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VIA ELECTRONIC FILING ONLY

Clerk Samuel A. Christensen
Wisconsin Court of Appeals
110 East Main Street, Suite 215
P.O. Box 1688
Madison, WI 53701-1688

RE: *Braun v. Wisconsin Election Commission*
Appeal No. 2023AP0076, District II

Dear Clerk Christensen:

Pursuant to Wis. Stat. § 809.19(11), Plaintiff-Respondent Richard Braun (“Braun”) submits this letter in response to Proposed-Intervenor-Appellant Vote.org’s (“Vote.org”) citation to supplemental authorities letter filed July 11, 2023.

Vote.org’s attempts to distinguish this case from *Rise, Inc. v. Wisconsin Elections Commission*, No. 2022AP1838, unpublished slip op. (Ct. App. July 7, 2023), or their attempts to otherwise claim that *Rise* somehow helps them here, fail in all respects.

In their opening brief, Vote.org tied the outcome of this appeal to the outcome in *Rise*. (See, App. Br. at 11 n.4: “. . . [Rise] presents many of the same issues as this one”; *id.* at 17 n.6: “. . . Reversal in *Rise* would thus support reversal here”; and *id.* at 24: “A decision in the appellants’ favor on the inadequate-representation issue in *Rise* would thus be difficult to reconcile with a different result here.”). The *Rise* decision came out, and it did not go the way Vote.org had hoped.

With the court in *Rise* having ruled *against* the proposed-intervenors (affirming the Circuit Court’s decision in that case), Vote.org now tries to spin straw into gold – only they have no Rumpelstiltskin who can show up and save them. The Court’s holding in *Rise* simply does not support Vote.org’s position that intervention is warranted here, no matter how they try to spin it. The Circuit Court’s decision here, too, should be affirmed.

The Court in *Rise* applied the correct legal standard to the facts in that case to determine the proposed intervenor did not meet the legal standard necessary to intervene. Braun’s brief already applied that standard to the facts in this case (as did

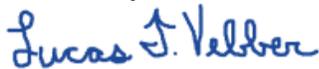
the Circuit Court below), and nothing from *Rise* (which also properly applied those standards) changes any of Braun's analysis.

In response to Vote.org's more specific arguments, nothing in *Rise* changes anything for this case – indeed, in applying the proper legal standard to the facts in that case, the *Rise* court did exactly what Braun has already argued for in this case:

- *Interest*: The *Rise* court simply restates and applies the appropriate legal standard for determining if a proposed intervenor has the requisite interest in the litigation, *Rise*, ¶ 19, et seq. As Respondent has already explained in the briefing, Vote.org does not have such an interest here. Resp. Br. 12–18. Nothing from *Rise* changes Braun's analysis.
- *Impairment*: Here again, the *Rise* court simply applied the appropriate legal standard to the facts in that case. *Rise*, ¶ 30.¹ As just noted, Respondent has already explained in the briefing how Vote.org has no interest in this case, and so no such interest could be impaired.
- *Adequacy of Representation*: Similarly, with regard to adequacy of representation, the *Rise* court again properly applied the legal standard to the facts of that case (*Rise*, ¶ 31, et seq.) to determine that the existing parties adequately represented the proposed intervenors. Respondents' briefing argues for the same in this case, including application of the same presumptions relied on by the Court in *Rise*, which Vote.org simply cannot overcome. See Resp. Br. 18–28.

The Court's decision in *Rise* reinforces the appropriate legal standards to apply to a prospective defendant-intervenor when WEC is the existing defendant. Applying those same factors to the facts of this case should yield the same ultimate result as it did in *Rise*: the Proposed-Intervenor-Appellants fail to meet their burden on intervention, and the Circuit Court's decision should be affirmed.

Sincerely,



Lucas T. Vebber

Counsel for Plaintiff-Respondent

¹ When discussing impairment, Vote.org's supplemental authority letter mistakenly cites to "*Rise*, at ¶ 13" (see *Letter*, at 2). That paragraph is unrelated to impairment, and does not contain the quote cited – Respondent assumes Vote.org intended to cite to *Rise*, ¶ 30.