

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

GREAT AMERICA PAC,)
STOP HILLARY PAC, and)
RONALD R. JOHNSON,)
)
<i>Plaintiffs,</i>)
)
v.)
)
WISCONSIN ELECTIONS COMMISSION,)
and MICHAEL HAAS, in his official capacity)
as ADMINISTRATOR OF THE WISCONSIN)
ELECTION COMMISSION,)
)
<i>Defendant.</i>)
<hr/>	

VERIFIED COMPLAINT

This lawsuit seeks to enjoin a recount that—like the ill-fated Florida recount the Supreme Court enjoined in *Bush v. Gore*, 531 U.S. 98 (2000) (per curiam)—fails to satisfy Equal Protection requirements, threatens to extend past the federally specified “safe harbor” deadline for choosing presidential electors, and—particularly in conjunction with other baseless recounts sought by a candidate who did not win a single presidential elector—may unjustifiably cast doubt upon the legitimacy of President-Elect Donald J. Trump’s victory.

PARTIES

1. Plaintiff Great America PAC (“GAP”) is a non-connected hybrid federal political committee registered with the U.S. Federal Election Commission (“FEC”). Its purpose is to bring people together and unite them behind Donald Trump and the movement he represents. GAP also seeks to protect the integrity of the electoral process, uphold constitutional protections concerning elections, and ensure that every validly cast ballot from eligible voters are properly counted. GAP has tens of thousands of contributors, members, and supporters; among them are numerous Wisconsin voters who cast votes for President in the November 2016 general election (“Election”).

2. Plaintiff Stop Hillary PAC (“SHP”) is a non-connected hybrid federal political committee registered with the U.S. Federal Election Commission (“FEC”). SHP is dedicated to protecting American freedom and fostering the American economy by preventing the election of Hillary Rodham Clinton and combatting her disastrous policies. SHP has created a special project, the Committee to Defend the President, which focuses on supporting President-Elect Trump, helping to protect him from baseless attacks on his presidency such as the pending recount request, and rallying grassroots support behind him.

3. Plaintiffs GAP and SHP have members, supporters, and contributors who are registered Wisconsin voters and participated in the 2016 general election for President. GAP and SHP assert both associational standing to enforce the rights of those members, as well as organizational standing to promote and protect their own institutional interests.

4. Plaintiff Ronald R. Johnson is a registered Wisconsin voter who voted in the 2016 general election for President of the United States.

5. Defendant Wisconsin Elections Commission (“WEC”) is a state agency responsible for administering laws relating to elections and election campaigns pursuant to Wis. Stat. § 5.05(1).

6. Defendant Michael Haas is the Administrator of the WEC. As such, he is the Chief Election Officer of the state. Wis. Stat. § 5.05(3d).

JURISDICTION

7. This case presents constitutional claims under the Equal Protection Clause of the Fourteenth Amendment. U.S. Const., amend. XIV, § 1. This Court therefore has federal-question jurisdiction under 28 U.S.C. § 1331.

VENUE

8. Venue is proper in this district under 28 U.S.C. § 1391(b) because a substantial part of the events and omissions giving rise to the claim occurred here.

BACKGROUND

9. On November 8, 2016, Wisconsin held a general election for President of the United States.

10. Based on the official canvass, Defendant WEC reports the following results:

- a. Donald Trump, of the Republican Party, received 1,404,000 votes (47.19%)
- b. Hillary Clinton, of the Democratic Party, received 1,381,823 votes (46.44%)
- c. Gary Johnson, of the Libertarian Party, received 106,585 votes (3.58%)
- d. Jill Stein, of the Green Party, received 31,006 votes (1.04%)
- e. Evan McMullin, an Independent candidate, received 9,998 votes (0.34%) as a write-in candidate.
- f. Darrell L. Castle, of the Constitution Party, received 12,156 votes (0.41%)
- g. Monica Morehead, an Independent candidate, received 1,769 votes (0.06%)
- h. Rocky Roque de le Fuente, an Independent candidate, received 1,514 votes (0.05%)
- i. Cherunda Fox, an Independent candidate, received 44 votes as a write-in candidate (0%)

11. Independent candidate Rocky Roque de la Fuente filed a request for a recount of the 2016 general election results for the office of President, but withdrew that request on or about Tuesday, November 29, 2016.

12. On or about Friday, November 25, 2016, Green Party candidate Jill Stein who received 1.04% of the vote, filed a request for a recount with the WEC.

13. The recount will be conducted in a manner that violates the requirements set forth by the U.S. Supreme Court in *Bush v. Gore*, 531 U.S. 98 (2000) (per curiam), for recounts in

Presidential elections. Because Wisconsin law lacks adequate protections to ensure that similarly completed ballots will be afforded similar treatment, both within the same county and across different counties, the recount should be enjoined to prevent further Equal Protection violations from tainting the outcome of the election.

14. Moreover, the recount threatens to extend past the congressionally enacted “safe harbor” deadline of December 13, 2016. *See* 3 U.S.C. § 5. Because there is no reasonable assurance the recount can accurately and carefully be conducted within that timeframe, this Court should enjoin the recount to prevent careless mistakes from tainting the results of the election, or incomplete or partial results to cast a pall over President-Elect Trump’s victory.

COUNT ONE
EQUAL PROTECTION

15. Plaintiffs hereby incorporate by reference and re-allege the preceding allegations.

16. The Equal Protection Clause provides, “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const., amend. XIV, § 1.

17. In *Bush v. Gore*, 531 U.S. 98, 104 (2000) (per curiam), the Supreme Court held that once states decide to allocate their presidential electors (i.e., members of the electoral college) based on the outcome of the popular vote, “the right to vote as the legislature has prescribed is fundamental,” and protected by the Equal Protection Clause.

18. The Court added, “Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.” *Id.* at 104-05.

19. The Court entered an injunction prohibiting the State of Florida from recounting the votes in the 2000 Presidential election on the grounds that the state law standards for determining whether certain ballots were validly cast were too vague and indeterminate. A substantial risk existed that different counties, or different election officials within the same county, would treat

identical-looking ballots differently. Because the State’s “recount mechanisms . . . do not satisfy the minimum requirement of non-arbitrary treatment of voters necessary to secure the fundamental right to vote,” they violated Equal Protection requirements and the recount was held unconstitutional. *Id.*

20. The Court further held that simply directing election officials to ascertain “the intent of the voter” provided insufficient guidance for conducting a recount. *Id.* at 105. The Court held that, “in the absence of specific standards” to ensure the “equal application” of this standard, “specific rules” must be promulgated to “ensure uniform treatment.” *Id.* at 106.

21. Likewise, here, the standards Wisconsin election officials will use in conducting the recount do not satisfy Equal Protection requirements. As in Florida, rather than establishing detailed, specific standards for counting votes, state law more generally requires election officials to determine “the electors’ intent,” so far as it “can be ascertained from the ballots notwithstanding the informality or failure to fully comply” with other provisions of the election code. Wis. Stat. § 7.50(2).

22. The ballot-counting standards the WEC and county officials will be using to conduct the recount for votes not cast on electronic voting machines are inadequate in four main ways:

a. The Supreme Court already held that the “intent of the voter” standard upon which Wis. Stat. § 7.50(2) is based is unconstitutionally vague and indeterminate, thereby leading to Equal Protection violations.

b. Section 7.50(2) leaves it to election officials to determine, on a case-by-case or county-by-county basis, whether an “informality” or a “failure to fully comply” with election law undermines the purported intent of the voter to the degree that the ballot must be rejected.

c. Wis. Stat. § 7.50(2)(c) (emphasis added) provides, “If an elector marks a ballot with a cross (X), or any other marks, as |, A, V, O, /, ü, +, within the square to the right of a candidate’s name, or any place within the space in which the name appears, *indicating an intent to vote for that candidate*, it is a vote for the candidate whose name it is opposite.” Yet the law provides no guidance for election officials to use to determining whether a “cross” or “other mark”

actually “indicat[es] an intent to vote for that candidate.” *Id.* In short, it is left to election officials’ individual discretion, or counties’ decisions, as to whether crosses or other marks adjacent to a candidate’s name do not “indicat[e] an intent to vote for that candidate.”

d. Wis. Stat. § 7.50(2)(cm) (emphasis added) provides, “Any apparent erasure of a mark next to the name of a candidate may not be counted as a vote for that candidate *if the elector makes another mark next to the name of one or more different candidates for the same office* and counting of the mark would result in an excess number of votes cast for the office.” This poorly drafted provision creates ambiguities that reasonably may lead different election officials within the same county, or different counties, to treat identically marked ballots differently. The law states that, if a mark on a ballot is erased, the mark shall not be counted as a vote for the adjacent candidate “if the elector makes another mark” near another candidate’s name. *Id.* The law does not address how a ballot should be treated if a voter makes an “apparent erasure” without marking another candidate’s name. The statute reasonably may be read as implying that, unless the voter makes a new mark near another candidate’s name, the apparently erased mark still should count as a vote for the adjacent candidate. Conversely, some election officials may simply choose to disregard apparent erasures and not count them as valid votes at all.

23. In short, the absence of sufficient standards to ensure that identically marked ballots are afforded equal treatment, both within a county and across counties, means that the recount cannot proceed in a manner that satisfies the Equal Protection Clause.

24. Because there is not sufficient time to promulgate new regulations to allow the recount to be conducted in a constitutionally valid manner prior to the safe harbor deadline, as in *Bush v. Gore*, this Court should enjoin the recount to prevent further constitutional violations from occurring.

WHEREFORE, Plaintiffs pray for injunctive and declaratory relief and such other relief as this Court may deem appropriate.

COUNT TWO
DUE PROCESS

25. Plaintiffs hereby incorporate by reference and re-allege the preceding allegations.

26. The Due Process Clause of the Fourteenth Amendment provides, “No State shall . . . deprive any person of life, liberty, or property, without due process of law.” U.S. Const., amend. XIV, § 1.

27. The Due Process Clause protects fundamental rights, such as the fundamental right to vote when state legislatures have chosen to allocate presidential electors based on the outcome of the popular vote. *See Bush*, 531 U.S. at 104.

28. 3 U.S.C. § 5 provides:

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned.

29. As applied to the 2016 election, this statute “requires that any controversy or contest that is designed to lead to a conclusive selection of electors be completed by December [13].” *Bush*, 531 U.S. at 110.

30. Like the State of Florida in *Bush v. Gore*, 531 U.S. at 110, the Wisconsin legislature has manifest its intent that the State comply with this deadline. *See Wis. Stat. § 7.75*.

31. The WEC Director—the state’s Chief Election Officer—has publicly declared that he is “concerned that some counties will be challenged to finish on time.” Martha Ann Overland, *Wisconsin Agrees to Presidential Vote Recount at Third-Party Candidates’ Request*, NPR.org (Nov. 25, 2016 3:02 P.M. ET), <http://www.npr.org/sections/thetwo-way/2016/11/25/503349326/people-have-donated-millions-to-jill-steins-recount-campaign-is-it-worth-it> (attached as Exh. 1).

32. “It took nearly a month to complete the [statewide] recount in the April 2011 Wisconsin Supreme Court race between Justice David Prosser and JoAnne Kloppenburg.” Jason Stein & Patrick Marley, *Stein Sues After Wisconsin Refuses to Order Hand Recounts*, MILWAUKEE JOURNAL SENT. (Nov. 29, 2016, 10:43 A.M.), <http://www.jsonline.com/story/news/politics/elections/2016/11/28/elections-staff-layout-recount-timeline/94539210/> (attached as Exh. 2). This election, in contrast, involves almost twice as many ballots, and only half as much time in which to recount them. *Id.*

33. Particularly in light of the state’s experience with the Prosser recount, there is a substantial likelihood that the recount will not be complete by the safe harbor deadline of December 13. Failure to satisfy this deadline will undermine the right to vote of Plaintiff Johnson and all other Wisconsin voters, by leaving it to the U.S. Congress to determine whether to accept the slate of electors chosen pursuant to their votes. *See* U.S. Const. amend. XII.

34. Furthermore, as local jurisdictions rush to meet this deadline at quadruple the pace of the Prosser recount (twice as many votes in half as much time), an unreasonable risk of error will be introduced into the process. The fundamental right to vote of Plaintiff Johnson and all other Wisconsin voters will be jeopardized by the state’s inability to ensure proper safeguards and accurate counting in this chaotic, highly compressed timeframe. Moreover, any such errors may cast an unjustified pall over the election of President-Elect Trump, undermining public confidence in the integrity of the electoral process.

WHEREFORE, Plaintiffs pray for injunctive and declaratory relief and such other relief as this Court may deem appropriate.

COUNT THREE
42 U.S.C. § 1983

35. Plaintiffs hereby incorporate by reference and re-allege the preceding allegations.

36. 42 U.S.C. § 1983 provides, “Every person who, under color of any statute . . . of any State . . . subjects, or causes to be subjected, any citizen of the United States . . . to the deprivation of any rights . . . secured by the Constitution . . . shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress”

37. For the reasons discussed above, Defendants have violated, and pose a substantial risk of violating:

- a. the Equal Protection and Due Process rights of Plaintiff Henderson;
- b. the Equal Protection and Due Process rights of Wisconsin voters who participated in the 2016 presidential general election and are members, contributors, and supporters of GAP and/or SHP, whose interests GAP and/or SHP assert associational standing to enforce; and
- c. the Equal Protection and Due Process rights of Wisconsin voters who participated in the 2016 presidential general election, whose rights GAP and SHP assert organizational standing to enforce as part of their respective missions.

WHEREFORE, Plaintiffs pray for injunctive and declaratory relief and such other relief as this Court may deem appropriate.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs pray for the following relief:

1. A declaratory judgment that:
 - a. The standards set forth in Wis. Stat. § 7.50 violate the Equal Protection Clause as applied to the presidential recount.
 - b. The circumstances under which the recount is being conducted run an intolerable risk of violating the fundamental Due Process right to vote, by introducing too great of a probability of error into the process.
 - c. The recount threatens to violate the fundamental Due Process right to vote by extending past the statutory safe harbor deadline, with which the Wisconsin legislature has expressed its desire to comply.
2. A temporary restraining order, preliminary injunction, and permanent injunction prohibiting any recount of votes in the 2016 presidential election in the State of Wisconsin from proceeding;
3. Costs and attorneys' fees pursuant to 42 U.S.C. § 1988; the Equal Access to Justice Act, 28 U.S.C. § 2412; or any other applicable provisions; and
4. Such other relief as this Court deems just and appropriate.

Dated this 1st day of December, 2016.

Respectfully submitted,

/s/ Jay E. Heit
Jay E. Heit (#1026582)
Matthew Z. Kirkpatrick (#1101068)
Attorneys for Plaintiffs
Herrick & Hart S.C.

[REDACTED]
[REDACTED]
[REDACTED]

VERIFICATION

I, Ronald R. Johnson, declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed on December 1, 2016.

/s/ Ronald R. Johnson
Ronald R. Johnson

Exhibit 1

“Wisconsin Agrees to Presidential
Vote Recount At Third-Party
Candidates’ Requests”



the **two-way**

AMERICA

Wisconsin Agrees To Presidential Vote Recount At Third-Party Candidates' Requests

November 25, 2016 · 3:02 PM ET

MARTHA ANN OVERLAND LAURA WAGNER



Green party presidential candidate Jill Stein answers questions from members of the media on Oct. 6 in Oakland, Calif.

D. Ross Cameron/AP



OUR WORK

The Wisconsin Elections Commission announced Friday that it would hold a statewide recount of the presidential vote. The move was in response to petitions from two candidates, the Green Party's Jill Stein and independent Rocky Roque De La Fuente.

Federal law requires that all recounts be finished 35 days after the election, which is Dec. 13. One or both of the candidates will be required to pay for the recount.

"We have assembled an internal team to direct the recount, we have been in close consultation with our county clerk partners, and have arranged for legal representation by the Wisconsin Department of Justice," said Wisconsin Elections Commission Director Mike Haas in a statement.

Republican Pat McCrory Requests Recount In North Carolina Governor's Race

"We plan to hold a teleconference meeting for county clerks next week and anticipate the recount will begin late in the week after the Stein campaign has paid the recount fee, which we are still calculating."

Haas added that the process is very detail-oriented and he is concerned that some counties will be challenged to finish on time. In a recount, ballots must be examined to determine voter intent before being counted.

Stein has been leading the effort to force general election recounts in certain swing states. Her effort continues to gain steam — and money.

On Wednesday she announced she would demand recounts in three states: Wisconsin, Pennsylvania and Michigan. President-elect Donald Trump narrowly won Pennsylvania and Wisconsin. As my colleague Domenico Montanaro reported, Michigan was still finalizing its results Friday, but will officially certify Trump the winner on Monday.



OUR WORK

Stein's fundraiser website explicitly says the campaign is not an effort to help Democratic presidential candidate Hillary Clinton, but to "ensure the integrity of our elections." Clinton has not commented on the efforts.

The deadline to file for a recount in Pennsylvania is Monday and Michigan's is Wednesday.

Before the announcement was made, Haas called a potential recount "uncharted territory," according to Laurel White with Wisconsin Public Radio. White reported:

"State law allows any candidate on the ballot to request a recount, but if the margin is more than 0.25 percent, the candidate must pay for its cost.

"Haas said the recount would cost at least \$500,000.

"The commission is reviewing state law to determine when that money would be due.



POLITICS

Why Worries About Paperless Voting Loom Larger This Year

" 'There's a little bit of ambiguity in the statutes,' Haas said. 'In one place, it states that the fee must be paid at the time the petition is filed; another statute indicates once the petition is filed, that's when our agency calculates an estimate.'

"Once a recount order is issued by the commission, clerks across the state have 13 days to complete it, Haas said."

Stein initially set a fundraising goal of \$2.5 million. As donations started pouring in, that goal jumped to \$4.5 million, as *New York Magazine's* Yashar Ali pointed out on Twitter.

if we do not raise enough for any recount (which is highly unlikely) we pledge to use the money for election integrity

we do not raise enough for any recount (which is highly unlikely) we pledge to use the money for election integrity



MEDECINS SANS FRONTIERES
DOCTORS WITHOUT BORDERS

OUR WORK

- Michigan: \$5.6 million by Nov 30

These are filing fees alone. The costs associated with recounts are a function of state law. Attorney's fees are likely to be another \$1 million.

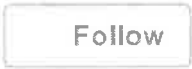
If you wish to donate, you can contribute up to \$2,700 on this page.

- Michigan: \$0.6 million by Nov 30

These are filing fees alone. The costs associated with recounts are a function of state law. Attorney's fees are likely to be another \$2-3 million, then there are the costs of the statewide recount observers in all three states. The total cost is likely to be \$6-7 million.



Yashar
@yashar



It appears that as more money came in, Jill Stein's estimated recount costs rose dramatically.

web.archive.org/web/2016112403...

11:02 PM - 23 Nov 2016

1,119 1,249

By Friday, the goal had jumped again, to \$7 million. The campaign says that will go to cover filing fees, attorney fees and other associated costs.

Donations are still rolling in, but as Stein's fundraising website states, money doesn't necessarily mean the recounts are assured: "We cannot guarantee a recount will happen in any of these states we are targeting. We can only pledge we will demand recounts in those states."

If the recounts don't happen, what will become of all that money? Stein's website says any "surplus will also go toward election integrity efforts and to promote voting system reform." It did not specify what those efforts would be.

As NPR's Camila Domonoske told the Newscast unit, "Some security and election experts have publicly called for paper ballots to be checked in Wisconsin, Florida and Michigan, to make sure that the computers that counted those ballots weren't hacked." But, she says, "There's no evidence that the electronic machines were hacked or the election was compromised."

This post was updated Saturday Nov. 25, 2016 at 10:30 a.m. to include new reporting that Trump will be certified the winner in Michigan.



MEDECINS SANS FRONTIERES
DOCTORS WITHOUT BORDERS



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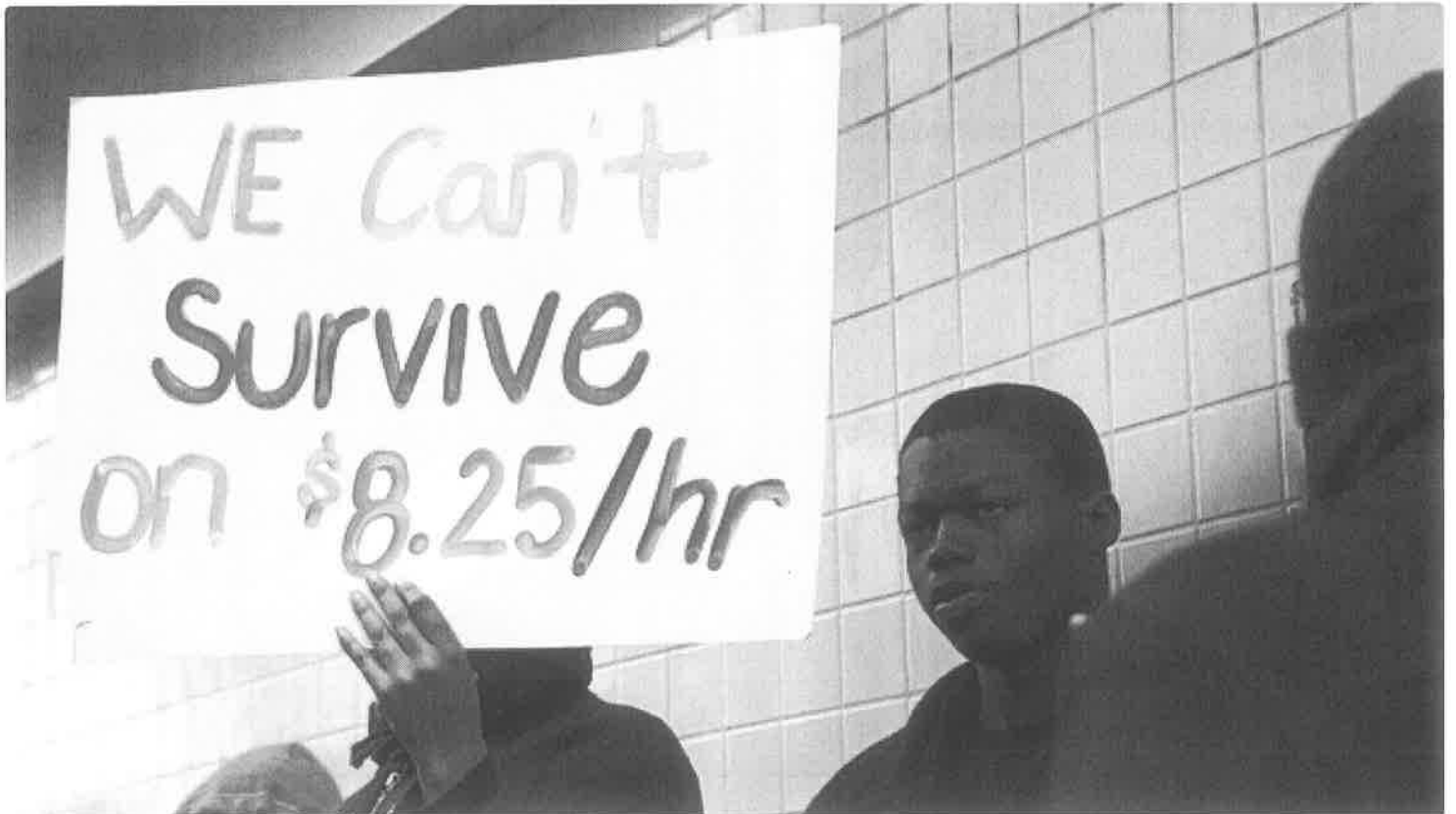
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OUR WORK



U.S.

Barrow, Alaska, Changes Its Name Back To Its Original 'Utqiagvik'

Popular on NPR.org

28 states and D.C. prohibit corporal punishment.

7 states do not prohibit corporal punishment.

15 states expressly permit corporal punishment.



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OUR WORK

These States Allow Teachers And Staff To Hit Students



BUSINESS

Trump's Loans From Troubled German Bank Pose Conflict Of Interest

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OUR WORK



COMMENTARY

What Do Birds Hear When They Sing Beautiful Songs?



OUR WORK

the two-way

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OUR WORK

Exhibit 2

“Stein sues after Wisconsin refuses to order
hand recount”

Stein sues after Wisconsin refuses to order hand recounts

Jason Stein and Patrick Marley, Milwaukee Journal Sentinel 10:43 a.m. CST November 29, 2016



(Photo: Milwaukee Journal Sentinel)

Madison — The Wisconsin Elections Commission agreed Monday to begin a recount of the presidential election on Thursday but was sued by Green Party candidate Jill Stein after the agency declined to require county officials to recount the votes by hand.

It will be a race to finish the recount in time to meet a daunting federal deadline, and the lawsuit could delay the process. Under state law, the recount must begin this week as long as Stein or another candidate pays the \$3.5 million estimated cost of the recount by Tuesday, election officials said.

Also Monday, Stein filed a lawsuit in Pennsylvania to force a recount there and her supporters began filing recount requests at the precinct level in the Keystone State. Stein — who received just a tiny piece of the national vote — also plans to ask for a recount in Michigan on Wednesday.

Unless Stein wins her lawsuit in Dane County Circuit Court, officials in each of Wisconsin's 72 counties would decide on their own whether to do their recounts of the 2.98 million statewide votes by machine or by hand, with dozens of counties expected to hand count the paper ballots.



MILWAUKEE JOURNAL SENTINEL

County clerks prepare for recount

<http://www.jsonline.com/story/news/2016/11/28/county-clerks-prepare-recount/94562542/?from=global&sessionKey=&autologin=>



MILWAUKEE JOURNAL SENTINEL

Paul Ryan says election fair, no widespread fraud

<http://www.jsonline.com/story/news/local/wisconsin/2016/11/29/paul-ryan-says-election-fair-no-widespread-fraud/94600034/?from=global&sessionKey=&autologin=>

Citing the results of a 2011 statewide recount that changed only 300 votes of 1.5 million, Elections Commission chairman Mark Thomsen, a Democrat, said this presidential recount is very unlikely to change Republican Donald Trump's win in the state.

"It may not be 22,177," said Thomsen, referring to Trump's win over Democrat Hillary Clinton in the vote count. "But I don't doubt that the president-elect is going to win that."

Thomsen dismissed Stein's claims of problems with the vote as unfounded and misleading. But he directed his toughest criticism to Trump's unsupported allegations that millions of people voted illegally nationwide, calling them "an insult to the people that run our elections."



Donald J. Trump
@realDonaldTrump

Follow

In addition to winning the Electoral College in a landslide, I won the popular vote if you deduct the millions of people who voted illegally

2:30 PM - 27 Nov 2016

53,866 161,929

Trump issued a statement calling Stein's maneuver a ruse to raise money that would not affect the outcome.

"This is a scam by the Green Party and Jill Stein for an election that has already been conceded. The result of this election should be respected instead of being challenged and abused," his statement said.

Stein is seeking to pay for the recount of Wisconsin's election to make sure that the election wasn't rigged in some way against Democrat Hillary Clinton. Stein herself received about 31,000 votes in Wisconsin, more than the margin separating Clinton and Trump.

"We must recount the votes so we can build trust in our election system," Stein said in a written statement.

Independent candidate Roque "Rocky" De La Fuente, who received about 1,500 votes, also requested a recount.

Recount would start Thursday

Under the plan adopted Monday, the Wisconsin recount would begin Thursday, provided Stein, De La Fuente or both paid the \$3.5 million by Tuesday. County officials would have to complete their recount by 8 p.m. Dec. 12 and then the state Elections Commission would prepare the official recount for certification by Dec. 13 — the deadline for guaranteeing that the state's electoral college votes are counted.

If Monday's cost estimate is high, Stein and De La Fuente will get a refund, but if the costs come in above expectations they will have to pay more.

Stein has taken in \$6.5 million since Wednesday through an online fundraising blitz to fund her recount efforts. A spokeswoman for De La Fuente said he is considering his options for paying for his share of the recount.

Neil Albrecht, executive director of the Milwaukee Election Commission, said it took nearly a month to complete the recount in the April 2011 Wisconsin Supreme Court race between Justice David Prosser and JoAnne Kloppenburg. The city will now have about two weeks to recount more than twice as many ballots — a challenge that will play out across the state.

Most machines in Wisconsin are optical readers. Voters fill out a paper ballot and feed it into the machine, which then electronically records the vote. In a hand recount, clerks would individually tally those ballots. In a machine recount, they would feed the ballots back through the machines, though they would also run a number of other checks, such as reconciling the votes and signed names on poll lists.

A small percentage of votes in Wisconsin are cast on touch-screen machines, which also generate paper records.

None of the machines used for voting in the state are connected to the internet, and they could not be hacked remotely, said Mike Haas, the administrator of the Wisconsin Elections Commission.



MILWAUKEE JOURNAL SENTINEL

Team of more than 1,000 observers saw no voting fraud

(<http://www.jsonline.com/story/news/2016/11/28/team-more-than-1000-observers-saw-no-voting-fraud/94574482/?from=global&sessionKey=&autologin=>)

In Dane County, which includes Madison, the computers used to prepare the ballot files loaded into voting machines are also not connected to the internet, meaning that it would take someone with physical access to the machines to hack them, County Clerk Scott McDonell said. The individual machines are also tested by city, village and town clerks prior to the vote to make sure they are working correctly.

"Even if the KGB broke into the City-County Building, it's encrypted, it's password protected," said McDonell, who doubted whether even he could rig the election. "I don't know how I would do it without the (local) clerks seeing it."

Even before the recount began, Trump's unofficial lead of 22,177 was due to grow by 440 votes, as officials moved to correct a reporting error in Oneida County. Trump's vote in the Town of Hazelhurst had been recorded as 44 instead of 484. (Clinton's vote total was 330 in the same town).

Securing a recount in Pennsylvania will be more difficult (<http://www.philly.com/philly/blogs/real-time/Despite-successful-fundraising-effort-recount-of-Pennsylvania-remains-difficult.html>) than in Wisconsin.

Pennsylvania law allows recounts to be conducted at a precinct if at least three voters from that precinct request one. Stein's supporters started doing that Monday, but it would take thousands of voters to get them going in all of Pennsylvania's precincts.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Wisconsin



Great America PAC, Stop Hillary PAC, and Ronald R. Johnson,

Plaintiff(s)

v.

Wisconsin Elections Commission and Michael Haas, in his official capacity, as Administrator of the Wisconsin Elections Commission

Defendant(s)

Civil Action No. 16-CV-795

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Wisconsin Elections Commission, 212 E. Washington Ave. Madison, WI 53707

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jay E. Heit
Herrick & Hart, S.C.
[Redacted address]

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 16-CV-795

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Wisconsin



Great America PAC, Stop Hillary PAC, and Ronald R. Johnson,

Plaintiff(s)

v.

Wisconsin Elections Commission and Michael Haas, in his official capacity, as Administrator of the Wisconsin Elections Commission

Defendant(s)

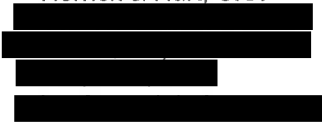
Civil Action No. 16-CV-795

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Michael Haas, in his official capacity, as Administrator of the Wisconsin Elections Commission, 212 E. Washington Ave. Madison, WI 53707

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Jay E. Heit Herrick & Hart, S.C.



If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. 16-CV-795

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: