting by absentee ballot by mail, clerks ran out of supplies and were unable to purchase more due to supply chain issues. The WEC, with help from the SEOC, procured and distributed additional envelopes. By March 30, the WEC had distributed 1.2 million absentee ballot envelopes to municipal clerks. (Wolfe Dec. ¶17.); (Wolfe Dec. Exh. C, p. 22.)

23. At the beginning of the COVID-19 crisis, municipal clerks began reporting a shortage of poll workers. (Wolfe Dec. ¶18.); (Wolfe Dec. Exh. C, p. 26.)
24. According to statewide surveys, most poll workers are typically over the age of 60. Many municipal clerks were unable to fill-in on an emergency basis as poll workers because they were also in a vulnerable demographic. (Wolfe Dec. ¶18.); (Wolfe Dec. Exh. C, p. 26.)
25. Prior to the April 7 Election, municipalities reported a statewide shortage of over 7,000 poll workers. (Wolfe Dec. ¶18.); (Wolfe Dec. Exh. C, p. 26.)
26. The WEC requested poll worker personnel from the SEOC. It also engaged in a public campaign to encourage those who were able to serve as poll workers, and distributed recruitment material to municipalities for their use. (Wolfe Dec. ¶19.); (Wolfe Dec. Exh. C, p. 26.)
27. The WEC added a “become a poll worker” function to MyVote to put potential poll workers in touch with municipal clerks. (Wolfe Dec. ¶20.); (Wolfe Dec. Exh. C, p. 26.)
28. State employees were encouraged to serve as poll workers. (Wolfe Dec. ¶20.); (Wolfe Dec. Exh. C, p. 26.)
29. The WEC also developed online, video-based training that could be used by municipalities to meet their statutory duty to train poll workers. (Wolfe Dec. ¶21.); (Wolfe Dec. Exh. C, p. 26.)
30. On April 2, Governor Evers authorized the Wisconsin National Guard to serve as poll workers. The WEC worked with the National Guard and local election officials to coordinate deployment, as well as developing online poll worker and election public health training for service members of the National Guard. Nearly 2,500 members of the National

Guard were put on active duty on April 5 to begin screening and training. (Wolfe Dec. ¶22.); (Wolfe Dec. Exh. C, pp. 26, 38.)

31. The WEC communicates regularly with the 1,850 municipalities and 72 counties who administer elections in Wisconsin. (Wolfe Dec. ¶23.)
32. Given the unprecedented difficulties of the April 7 Election, the WEC sent more than 50 communications and guidance documents to clerks between March 12 and April 7. Normally, the WEC sends 10 such communications in that period and avoids communications in the week before an election. (Wolfe Dec. ¶23.); (Wolfe Dec. Exh. C, p. 30.)
33. WEC staff prepared and distributed specific public health documents and held numerous webinars. On March 29, 2019, the WEC issued additional guidance regarding the “indefinitely confined” designation in light of the COVID-19 pandemic. (Wolfe Dec. ¶24, Ex. E.); (Wolfe Dec. Exh. C, p. 30.); (Wolfe Dec. Exh. E.)
34. As a result of unknown in-person turnout and poll worker shortages, for the April 7 Election, some jurisdictions consolidated polling places, moving multiple wards into the same polling place. (Wolfe Dec. ¶25.); (Wolfe Dec. Exh. C, p. 34.)
35. Due to the timing of the public health emergency and emergency orders, as well as public health guidance regarding who could enter certain types of care facilities, the WEC adopted a motion stating that municipal clerks may relocate or move polling places that were to be located to nursing homes, care facilities and other facilities as determined by the Wisconsin Department of Health Services or other local health officials without obtaining prior approval of the local governing body or municipal elections commission. (Wolfe Dec. ¶26.); (Wolfe Dec. Exh. C, p. 34.)

36. Following the decision of the United States Supreme Court in *Republican National Committee v. Democratic National Committee*, the WEC worked with local election officials and representatives of the USPS to understand the way various postmarks are used. (Wolfe Dec. ¶27.); (Wolfe Dec. Exh. C, p. 42.)
37. Following the April 7 Election, WEC staff sent a letter to local, state, regional and national USPS representatives regarding ballots not received and outgoing ballots returned to municipalities, to which there has not been a response. At least one municipality made similar inquiries. (Wolfe Dec. ¶28.); (Wolfe Dep., Dkt. No. 247, 90:7-91:19; 92:13-93:14.); (Wolfe Dec. Exh. C, p. 42.)
38. During the lead-up to the April 7 Election, the WEC issued frequent public guidance, including “Top 10 Things Voters Should Know about the April 7 Spring Election and Presidential Primary - COVID-19” which provided information on polling place consolidation and double-checking your polling place, deadlines to return absentee ballots following the Supreme Court’s decision, public health guidelines, curbside voting and a voter’s ability to return an absentee ballot to a polling place on Election Day. (Wolfe Dec. ¶29; (Wolfe Dec. Exh. G.).
39. Following the decision of the United States Supreme Court on April 6, 2020, the WEC issued immediate guidance to clerks and created new guidance to ensure that jurisdictions could securely suspend voting equipment to comply with this Court’s injunction regarding early result reporting, and followed up with an alert to all local election officials. (Wolfe Dec. ¶30.); (Wolfe Dep., Dkt. No. 247, 60:22-61:12); (Wolfe Dec. Exh. C, p. 46.); (Wolfe Dec. Exh. J.)



40. A total of 964,433 absentee ballots were cast by mail in the April 7, 2020 Election. In total, 1,555,263 ballots were cast in that election. (Wolfe Dec. ¶31.); (Wolfe Dec. Exh. G.); (Wolfe Dec. Exh. D, p. 5.)
41. Municipal clerks faced the challenge of meeting this unprecedented demand for absentee ballots, in addition to their other duties including administering in-person absentee voting, preparing polling places and recruiting and training new election inspectors. Hundreds of municipal clerks work alone and part time. (Wolfe Dec. ¶32.); (Wolfe Dec. Exh. D, pp. 14-15.)
42. Due to the combined increase of in-person and by-mail absentee voting, some municipal clerks had to recruit assistance from other municipal departments or hire temporary staff. (Wolfe Dec. ¶33.); (Wolfe Dec. Exh. D, p. 6.)
43. Of the 1,303,985 absentee ballots sent by municipal clerks, 1,159,800 (or 88.94%) were returned and counted. Of those, 1,101,324 were returned on or before April 7. Seventy-nine thousand fifty-four were received between April 8 and April 13. According to reports from municipal clerks, 2,659 absentee ballots were returned after April 13 and could not be counted. (Wolfe Dec. ¶34.); (Wolfe Dec. Exh. F, p. 2.); (Wolfe Dec. Exh. D, p. 8.)
44. Municipal clerks and local election officials rejected 14,042 ballots due to insufficient certification and 5,526 because they were postmarked after election day. (Wolfe Dec. ¶35.); (Wolfe Dec. Exh. F, p. 6.)
45. There were 120,989 ballots which voters requested but did not return, which includes ballot requests cancelled either by a municipal clerk or by the voter, as well as 4,960 ballots that were returned as undeliverable. (Wolfe Dec. ¶36.) (Wolfe Dec. Exh. F, p. 6.)

46. The WEC investigated reported issues both in fulfilling ballot requests and in the delivery of ballots by the USPS. (Wolfe Dec. ¶38.); (Wolfe Dec. Exh. D, pp. 17-19.)
47. Voters cast 397,664 ballots through in-person election day voting. This represented 26% of the total ballots cast. Historically, that percentage is over 80%. (Wolfe Dec. ¶37.); (Wolfe Dec. Exh. D, p. 6.)
48. In preparation for the upcoming 2020 elections, the WEC has directed staff to spend federal CARES Act grant money to distribute sanitation supplies to all 72 counties in Wisconsin. The WEC is also spending up to \$400,000 of CARES Act funds to develop Intelligent Mail Barcodes that will enable clerks and voters using WisVote and MyVote, respectively, to track absentee ballots through the mail stream. (Wolfe Dec. ¶39.); (Wolfe Dec. Exh. A.)
49. Pursuant to Wis. Stat. § 6.855, municipal clerks designated alternative absentee ballots sites in June. (Wolfe Dec., ¶40.)

Dated this 20th day of July, 2020.

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