

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

DEMOCRATIC NATIONAL COMMITTEE  
and DEMOCRATIC PARTY OF  
WISCONSIN,

*Plaintiffs,*

v.

MARGE BOSTELMANN, JULIE M.  
GLANCEY, ANN S. JACOBS, DEAN  
KNUDSON, ROBERT F. SPINDELL, JR., and  
MARK L. THOMSEN, in their official  
capacities as Wisconsin Elections  
Commissioners,

*Defendants.*

Case No. 3:20-cv-249-wmc

**PROPOSED ANSWER TO AMENDED COMPLAINT BY PROPOSED INTERVENOR-  
DEFENDANTS THE REPUBLICAN NATIONAL COMMITTEE AND THE  
REPUBLICAN PARTY OF WISCONSIN**

Proposed Intervenor-Defendants, the Republican National Committee and the Republican Party of Wisconsin, submit the following Answer to Plaintiffs' Amended Complaint (Doc. 55).

**NATURE OF THE CASE**

1. Proposed Intervenor-Defendants admit that the COVID-19 infections present a serious health issue worldwide, and that there are a number of infections in Wisconsin. Proposed Intervenor-Defendants lack sufficient information to admit or deny the remaining allegations of this paragraph.

2. Proposed Intervenor-Defendants admit that the Governor issued the "Safer-at-Home Order" on March 24, 2020, the contents of which speak for themselves.

3. Proposed Intervenor-Defendants lack sufficient information to admit or deny the allegations.

4. Denied.

5. Proposed Intervenor-Defendants admit that the Wisconsin Elections Commission made the quoted statement, and reports increased requests for absentee ballots. Proposed Intervenor-Defendants otherwise deny the allegations in this paragraph.

6. Denied.

7. Denied.

8. The allegations in this paragraphs are moot in light of the TRO issued by this Court on March 20, 2020. To the extent a response is required, Proposed Intervenor-Defendants deny the allegations in this paragraph.

9. The contents of Wis. Stat. §6.34 speak for themselves; Proposed Intervenor-Defendants otherwise deny the allegations in this paragraph.

10. The contents of Wis. Stat. §§6.86 and 6.87 speak for themselves; Proposed Intervenor-Defendants otherwise deny the allegations in this paragraph.

11. Denied.

12. Proposed Intervenor-Defendants note that Plaintiff's request for relief from the voter-registration deadlines is moot in light of the TRO issued by this Court on March 20, 2020. Proposed Intervenor-Defendants deny that Plaintiffs are entitled to the remaining relief set forth in this paragraph.

### **JURISDICTION AND VENUE**

13. Proposed Intervenor-Defendants admit that Plaintiffs purport to bring this action under 42 U.S.C. §§1983 and 1988.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

## **PARTIES**

18. Proposed Intervenor-Defendants admit the allegations in this paragraph except for the last sentence, which is denied.

19. Proposed Intervenor-Defendants admit the allegations in this paragraph except for the last sentence, which is denied.

20. Proposed Intervenor-Defendants admit that Plaintiffs have standing to challenge the constitutionality of voting laws, but deny the allegations of harm specific to the challenged provisions.

21. Admitted.

## **STATEMENT OF FACTS AND LAW**

### **A. Wisconsin Registration and Absentee Laws**

22. Admitted.

23. Wis. Stat. §6.34(2) speaks for itself, but Proposed Intervenor-Defendants deny that §6.34(2m) is the “only exception” to the identification requirement. For example, §6.34(2) expressly excludes military electors.

24. Admitted.

25. Proposed Intervenor-Defendants lack sufficient information to admit or deny this allegation, but note that the percentages cited by Plaintiffs appear to correspond to statistics on the Wisconsin Election Commission’s website regarding *general* elections in Wisconsin, not primary elections.

26. The contents of Wis. Stat. §6.86(1)(a) speak for themselves; the remainder of this paragraph are legal conclusions to which no response is required.

27. The contents of Wis. Stat. §6.86(1)(ac) speak for themselves; the remainder of this paragraph are legal conclusions to which no response is required.

28. The contents of Wis. Stat. § 6.87(6) speak for themselves; the remainder of this paragraph are legal conclusions to which no response is required.

**B. Coronavirus and the April 7, 2020 Election**

29. Proposed Intervenor-Defendants admit that the COVID-19 infections present a serious health issue worldwide and in Wisconsin. Proposed Intervenor-Defendants lack sufficient information to otherwise admit or deny the allegations in this paragraph.

30. The contents of the Safer-at-Home order speak for themselves; Proposed Intervenor-Defendants admit that schools in Wisconsin are closed indefinitely.

31. The contents of the Safer-at-Home order speak for themselves; Proposed Intervenor-Defendants admit that it generally requires social distancing, with certain exceptions, to control and limit the spread of COVID-19.

32. The contents of the Safer-at-Home order speak for themselves; Proposed Intervenor-Defendants otherwise deny the allegations in this paragraph.

33. The contents of the Safer-at-Home order speak for themselves; Proposed Intervenor-Defendants admit that individuals diagnosed with COVID-19 must take steps to limit the spread of the virus.

34. Proposed Intervenor-Defendants admit that the Wisconsin Elections Commission made the quoted statement, and reports increased requests for absentee ballots.

35. Denied.

36. The contents of the Safer-at-Home order speak for themselves, and Proposed Intervenor-Defendants note that it includes exceptions for travel concerning Essential Government Services. Proposed Intervenor-Defendants lack sufficient information to otherwise admit or deny the allegations in this paragraph.

37. Denied.

38. Wis. Stat. §§6.86(2)(a) and 6.87(4)(b)(2) speak for themselves; Proposed Intervenor-Defendants otherwise the allegations in this paragraph.

39. Denied.

40. Proposed Intervenor-Defendants admit the deadlines set forth in this paragraph, but otherwise lack sufficient information to otherwise admit or deny the allegations in this paragraph.

41. Denied.

42. Proposed Intervenor-Defendants lack sufficient information to otherwise admit or deny the allegations in this paragraph.

43. Denied.

44. Denied.

### **CLAIMS FOR RELIEF**

#### **COUNT I**

**First and Fourteenth Amendments  
U.S. Const. Amend. I and XIV, 42 U.S.C. §1983, 28 U.S.C. §§2201, 2202  
Undue Burden on the Right to Vote**

45. Proposed Intervenor-Defendants reallege and incorporate by reference all prior paragraphs of this Answer and the paragraphs in the counts below as though fully set forth herein.

46. This paragraph consists of legal conclusions to which no response is required.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

**COUNT II**

**Due Process  
U.S. Const. Amend. XIV, 42 U.S.C. §1983  
Denial of Procedural Due Process**

52. Proposed Intervenor-Defendants reallege and incorporate by reference all prior paragraphs of this Answer and the paragraphs in the counts below as though fully set forth herein.

53. This paragraph consists of legal conclusions to which no response is required.

54. This paragraph consists of legal conclusions to which no response is required.

55. This paragraph consists of legal conclusions to which no response is required.

56. Denied.

57. Denied.

**COUNT III**

**Equal Protection  
U.S. Const. Amend. XIV, 42 U.S.C. §1983**

58. Proposed Intervenor-Defendants reallege and incorporate by reference all prior paragraphs of this Answer and the paragraphs in the counts below as though fully set forth herein.

59. This paragraph consists of legal conclusions to which no response is required.

60. This paragraph consists of legal conclusions to which no response is required.

61. Denied.

62. Denied

63. Denied.

**PRAYER FOR RELIEF**

Proposed Intervenor-Defendants deny that Plaintiffs are entitled to their requested relief.

**AFFIRMATIVE DEFENSES**

1. The allegations in the Amended Complaint fail to state a claim for relief can be granted, including the requirement for extraordinary injunctive relief in the context of an ongoing election.

2. The Counts are barred in whole or part by the doctrine of abstention.
3. Proposed Intervenor-Defendants deny that Plaintiffs are entitled to their requested relief.

Dated: March 27, 2020

Respectfully submitted,

/s/ Patrick Strawbridge  
Patrick Strawbridge  
CONSOVOY MCCARTHY PLLC  
Ten Post Office Square  
8th Floor South PMB #706  
Boston, MA 02109  
(703) 243-9423  
patrick@consovoymccarthy.com

Jeffrey M. Harris  
Cameron T. Norris  
Alexa R. Baltes  
CONSOVOY MCCARTHY PLLC  
1600 Wilson Blvd., Ste. 700  
Arlington, VA 22209