

FILED
02-13-2024
CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN
IN SUPREME COURT

Case No. 2023AP1399-OA

REBECCA CLARKE, RUBEN ANTHONY, TERRY
DAWSON, DANA GLASSTEIN, ANN GROVES-LLOYD,
CARL HUJET, JERRY IVERSON, TIA JOHNSON, ANGIE
KIRST, SELIKA LAWTON, FABIAN MALDONADO,
ANNEMARIE MCCLELLAN, JAMES MCNETT,
BRITTANY MURIELLO, ELA JOOSTEN (PARI) SCHILS,
NATHANIEL SLACK, MARY SMITH-JOHNSON,
DENISE SWEET, and GABRIELLE YOUNG,

Petitioners,

GOVERNOR TONY EVERS IN HIS OFFICIAL
CAPACITY, NATHAN ATKINSON, STEPHEN JOSEPH
WRIGHT, GARY KRENZ, SARAH J. HAMILTON, JEAN-
LUC THIFFEAULT, SOMESH JHA, JOANNE KANE, and
LEAH DUDLEY,

Intervenors-Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION; DON MILLIS,
ROBERT F. SPINDELL, JR., MARK L. THOMSEN, ANN
S. JACOBS, MARGE BOSTELMANN, CARRIE RIEPL, IN
THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE
WISCONSIN ELECTIONS COMMISSION; AND
MEAGAN WOLFE, IN HER OFFICIAL CAPACITY AS
ADMINISTRATOR OF THE WISCONSIN ELECTIONS
COMMISSION; ANDRE JACQUE, TIM CARPENTER,
ROB HUTTON, CHRIS LARSON, DEVIN LEMAHIEU,
STEPHEN L. NASS, JOHN JAGLER, MARK SPREITZER,
HOWARD MARKLEIN, RACHAEL CABRAL-GUEVARA,
VAN H. WANGGAARD, JESSE L. JAMES, ROMAIN
ROBERT QUINN, DIANNE H. HESSELBEIN, CORY
TOMCZYK, JEFF SMITH, AND CHRIS KAPENGA, IN
THEIR OFFICIAL CAPACITIES OF THE WISCONSIN
SENATE,

Respondents,

WISCONSIN LEGISLATURE, BILLIE JOHNSON,
CHRIS GOEBEL, ED PERKINS, ERIC O'KEEFE, JOE
SANFELIPPO, TERRY MOULTON, ROBERT JENSEN,
RON ZAHN, RUTH ELMER, and RUTH STRECK,

Intervenor-Respondents.

**COMMISSION RESPONDENTS' RESPONSE TO
MOTION FOR LEAVE TO SUBPOENA
CONSULTANTS DR. BERNARD GROFMAN AND DR.
JONATHAN CERVAS OR, ALTERNATIVELY, TO
STRIKE THEIR FEBRUARY 1, 2024 REPORT**

A motion for leave to subpoena this Court's consultants, Dr. Bernard Grofman and Dr. Jonathan Cervas or, alternatively, to strike their February 1, 2024 report, was filed by (1) respondents, Senators Cabral-Guevara, Hutton, Jacque, Jagler, James, Kapenga, LeMahieu, Marklein, Nass, Quinn, Tomczyk, and Wanggaard; (2) intervenor-respondent the Wisconsin Legislature; and (3) intervenors-respondents Johnson, et al. On February 9, this Court ordered all parties not moving for relief to file a response no later than February 13, 4:00 p.m.

The Commission Respondents in this matter did not file a merits brief in this original action, and therefore do not submit a substantive response to this motion for leave to subpoena the Court's consultants or, alternatively, to strike their February 1 report.

Dated this 13th day of February 2024.

Respectfully submitted,

ERIC J. WILSON
Deputy Attorney General of
Wisconsin

Electronically signed by:

Steven C. Kilpatrick
STEVEN C. KILPATRICK
Assistant Attorney General
State Bar #1025452

KARLA Z. KECKHAVER
Assistant Attorney General
State Bar #1028242

THOMAS C. BELLAVIA
Assistant Attorney General
State Bar #1030182

CHARLOTTE GIBSON
Assistant Attorney General
State Bar #1038845

Attorneys for Wisconsin Elections
Commission, Don Millis, Robert F.
Spindell, Jr., Mark L. Thomsen, Ann
S. Jacobs, Marge Bostelmann, Carrie
Riepl, and Meagan Wolfe

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-1792 (SCK)
(608) 264-6365 (KZK)
(608) 266-8690 (TCB)
(608) 957-5218 (CG)
(608) 294-2907 (Fax)
kilpatricksc@doj.state.wi.us
keckhaverkz@doj.state.wi.us
bellaviatc@doj.state.wi.us
gibsoncj@doj.state.wi.us

CERTIFICATE OF EFILE/SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed this *Commission Respondents' Response to Motion for Leave to Subpoena Consultants Dr. Bernard Grofman and Dr. Jonathan Cervas or, Alternatively, to Strike their February 1, 2024 Report* with the clerk of court using the Wisconsin Appellate Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 13th day of February 2024.

Electronically signed by:

Steven C. Kilpatrick

STEVEN C. KILPATRICK

Assistant Attorney General