

DAVID T. FLANAGAN  
CIRCUIT COURT BR. 12

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_

DANE COUNTY

2011 DEC 16 AM 9:40

MILWAUKEE BRANCH OF THE NAACP  
2745 N. Dr. Martin Luther King Dr. Suite 203  
Milwaukee, WI 53212,

CIRCUIT COURT  
DANE COUNTY, WI

VOCES DE LA FRONTERA  
1027 S. 5<sup>th</sup> St.  
Milwaukee, WI 53204,

SUMMONS

Case No.: **11CV5492**  
Case Code: 30701

RICKY T. LEWIS  
4139 N. 22<sup>nd</sup> St.  
Milwaukee, WI 53209

JENNIFER T. PLATT  
906 Oak Ridge Dr.  
Osceola, WI 54020

THIS IS AN AUTHENTICATED COPY OF THE  
ORIGINAL DOCUMENT FILED WITH THE DANE  
COUNTY CLERK OF CIRCUIT COURT.

JOHN J. WOLFE  
906 Oak Ridge Dr.  
Osceola, WI 54020

CARLO ESQUEDA  
CLERK OF CIRCUIT COURT

CAROLYN ANDERSON  
3352 N. 22<sup>nd</sup> Street  
Milwaukee, WI 53206

NDIDI BROWNLEE  
3069 S. 38<sup>th</sup> Street, #4  
Milwaukee, WI 53215

ANTHONY FUMBANKS  
6917 W. Lisbon Avenue #4  
Milwaukee, WI 53210

JOHNNIE M. GARLAND  
2212 N. 48<sup>th</sup> Street  
Milwaukee, WI 53208

DANETTEA LANE  
3035 N. 8<sup>th</sup> Street  
Milwaukee, WI 53206

MARY McCLINTOCK  
1744 N. 51<sup>st</sup> Street  
Milwaukee, WI 53208

ALFONSO G. RODRIGUEZ  
8111 W. Lincoln Avenue #4  
West Allis, WI 53219

JOEL TORRES  
2342 W. Becher Street  
Milwaukee, WI 53215

ANTONIO K. WILLIAMS  
4462 N. 28<sup>th</sup> Street  
Milwaukee, WI 53209

Plaintiffs,

v.

SCOTT WALKER  
Governor of the State of Wisconsin  
115 East State Capitol  
Madison, WI 53702,

THOMAS BARLAND  
Members of the Government Accountability Board  
212 East Washington Avenue, Third Floor  
Madison, Wisconsin 53707-7984,

GERALD C. NICHOL  
Member of the Government Accountability Board  
212 East Washington Avenue, Third Floor  
Madison, Wisconsin 53707-7984,

MICHAEL BRENNAN  
Member of the Government Accountability Board  
212 East Washington Avenue, Third Floor  
Madison, Wisconsin 53707-7984,

THOMAS CANE  
Member of the Government Accountability Board  
212 East Washington Avenue, Third Floor  
Madison, Wisconsin 53707-7984,

DAVID G. DEININGER

Members of the Government Accountability Board  
212 East Washington Avenue, Third Floor  
Madison, Wisconsin 53707-7984,

and

TIMOTHY VOCKE  
Member of the Government Accountability Board  
212 East Washington Avenue, Third Floor  
Madison, Wisconsin 53707-7984,

Defendants.

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**SUMMONS**

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THE STATE OF WISCONSIN

To each person named above as defendant:

You are hereby notified that the plaintiffs named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Court, whose address is Clerk of Circuit Court, Dane County Courthouse, Room 1000, 215 South Hamilton Street, Madison, Wisconsin 53703, and to Richard Saks of Hawks Quindel, S.C., plaintiffs' attorneys, whose address is 222 East Erie Street, Suite 210, P. O. Box 442, Milwaukee, Wisconsin 53201-0442.

You may have an attorney help or represent you.

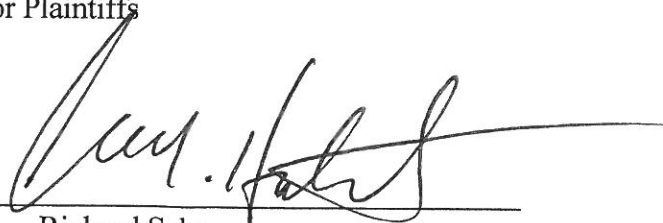
If you do not provide an answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated at Milwaukee, Wisconsin, on December 16, 2011.

HAWKS QUINDEL, S.C.

Attorneys for Plaintiffs

By



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Wis. Bar No. 1022048  
Jeffrey P. Sweetland  
Wis. Bar No. 1001737  
Aaron Halstead  
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STATE OF WISCONSIN

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1027 S. 5<sup>th</sup> St.  
Milwaukee, WI 53204,

COMPLAINT

Case No.: **11CV5492**  
Case Code: 30701

RICKY T. LEWIS  
4139 N. 22<sup>nd</sup> St.  
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and

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4462 N. 28<sup>th</sup> Street  
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Plaintiffs,

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SCOTT WALKER  
Governor of the State of Wisconsin  
115 East State Capitol  
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and

TIMOTHY VOCKE  
Member of the Government Accountability Board  
212 East Washington Avenue, Third Floor  
Madison, Wisconsin 53707-7984,

Defendants.

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**COMPLAINT**

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NOW COMES Plaintiffs Milwaukee Branch of the NAACP, Voces de la Frontera, Ricky T. Lewis, Jennifer T. Platt, John J. Wolfe, Carolyn Anderson, Ndidi Brownlee, Anthony Fumbanks, Johnnie M. Garland, Danettea Lane, Mary J. McClintock, Alfonso Rodriguez, Joel Torres, and Antonio K. Williams, by their undersigned attorneys, Hawks Quindel S.C., seeking to invalidate various provisions of 2011 Wisconsin Act 23, on grounds that it violates Article I, Section 1 and Article III, Sections 1 & 2 of the Wisconsin Constitution. Act 23 was enacted on May 25, 2011, published on June 9, 2011, and became effective on June 10, 2011. Plaintiffs allege the following:

**INTRODUCTION**

1. This is an action for declaratory and injunctive relief pursuant to sec. 806.04, Stats., challenging the constitutionality of various portions of 2011 Wisconsin Act 23, providing *inter alia*, that any qualified elector seeking to vote must produce a photo ID at the polls in order to vote in Wisconsin elections for local, state, or federal offices, or referenda.

## JURISDICTION AND VENUE

2. This Court has jurisdiction over this lawsuit pursuant to sec. 753.03, Stats.

3. Venue lies in this Court pursuant to sec.801.50(3), Stats., because the sole defendants are agents of the State of Wisconsin sued in their official capacities.

## PARTIES

4. The Milwaukee Branch of the NAACP (the "NAACP") is an incorporated association, and has its business address at 2745 N. Dr. Martin Luther King Dr. Suite 203, Milwaukee, WI 53212, [naacpmilwaukeeorg@gmail.com](mailto:naacpmilwaukeeorg@gmail.com). Its current President is James Hall.

5. Founded in 1909, the NAACP is the country's longest-standing national civil rights organization. The Milwaukee Branch was founded in 1924 and represents one of the oldest branches of the NAACP. The NAACP was instrumental in the political and judicial struggle to outlaw *de jure* segregation in the United States. Its stated mission is to ensure the political, educational, social and economic equality of rights of all persons and to eliminate racial hatred and racial discrimination. The NAACP helped secure the passage of the historic Voting Rights Act of 1965, and its extensions by Congress in 1970, 1975, 1982, and recently in 2007. The NAACP and its various branches have litigated hundreds of voting rights cases under the United States Constitution and the Voting Rights Act to guarantee full voting rights for African-American citizens, and to outlaw electoral devices and schemes which unduly burden, deny, abridge, dilute or suppress the right to vote.

6. Consistent with the mission of the NAACP, the Milwaukee Branch has sought to protect and expand the franchise for black voters in Milwaukee and throughout Wisconsin, and to prevent any efforts directed at suppression or disenfranchisement of African-American voters. The Milwaukee Branch has litigated to outlaw at-large electoral schemes which dilute African-

American votes, and efforts to unlawfully challenge on election day the rights of registered African-American voters. The Milwaukee Branch of the NAACP engages in voter registration and voter mobilization activities in the African-American community. The Milwaukee Branch of the NAACP sues on behalf of its members and the thousands of other African-American voters in Milwaukee and throughout Wisconsin whose right to vote in Wisconsin will be unreasonably and onerously burdened by the offending provisions of Act 23.

7. Act 23 will force the Milwaukee Branch of the NAACP to divert substantial resources away from traditional voter registration and voter turnout efforts in order to educate and assist voters in procuring Act 23-acceptable photo ID.

8. Voces de la Frontera (“Voces”) has been in existence for ten years and is Wisconsin’s leading immigrants’ rights organization. Christine Neumann-Ortiz is its current Executive Director. Voces is committed to defending and advancing the democratic and voting rights of Latinos in Wisconsin. Voces is currently involved in litigation seeking a declaration that Wisconsin’s newly-approved legislative redistricting map deprives the Latino community on Milwaukee’s south side of an effective voting majority in the 8<sup>th</sup> Assembly district. Voces has worked hard to increase voter registration and voter turnout among Latino voters in southeast Wisconsin. Voces’ voter turnout drives encourage increased civic participation among Latino voters, through citizenship classes, voter education and grassroots organizing. Voces sues on behalf of its members and the thousands of other Latino voters in Milwaukee and throughout Wisconsin whose right to vote in Wisconsin will be burdened by the offending provisions of Act 23.

9. Act 23 will force Voces to divert substantial resources away from traditional voter registration and voter turnout efforts in order to educate and assist voters in procuring Act 23-acceptable photo ID.

10. Ricky T. Lewis is an African-American citizen and qualified elector residing at 4139 N. 22<sup>nd</sup> St., Milwaukee, Wisconsin. He has voted in previous elections, including the 2008 election of President Barack Obama. Mr. Lewis is a member of the Milwaukee Branch of the NAACP, and is also a former U.S. Marine who was honorably discharged in 1975. Mr. Lewis has no savings and his sole source of income is a veteran's pension in the amount of \$986 per month. Mr. Lewis possesses a U.S. Veterans' Administration photo ID and a Milwaukee County photo ID, but does not possess an Act 23-acceptable form of photo ID. During the summer of 2011, Mr. Lewis went to the 6<sup>th</sup> Street Department of Motor Vehicles ("DMV") office in Milwaukee and produced his Veterans' Administration photo ID, a Milwaukee County photo ID, a Wisconsin Energies gas bill, and a Form DD-214 from the U.S. Marines Corps, which documents his military service. The DMV clerk denied his request for a Wisconsin Department of Transportation ("WisDOT") photo ID because he lacked a Social Security card and birth certificate. Shortly thereafter, Mr. Lewis went to the Social Security office on Wisconsin Avenue in Milwaukee and attempted to procure a Social Security card, but was informed that he could not get a Social Security card without producing a birth certificate. Shortly thereafter, Mr. Lewis went to the Milwaukee County Register of Deeds where he requested a copy of his birth certificate, but learned that Milwaukee County had no certificate of his birth. Mr. Lewis then sent an application for a birth certificate to the State of Wisconsin Department of Health Services, Division of Public Health State Vital Records office, and enclosed a money order for \$20. On Nov. 14, 2011, Mr. Lewis was informed via letter from the Vital Records Office that

the State has no record of his birth as Ricky Lewis, but that there is a record of his birth under the name Tyrone DeBerry, an error likely rooted in the fact that Mr. Lewis' middle name is Tyrone and his mother's maiden name is DeBerry. The Vital Records office advised Mr. Lewis that his only option to obtain an accurate birth certificate is to commence a civil action in circuit court to correct the name on his birth certificate. Mr. Lewis invested substantial, burdensome, and unreasonable amounts of money and time to obtain an Act 23-acceptable form of photo ID in order to vote. He has visited and corresponded on multiple occasions with various government agencies – including the Department of Motor Vehicles, Milwaukee County Register of Deeds, Social Security Administration offices, and the State of Wisconsin's Vital Records Office – solely to obtain an Act 23-acceptable form of photo ID. Given his financial status, Mr. Lewis has borne substantial financial expense. Due to the unreasonable, costly, and unduly burdensome requirements of Act 23, Mr. Lewis remains unable to vote in the upcoming elections.

11. Jennifer Platt is a school librarian in the St. Croix Falls School District and a qualified elector residing at 9906 Oak Ridge Dr., Osceola, Wisconsin. Ms. Platt has an expired Iowa driver's license, and otherwise lacks an Act 23-acceptable form of photo ID. On November 23, 2011, Ms. Platt did not work due to the Thanksgiving holiday, and sought to use the day off to obtain a Wisconsin driver's license which she could also use for voting purposes. Ms. Platt's fiancé drove her to the nearest open DMV office, which was in Hudson and nearly one hour away. Ms. Platt brought her Social Security card, expired Iowa driver's license, and her paycheck stub from the St. Croix School District bearing her name and address. The DMV clerks denied Ms. Platt her driver's license because she lacked a birth certificate to prove her identity and date of birth. The DMV computers malfunctioned on November 23, so even if she

had her birth certificate, she would not have been able to procure her driver's license. Despite being denied her driver's license, Ms. Platt also asked if she could obtain a WisDOT photo ID to ensure that she would be able to vote in upcoming elections. The DMV clerk denied this request because she lacked a birth certificate. Since returning home, Ms. Platt is unable to locate her original birth certificate, and believes she will have to apply to the State of California for an original birth certificate, with payment of the correct fee, in order to procure an Act 23-acceptable form of photo ID. Ms. Platt anticipates that she will almost certainly have to take up to a half-day off of work in order to return to the DMV office, and will incur loss of salary or paid leave plus transportation expenses. Ms. Platt has already invested significant time and expense attempting to procure a photo ID in order to vote in the upcoming elections, but remains without the type of ID required under Act 23 to vote in the upcoming 2012 elections.

12. John Wolfe is a school teacher who moved to Wisconsin from Iowa in May of 2010, and resides at 906 Oak Ridge in Osceola. He is a qualified elector who typically votes in every election. Mr. Wolfe has a current and valid Iowa driver's license. On November 23, 2011, Mr. Wolfe was off work for the Thanksgiving holiday, and drove to the DMV office in Hudson, which is approximately an hour's drive from his home in Osceola, to procure a Wisconsin driver's license in order to vote in the upcoming 2012 elections. Mr. Wolfe took his Social Security card, Iowa driver's license, and a paycheck stub bearing his name and address. The clerk at the DMV office denied Mr. Wolfe a Wisconsin driver's license because he lacked a birth certificate. The DMV computers were malfunctioning on that date, so even if he had his birth certificate, he would not have been able to obtain his Wisconsin driver's license. Upon being denied his driver's license, Mr. Wolfe also applied for a WisDOT photo ID, but was denied for the same reason. Mr. Wolfe has searched his personal records at home, but cannot



locate his original birth certificate, and will be compelled to apply to the State of Virginia for his original birth certificate, which will cost approximately \$30. Mr. Wolfe anticipates that he will almost certainly have to take up to a half-day off of work in order to return to the Hudson DMV office, and will incur loss of salary or leave time, plus transportation expenses. Mr. Wolfe has already invested significant time and expense attempting to procure a photo ID in order to vote in the upcoming elections, but remains without the type of ID required under Act 23 to vote in the upcoming 2012 elections.

13. Carolyn Anderson is an African-American citizen and qualified elector residing at 3352 N. 22nd Street in Milwaukee. She is a member of the Milwaukee Branch of the NAACP and resident of Wisconsin who moved here from Mississippi in September of 2011. Ms. Anderson is the head of household with five children and has no savings. Her exclusive source of income is a Social Security disability check of \$1313 per month. On November 17, Ms. Anderson traveled via taxicab to the DMV office on Teutonia Avenue in Milwaukee, applied for but was denied a WisDOT photo ID because she lacked a birth certificate. On November 18, Ms. Anderson sent an application for a birth certificate to the State of Mississippi, and enclosed a money order for \$17.00. Ms. Anderson has yet to receive her birth certificate, and is ineligible to vote in the upcoming 2012 elections. Given her financial status, Ms. Anderson has borne a substantial financial expense, and has incurred unreasonable and burdensome amounts of time in attempting to procure an Act 23-acceptable form of photo ID so that she will be eligible to vote.

14. Ndidi Brownlee is an African-American citizen, and resident of Wisconsin since July 3, 2011 when she moved from Mississippi. She now resides at 3069 S. 38<sup>th</sup> Street in Milwaukee. Ms. Brownlee is a qualified elector, member of the Milwaukee Branch of the NAACP and intends to vote in the upcoming 2012 elections. She is unemployed and has no

savings and no source of income except for government food stamps. Given her financial status, the burden Ms. Brownlee has borne to obtain a photo ID in order to vote has been substantial. She paid a \$15 fee to obtain her birth certificate from Mississippi and also incurred transportation expenses traveling to the DMV offices to procure her photo ID in order to vote in the upcoming 2012 elections. Given her financial status, Ms. Brownlee has borne a substantial financial expense, and has incurred unreasonable and burdensome amounts of time in attempting to procure an Act 23-acceptable form of photo ID so that she will be eligible to vote.

15. Mary J. McClintock is a lifelong resident of Wisconsin and registered voter who has voted in every election that she can recall since she was first eligible to vote. She resides at 1744 North 51<sup>st</sup> Street in Milwaukee. Ms. McClintock is confined to a wheelchair but is an active citizen involved in public affairs who does not consider herself indefinitely confined. Ms. McClintock lacks a driver's license, lost her Wisconsin photo ID approximately three years ago, and does not possess any other Act 23-acceptable form of photo ID. On or around October 15, 2011, Ms. McClintock took a para-transit van to the DMV office on 6<sup>th</sup> Street in downtown Milwaukee. A DMV clerk required her to pay \$16 in order to obtain the photo ID. On Sunday, November 13, 2011, Ms. McClintock's photo ID was stolen, and on November 17 she again took a para-transit van back to the 6<sup>th</sup> Street DMV offices in Milwaukee to obtain a replacement photo ID. Due to computer malfunctioning at the DMV office, Ms. McClintock was unsuccessful in obtaining her photo ID on November 17. On November 18, Ms. McClintock again took a para-transit van to return to the 6<sup>th</sup> Street DMV offices and finally received her replacement photo ID in order to vote but was required to again pay \$16. Ms. McClintock invested a substantial and unreasonable amount of time and expense in attempting to procure her Act 23-acceptable photo ID in order to vote in Wisconsin elections.

16. Johnnie M. Garland is an African-American citizen and resident of Wisconsin, and a member of the Milwaukee Branch of the NAACP. She resides at 2212 N. 48<sup>th</sup> Street in Milwaukee and is a qualified elector who has previously voted in Wisconsin. Ms. Garland has no savings and her sole source of income is a monthly Social Security check in the amount of \$678. Ms. Garland does not possess a driver's license or any other Act 23-acceptable form of photo ID. Ms. Garland traveled to a DMV office in October of 2011 to obtain a photo ID in order to vote, but was informed that she must produce a birth certificate to obtain a WisDOT photo ID. She subsequently applied to the state of Michigan for a birth certificate for which she paid \$28. On or around November 4, Ms. Garland traveled to a DMV office and produced her Michigan birth certificate and obtained a WisDOT photo ID. Given her financial status, Ms. Garland has borne a substantial financial expense, and has incurred unreasonable and burdensome amounts of time in attempting to procure an Act 23-acceptable form of photo ID so that she will be eligible to vote.

17. Anthony Fumbanks is an African-American citizen and resident of Wisconsin residing at 4257 N. 66<sup>th</sup> Street in Milwaukee. Mr. Fumbanks is a member of the Milwaukee Branch of the NAACP, and is a registered voter who has previously voted in many previous local, state and federal elections in Wisconsin. He has no savings and is sporadically employed in various temporary jobs. On or about September 2011, Mr. Fumbanks lost his driver's license card and did not intend to replace it. He attempted to obtain an Act 23-acceptable photo ID in order to vote in the upcoming 2012 elections, and was denied a WisDOT photo ID because his driver's license is valid. The DMV office required Mr. Fumbanks to pay \$14 for a duplicate driver's license in order to be eligible to vote in the upcoming elections. Given his financial status, Mr. Fumbanks has borne a substantial financial expense, and has incurred unreasonable

and burdensome amounts of time in attempting to procure an Act 23-acceptable form of photo ID so that he will be eligible to vote.

18. Danettea Lane is an African-American citizen and qualified elector residing at 3035 N. 8<sup>th</sup> Street in Milwaukee. Ms. Lane is a member of the Milwaukee Branch of the NAACP and has previously voted in Wisconsin. Ms. Lane is a mother and head of household for four young children, has no savings, and her sole source of income is W-2 benefits in the amount of \$608 per month. Ms. Lane lacks any Act 23-acceptable form of photo ID. Ms. Lane traveled via county bus to the DMV offices on Chase Avenue in Milwaukee during the summer of 2011 in order to obtain a photo ID in order to vote. A clerk at the DMV office informed her that she needs a certified birth certificate in order to obtain a Wisconsin photo ID. Shortly thereafter, she traveled via bus to the Milwaukee County Register of Deeds, where she paid \$20 for her birth certificate. Ms. Lane went to the DMV offices on Chase Avenue two different dates thereafter, and left on both occasions after waiting for over two hours each time. Finally, on or around Nov. 2, 2011, Ms. Lane obtained her photo ID from the Chase Avenue DMV office. Given her financial status, Ms. Lane has borne a substantial financial expense, and has incurred unreasonable and burdensome amounts of time in attempting to procure an Act 23-acceptable form of photo ID so that she will be eligible to vote.

19. Alfonso Rodriguez is an unemployed social worker and qualified elector residing at 8111 W. Lincoln Avenue in West Allis. Mr. Rodriguez is a member of Voces de la Frontera. He has not had a driver's license for approximately 18 years, and recently lost his WisDOT photo ID. On or around November 20, 2011, Mr. Rodriguez traveled via county bus to the DMV office in downtown Milwaukee in order to get a replacement photo ID in order to vote, and was asked to pay \$16 to receive his WisDOT photo ID. Mr. Rodriguez could not afford the

fee and was denied his WisDOT photo ID. Mr. Rodriguez has made reasonable efforts to procure his Act 23-acceptable form of photo ID, but has been unable to do so, and is ineligible to vote in the upcoming 2012 elections.

20. Joel Torres is a U.S. citizen and lifelong resident of Wisconsin, residing at 2342 W. Becher St. in Milwaukee. He is 22 years old and due to a learning disability his high school graduation was delayed by four years. He is currently unemployed and resides with his mother and siblings. Given his financial status, the burden Mr. Torres has borne to obtain a photo ID in order to vote has been substantial. Mr. Torres has made multiple trips to the DMV offices and various other government offices to obtain his photo ID in order to vote. He has incurred expenses to obtain various official documents to serve as his proof of residence in order obtain a WisDOT photo ID. Mr. Torres produced various health care bills, student records, and other documents which the DMV rejected over a five week period. Mr. Torres incurred an unreasonable and substantial burden in attempting to procure a photo ID in order to exercise his right to vote.

21. Antonio K. Williams is an African-American citizen and qualified elector who resides at 4462 N. 28<sup>th</sup> Street in Milwaukee. He is a member of the Milwaukee Branch of the NAACP and voted in the 2008 presidential and general election. Mr. Williams is currently unemployed, has no savings, and his driver's license is suspended because he cannot pay the forfeiture for a traffic violation imposed on September 16, 2011. Mr. Williams also lost his driver's license card on or around Nov. 1, 2011, which was the only type of Act 23-acceptable form of photo ID that he possesses. On or around November 14, 2011, Mr. Williams traveled via county bus to the DMV office on Teutonia Avenue in Milwaukee to obtain a WisDOT photo ID in order to vote. The DMV clerks informed him that he could not apply for a photo ID

because he lacked a Social Security card, birth certificate, and proof of residence. Mr. Williams returned home and located his Social Security card and a proof of residence, but could not find his original birth certificate. On November 16, Mr. Williams traveled via county bus to the Milwaukee County Register of Deeds' office and paid \$20 for a birth certificate. He then returned to the DMV office on Teutonia and produced the various documents required to obtain his WisDOT photo ID. Given his financial status, Mr. Williams has borne a substantial financial expense, and has incurred unreasonable and burdensome amounts of time in attempting to procure an Act 23-acceptable form of photo ID so that he will be eligible to vote.

22. Plaintiffs Fumbanks, Garland, Lane, Brownlee, Williams and McClintock served notices of claim pursuant to sec. 893.82, Stats., on Wisconsin Attorney General J. B. Van Hollen on December 15, 2011, prior to the commencement of this suit, and have done so without waiving their position that their claims are primarily for injunctive and declaratory relief, and that any money damages are ancillary to the declaratory and injunctive relief sought herein.

23. Defendant Scott Walker is the Governor of the State of Wisconsin who is sued in his official capacity. Defendant Walker's address is 115 E. State Capitol, Madison, WI 53702. As Governor, Defendant Walker is the chief executive officer of the State of Wisconsin and pursuant to Article V, Section 4, is responsible for the faithful execution of 2011 Wisconsin Act.

24. Judges Thomas Barland, Gerald C. Nichol, Michael Brennan, Thomas Cane, David G. Deininger, and Timothy Vocke are Members of the Government Accountability Board (the "Board" or "GAB"), and are each sued in their official capacities as members of the Board. The Board's office is located at 212 East Washington Avenue, Third Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984. The Board is the state agency created by sec. 5.05, Stats, and is responsible for the administration of Act 23 and chapters 5 to 12 of the Wisconsin Statutes.

## FACTUAL BACKGROUND TO 2011 WISCONSIN ACT 23

25. Wisconsin state law has never required electors to present identification as a condition or qualification for voting, or as proof of qualification for voting. Beginning with the 2012 spring elections, Act 23 imposes on qualified voters an unprecedented condition on voting, requiring them to identify themselves by presenting one of eight forms of photo identification to election officials.

26. Sections 1 and 2 of Act 23 define “identification” and “proof of identification” for Wisconsin electors seeking to exercise their right to vote. These new statutory definitions limit the allowable forms of voter identification to one of the following containing the elector’s name and photograph:

- a) a Wisconsin drivers license issued by WisDOT pursuant to sec. 343, Stats.;
- b) a photo identification card issued by the WisDOT pursuant to sec. 343.50, Stats.;
- c) a U.S. military identification card;
- d) a U.S. passport;
- e) a valid U.S. naturalization certificate issued less than 2 years prior to the election;
- f) an unexpired driving receipt or identification receipt issued under secs. 343.11 or 343.50, Stats.;
- g) an identification card issued by a federally recognized Indian tribe; or

- h) an unexpired Wisconsin university or college student identification card containing an expiration and issuance date no more than two years apart.

27. Numerous forms of government-issued photo ID are not Act 23-acceptable, including but not limited to: a) employee photo IDs from municipal, state or federal government employers; b) driver's licenses issued by other states; c) Veterans Administration photo ID cards; d) medical or public assistance photo ID cards; and e) any other photo ID card issued by local, state or federal governmental agencies.

28. Sections 16, 19, and 45 of Act 23 require that all qualified electors arriving at a polling location to vote must "present to the officials proof of identification" as delineated in Section 1 of the Act, and that the officials must verify that that the photograph appearing on the identification "resembles the elector."

29. Sections 63 thru 83 amend Ch. 6, Subchapter IV (Voting Absentee), Stats., and now require that qualified electors applying to vote via absentee ballot must enclose a copy of a photo ID with the absentee application. The only absentee electors exempt from submitting a copy of their photo ID are those electors who are: members of the military; living overseas; subject to a confidential listing; indefinitely confined to a nursing home or similar residence; or otherwise have a citation or notice of intent to revoke or suspend their driver's license.

30. Pursuant to section 52 of Act 23, voters with confidential names and addresses are the only in-person voters exempt from the photo ID requirement. Sec. 6.79(6), Stats.

31. Act 23 amends Ch. 6, Subchapter V (Challenging Electors), Stats., and provides that electors who do not have the required photo ID, as defined in Sections 1 and 2, shall be offered a provisional ballot, which may be perfected only by presenting an approved photo ID to the municipal clerk by 4 pm on the Friday after the election.



**UNDERLYING RULES AND DOCUMENTATION REQUIRED BY THE DMV  
OF ELECTORS SEEKING TO OBTAIN A WisDOT PHOTO ID**

32. Section 138 of Act 23 amends sec. 343.50(5)(a), stats, and provides an elector seeking a WisDOT photo ID shall not be charged a fee where the “applicant requests that the card be issued without charge for purposes of voting.”

33. Voters who possess out-of-state driver’s licenses and apply for a Wisconsin driver’s license in order to satisfy the photo ID requirement of Act 23 do not receive a fee waiver, and any such voter with an out-of-state driver’s license who applies for a WisDOT photo ID must surrender their out-of-state driver’s license. Secs. 343.21, 343.50(1)(b), amended by 2011 Wis. Act 32.

34. Otherwise qualified voters who apply to the DMV for an original (first) WisDOT photo ID or driver’s license must provide acceptable documents showing: 1) proof of U.S. citizenship or legal status in the U.S.; 2) proof of name and date of birth; 3) proof of identity; 4) proof of Wisconsin residency; and 5) proof of Social Security number. Wis. Admin. Code Trans. Sec. 102.15.

35. A certified copy of a birth certificate issued by state or local registrars, pursuant to sec. 69.21, Stats., is an acceptable document for both proof of U.S. citizenship and proof of name and date of birth. Other acceptable documents include: passports; certificates of citizenship; certificates of naturalization; approved applications for asylum or protected status; sealed court orders related to adoption, divorce, or a name or gender change; and certain other approved documents from federal authorities. For the overwhelming majority of voters, especially for those minority and low-income voters who lack a valid driver’s license, a birth

certificate is the only available document to prove U.S. citizenship and prove name and date of birth.

36. An applicant for an original WisDOT photo ID can prove his or her identity with a non-Wisconsin driver's license or photo ID, military discharge papers, military ID, original marriage certificate or divorce judgment, Social Security card, or a TSA Transportation Worker Identification Credential. For the vast majority of voters applying for a WisDOT photo ID, the Social Security card issued by the Social Security Administration is their primary, if not only way to prove identity, while also serving as proof of their Social Security number.

37. Acceptable documents for proof of residence are unreasonably limited under WisDOT rules to the following documents: utility bills; pay stubs with employee and employer's name and address; bank account statements; and mortgage documents. Wis. Admin. Code Trans. Sec. 102.15(4m)(b-d, f). The DMV website identifies a slightly broader list of documents as acceptable proof of residence <http://www.dot.wisconsin.gov/drivers/drivers/apply/doc/proof-resident.htm>, but still excludes many important items such as health care bills, cable bills, non-certified student records, residential leases, and elector corroborations.

38. Voters seeking to renew, duplicate, or reissue their WisDOT photo IDs or their Wisconsin driver's license must present proof of identity and may be required to present either proof of citizenship, proof of legal permanent resident or conditional resident status in the United States. Wis. Admin. Code Sec. 102.15(2)(b, bm). Voters seeking to renew, duplicate, or reissue their Wisconsin driver's license or state ID card following suspension or revocation of their driver's license must provide both proof of name and date of birth and proof of residency. Wis. Admin. Code Sec. 102.15(2)(c).

39. Obtaining a birth certificate can be costly and time-consuming. In Wisconsin, the state provides certified copies of vital records pursuant to sec. 69.21, stats. The state's Department of Health Services, Division of Public Health requires applicants to pay a \$20 fee for their birth certificate, and electors without a driver's license or WisDOT photo ID must produce two forms of identification which may include banking records, credit cards, a signed residential lease, utility bills, or traffic tickets.

<http://www.dhs.wisconsin.gov/forms/F0/F05291.pdf>. Birth certificates can also be obtained from local registrars such as the Registers of Deeds and municipal clerks for \$20, with similar identification requirements.

<http://county.milwaukee.gov/ImageLibrary/Public/MilwaukeeCounty/RegisterofDeeds/BirthApplication.pdf> Requests for out-of-state birth certificates vary in cost and typically consume greater time and effort for electors, and sometimes impose even more restrictive types of identification than that required under the Wisconsin vital records statute.

40. The particular requirements to obtain a Social Security card vary among the offices of the Social Security administration. Generally Social Security offices require proof of identity and proof of citizenship to obtain either an original or replacement Social Security card. As in the case of plaintiff Lewis, some offices require a birth certificate for a replacement Social Security card. On its website, the Social Security administration requires that electors who cannot produce a driver's licenses, WisDOT photo ID, or a passport, must instead typically provide two types of identification including employee or school IDs, health insurance cards, or military IDs. <http://www.ssa.gov/ssnumber/ss5doc.htm>.

## UNREASONABLE BURDENS ON VOTERS CREATED BY ACT 23

41. For over 150 years prior to the enactment of Act 23, registered Wisconsin electors could vote at the polls on election day via verbal self-identification. Prior to Act 23, such an elector who showed up at the polls on election day exercised the franchise upon announcing his or her name and address to two election officials who duly verify their name with the pre-printed election day list of registered voters, enter a serial number, and initial a ballot that is handed to the voter. Prior to Act 23, if another qualified elector had reasonable cause to believe that the elector requesting a ballot was not qualified to vote, the requesting elector could be challenged for cause pursuant to Ch. 6, Subch. V, Stats. The elector's vote was disqualified only upon proof beyond a reasonable doubt that the voter was not a qualified elector.

42. Since 1976 Wisconsin voters have been able to register in person at the polling place on Election Day, pursuant to sec. 6.55, Stats., by providing an acceptable proof of residence which included: any official ID card issued by a Wisconsin governmental body or employer; a current residential lease; a real estate tax bill for the current or prior year; any utility bill issued within the past 90 days; or via a corroborating elector from the same municipality.

43. Act 23 now prohibits an elector who registers in person at the polling place from providing proof of residence by corroborator. Act 23 now requires such electors seeking to register at the polling place to provide documentary proof of residence, plus the very limited types of ID defined by the Act, Sections 1 & 2, and delineated above in paragraph 27 in order to receive a ballot to vote.

44. Upon information and belief, scores of thousands of citizens who are qualified and registered to vote in the spring and fall elections of 2012, do not possess a Wisconsin driver's license or another Act-23 acceptable form of photo ID. These citizens will be qualified

to vote in upcoming elections, but for the photo ID provisions of Act 23. Unless an elector is recently naturalized, in the military, a tribal member, or a college student, the types of Act 23-acceptable photo ID which such electors might potentially obtain are limited exclusively to a Wisconsin driver's license or receipt, a WisDOT photo ID, or a passport.

45. Nationally, studies show that only one in three Americans possesses a passport. In Wisconsin, similar studies suggest that less than 1 in 5 Wisconsin residents have a passport. <http://ilyagerner.tumblr.com/post/3454340650/travel-is-fatal-to-prejudice-bigotry-and>. The possession of passports is far more common amongst higher-income citizens with the means to travel abroad. Minority and lower-income voters -- who are precisely those voters who generally lack driver's licenses -- are far more likely to also lack a passport. The application and execution fees for a passport total \$135, rendering the passport an unreasonably costly means for electors without driver's licenses to satisfy the photo ID requirements of Act 23.. [http://travel.state.gov/passport/fees/fees\\_837.html](http://travel.state.gov/passport/fees/fees_837.html).

46. Some NAACP members; Voces members; citizens who will be recruited as members of one or both organizations; individual plaintiffs Lewis, Platt, Wolfe, Anderson, and Rodriguez; and scores of thousands of other voters throughout Wisconsin do not possess a Wisconsin driver's license or another Act 23-acceptable form of photo ID. These citizens are qualified to vote in the upcoming spring, recall, and fall elections of 2012, but for the photo ID provisions of Act 23. Act 23 will unduly burden and deny their exercise of the right to vote on account of the unlawful provisions of Act 23 which condition voting on electors obtaining and producing one of the limited forms of photo ID.

47. The unique types of voter photo ID required by Act 23 are precisely the forms of identification which are not possessed by a disproportionately large percentage of African-

American, Latino, elderly, poor, and young voters. According to a 2005 study by the University of Wisconsin-Milwaukee Employment Training Institute, the following persons lacked

WisDOT-issued photo IDs:

- a. Statewide, 177,399 elderly Wisconsin residents over the age of 65 -- representing approximately 23% of such a demographic group -- did not have either a driver's license (valid, revoked or suspended) or WisDOT photo ID;
- b. Statewide, 29% of all African-American females and 41% of all African-American males, lacked either a valid, revoked, or suspended Wisconsin driver's license, compared to 13% of all white females and 9% of all white males;
- c. Statewide, 48% of all Hispanic females and 30% of all Hispanic males, lacked a valid, revoked, or suspended Wisconsin driver's license.
- d. In postal zip codes containing high concentrations of low income and minority residents, far fewer persons possess any driver's license. In Milwaukee's seven central city zip codes (53204, 53205, 53206, 53233, 53212, 53210, and 53208), where a total of 136,531 persons resided who were 18 years of age and older, 67,624 person persons -- or more than half of all adults -- lack any driver's license. In contrast, in the thirteen neighboring and predominantly suburban Milwaukee county zip codes (53222, 53132, 53226, 53221, 53110, 53213, 53220, 53172, 53228, 53154, 53129, 53130, and 53217) where 234,572 adult persons lived, approximately 15% lacked a driver's license.

48. The acute burden upon the franchise imposed by Act 23 on African-American voters may be further exacerbated by Section 1 of Act 23 which permits students enrolled in regular 4-year and 2-year colleges to use a student ID to vote, but may prohibit students enrolled

in the State of Wisconsin's 16 technical colleges to utilize their student ID in order to vote. The GAB initially interpreted Act 23 to preclude technical college student photo IDs as acceptable ID under newly created sec. 5.02(6m)(f), Stats. The GAB reversed its position on November 9, 2011, but the legislature's Joint Committee for the Review of Administrative Rules (JCRAR) compelled the GAB to issue an administrative rule regarding the use of technical college IDs, which requires approval by Governor Walker. The Governor has the power to determine whether Act 23 will prohibit technical college students from relying upon their student IDs as Act 23-acceptable forms of photo ID.

49. African-American and Latino students are heavily concentrated in Wisconsin's technical colleges, and especially in the Milwaukee Area Technical College (MATC), which has 18,413 African-American and Latino students enrolled. This concentration of African-American and Latino students is almost double that of the entire African-American and Latino student population in all UW four-year campuses combined, which have only 5,510 African-American students and 5,943 Latino students. Act 23 may prohibit such technical college students – who are qualified electors and no differently-situated than their counterparts attending regular 4 and 2 year colleges and universities -- from using their student IDs to vote. This differential treatment underscores the acute burden imposed by Act 23 upon minority voters, and especially young minority voters who are the fastest growing demographic group in the state of Wisconsin and are most likely not to possess driver's licenses as an Act 23-acceptable form of photo ID.

50. Scores of thousands of otherwise qualified electors who do not possess a valid Wisconsin driver's license, a WisDOT ID, or the small number of other Act 23-acceptable photo IDs, must travel to DMV offices to apply for a state-issued WisDOT photo ID. A substantial percentage of the hundreds of thousands of African-Americans, Latino, elderly, poor, disabled,

young adult, including individual plaintiffs and other electors not possessing a valid driver's license or a WisDOT ID also lack private transportation to travel to the DMV offices. Many of such qualified electors are now spending many hours and even days traveling to and from DMV offices and other government agencies via public transit, taxis and other forms of paid transportation, or arranging transportation from family or friends.

51. Wisconsin's DMV offices are only open on weekdays, approximately between 8 am and 5 pm. There are approximately 90 DMV services centers, or offices, in the state. None are open on weekends, and a very small number remain open until 5:30 pm. Only thirty of the DMV's ninety offices are regularly open during normal business hours for five days per week. The remaining sixty offices are typically open for only several days per month with restricted hours. <http://www.dot.wisconsin.gov/about/locate/dmv/scmap.htm>

52. The DMV does not deploy mobile units into low-income neighborhoods containing large concentrations of voters who lack driver's licenses or other forms of Act 23-acceptable photo ID. The DMV does not deploy mobile units into remote geographic areas of the state, such as Osceola where plaintiffs Platt and Wolfe reside. The closest DMV office to Osceola with regular hours is in Hudson, nearly an hour away in travel time by automobile. The time spent by otherwise qualified electors, such as individual Plaintiffs who must travel to the DMV offices, apply for and wait for state-issued IDs, compels many such electors to take time off of work, resulting in wage and salary losses, deductions of accumulated leave, or potential discipline for absences, solely to satisfy the burdensome requirements of Act 23.

53. In addition to the time spent traveling to the DMV offices, such otherwise qualified electors, such as the individual Plaintiffs who travel to the DMV offices for a state-



issued photo ID, typically spend at least an hour or more waiting and applying for their state-issued ID.

54. Most electors lacking WisDOT-issued photo ID are not aware of the documentation that must be produced to obtain a WisDOT photo ID. As a result, thousands of electors, such as the individual Plaintiffs spend many hours and multiple days making trips to various government agencies – including the DMV, Social Security offices, Registers of Deeds, municipal clerks' offices, municipal health departments, and the State's Vital Records Office – in an effort to obtain the underlying documentation required to procure an Act 23-acceptable form of photo ID. Such electors are required to expend unreasonable and substantial amounts of time and money in order to exercise their right to vote under Art. III, Sec. 1 of the Wisconsin Constitution. Such electors incur expenses for birth certificates, replacement WisDOT photo IDs, student transcripts, transportation expenses, lost wages, and a wide variety of other incidental expenses.

55. The burden imposed upon otherwise qualified electors to procure a Wis-DOT ID is further exacerbated by DMV representatives who -- consistent with sec. 343.50(5)(a), Stats. -- fail to voluntarily and affirmatively advise electors seeking to procure a WisDOT ID that the \$28 fee for such ID is waived if the applicant seeks the ID for the purpose of voting. Further, prior to the effective date of 2011 Wisconsin Act 75, many electors, including individual plaintiffs McClintock and Rodriguez, seeking to replace a previously issued ID that was stolen, lost or destroyed through no fault of the voter, are compelled to pay a replacement fee of \$16 to obtain a photo ID in order to vote in upcoming elections.

56. As detailed in paragraphs 33-42 infra, in the overwhelming majority of instances, citizens lacking a Wisconsin driver's license or WisDOT ID will have to produce a certified birth certificate, a Social Security card, and proof of residence in order to obtain the WisDOT ID.

57. Obtaining a certified birth certificate is both time-consuming and costly. To obtain a Wisconsin birth certificate, an elector must pay a \$20 fee and present a form of identification accepted by the Wisconsin Vital Records Office. Obtaining out-of-state birth certificates requires a range of varying requirements, imposing additional costs, procedures, and the investment of even more time and planning on the part of the voter. Such time and cost for obtaining a certified birth certificate solely in order to obtain a WisDOT ID is an unreasonable burden imposed upon the right to vote for such otherwise qualified electors, including Plaintiffs Garland, Brownlee, Williams, Lane, Anderson, Platt, Lewis, and Wolfe.

58. Alternative documentation to certified birth certificates for proof of name and date of birth -- such as passports, naturalization certificates, and court orders with seals -- are even more time-consuming and costly to obtain than birth certificates. Such documents are rarely possessed by the large majority of voters who lack driver's licenses or WisDOT photo IDs and are not a reasonably affordable alternative for such voters. .

59. The more restrictive requirements under Act 23 for proof of residency will also prevent and deter many electors, such as Plaintiff Torres, who produced various documents as proof of residence, but was unreasonably rejected by the DMV offices for over a one month period.

60. The individual Plaintiffs in this action represent electors who have invested substantial time and expense to procure a photo ID. They have all done so at least three months in advance of the initial Wisconsin elections on February 23, 2012, when the photo ID will be

first required in a Wisconsin election. Among the scores of thousands qualified electors currently lacking Act 23-acceptable photo ID, the individual Plaintiffs have vigilantly planned and prepared to protect their right to vote in upcoming elections and are among the most motivated voters and zealous guardians of their constitutional right to vote. For the vast majority of otherwise qualified Wisconsin electors who lack an Act 23-acceptable photo ID, their failure to similarly plan and invest the required hours preparing and procuring the appropriate documentation from various government agencies will certainly result in the failure of scores of thousands of such electors to obtain their photo ID in a timely fashion before the dates of upcoming elections. As such, the burdens imposed by Act 23 are not absolute *de jure* prohibitions on the right to vote, but will serve as a *de facto* bar for untold scores of thousands of ordinary but otherwise qualified electors.

61. As Wisconsin electors who lack Act 23-acceptable forms of photo ID learn of the pecuniary and time-consuming burdens of procuring a WisDOT photo ID, thousands of such electors will also be undoubtedly deterred, discouraged, and otherwise precluded from obtaining a photo ID prior to the upcoming 2012 spring, recall, and general elections. The deterrent effect of such burdensome requirements will be tantamount to a *de facto* denial of the right to vote.

62. In addition to those voters who are substantially burdened by and deterred from procuring an Act 23-acceptable form of photo ID, there also exist a significant number of otherwise qualified electors – similarly-situated to plaintiff Ricky Lewis -- who must commence a financially-prohibitive civil action to correct the name on their birth certificate to obtain a WisDOT photo ID in order to vote.

63. While not illustrative by any plaintiff in this action, there almost certainly are Wisconsin electors for whom the procurement of a certified birth certificate is an impossibility

because no official record exists of their birth. Act 23 contains no provision to permit such otherwise qualified electors to exercise the franchise.

**PHOTO ID IS NOT TAILORED TO ADDRESS ANY  
PROBLEM OF VOTER FRAUD**

64. The State of Wisconsin has historically permitted electors to freely exercise the right to vote without showing photo identification. The ostensible and putative legislative purpose of the photo ID requirement created by Act 23 is to ensure the integrity of the ballot and prevent vote fraud in Wisconsin elections.

65. Several intensive investigations over the past decade have been conducted by the Milwaukee Police Department, by the 2004 Task Force convened by Milwaukee Mayor Tom Barrett, and by the State Attorney General's Task Force on Electoral Integrity covering the 2008 elections. These investigations identified zero confirmed cases of voter impersonation of the type that would be prevented by the photo ID requirement of Act 23.

66. After the 2008 elections, the Attorney General's Task Force investigated allegations of vote fraud and out of approximately 3 million votes cast, filed charges against 20 individuals. Two cases involved a charge of double voting, where an elector voted absentee and then cast a ballot in person at the polls. Both of those persons were acquitted. Another case involved miscellaneous absentee voting fraud where a husband cast an absentee ballot for his deceased wife. The husband paid a \$500 fine. Eleven cases involved voters who were ineligible by virtue of their status as felons. Six cases involved false voter registrations, but did not involve the false registrants attempting to vote. The photo ID requirement of Act 23 would not have prevented or deterred any of the twenty types of fraud uncovered and prosecuted by the 2008 Task Force.

67. The photo ID requirement imposed by Act 23 will not prevent voting by persons rendered ineligible after a felony conviction, nor will it prevent electors from attempting to vote more than once. The photo ID requirement might prevent persons who engage in false voter registration from actually voting, but there is no record in any of the investigative task forces of such persons actually attempting to vote.

68. Impersonation of another elector is the only type of fraud which Act 23's photo ID requirement can prevent, and that type of unlawful election activity has not been demonstrated.

### **CLAIMS FOR UNCONSTITUTIONALITY OF ACT 23**

#### **FIRST COUNT:**

#### **ACT 23 UNREASONABLY BURDENS AND OTHERWISE VIOLATES PLAINTIFFS' CONSTITUTIONAL RIGHT TO VOTE UNDER ART. III Sec. 1**

69. Article III, Sec. 1 of the Wisconsin Constitution explicitly guarantees the right to vote to all United States citizens who are residents of an election district in the State of Wisconsin. The right to vote is preservative of other rights and any burden upon it must bear the strictest of scrutiny.

70. An unreasonable burden on the franchise is tantamount to a denial of the State's constitutional right to vote, guaranteed by Art. III, Sec. 1. By requiring scores of thousands of otherwise qualified electors to incur pecuniary costs and to spend a half day, full day, or even more, to procure its extremely limited types of photo ID, Act 23 unlawfully burdens the free exercise of the right to vote to such an unreasonable and onerous degree that it is tantamount to a denial.

71. While the state may reasonably regulate access to voting and demand proof of an elector's qualifications to vote, the photo ID requirement of Act 23 imposes substantial and

unnecessary pecuniary and time-consuming burdens on otherwise qualified electors. Such burdens are anathema and foreign to the laws and traditions of our State's elections where registered Wisconsin voters have for over 150 years simply been required to appear at the polls and announce their identity in order to exercise the franchise.

**SECOND COUNT:  
ACT 23 UNREASONABLY BURDENS, ABRIDGES, AND OTHERWISE  
VIOLATES PLAINTIFFS' CONSTITUTIONAL SUBSTANTIVE  
DUE PROCESS RIGHT TO VOTE UNDER ART. I Sec. 1**

72. Article I, Sec. 1 of the Wisconsin Constitution protects Wisconsin voters against state action which infringes upon the fundamental rights of citizens and is not narrowly tailored to serve a compelling state interest. Act 23 violates the substantive due process rights of all otherwise qualified electors in the State of Wisconsin who do not possess an Act 23-acceptable form of photo ID by unreasonably burdening, infringing upon, and abridging their right to exercise the franchise in a manner not narrowly drawn or otherwise designed to advance the state's legitimate interest in the prevention of voter fraud.

**THIRD COUNT:  
ACT 23 VIOLATES THE RIGHTS OF THE CLASS OF VOTERS LACKING  
PHOTO ID TO EQUALLY PARTICIPATE AND VOTE IN ELECTIONS WITH  
OTHER CITIZENS IN THE STATE OF WISCONSIN UNDER ARTICLE I,  
SECTION 1 OF THE WISCONSIN CONSTITUTION**

73. Act 23 imposes unreasonable and discriminatory restrictions upon the fundamental right of the class of voters lacking Act-23 acceptable photo ID to freely exercise the franchise. Act 23 creates a classification amongst all qualified voters based upon possession of certain types of photo ID and strips those voters lacking acceptable ID of their fundamental right to vote without serving a compelling state interest.

**FOURTH COUNT:  
ACT 23 IMPOSES AN ADDITIONAL AND UNLAWFUL QUALIFICATION  
TO VOTE UNENUMERATED IN ART. III, SEC. 2 AND THEREBY  
PROHIBITED BY ARTICLE III, SEC. 1 OF THE WISCONSIN CONSTITUTION.**

74. The qualifications for voting are clearly set forth in Article III, Sec. 1 which provides: “Every United States citizen age 18 or older who is a resident of any election district in this state is a qualified elector of that district.”

75. Article III, Section 2 of the Wisconsin Constitution provides the exclusive basis for which laws may be created to implement laws related to the voting qualifications established in Sec. 1. These include laws:

1. Defining residency.
2. Providing for registration of electors.
3. Providing for absentee voting.
4. Excluding from the right of suffrage persons (a) convicted of a felony, unless restored to civil rights, (b) adjudged by a court to be incompetent or partially incompetent, unless the judgment specifies that the person is capable of understanding the objective of the elective process or the judgment is set aside.
5. Subject to ratification by the people at a general election, extending the right of suffrage to additional classes.

76. The legislature may not impose additional limitations on the right to vote that are not expressly authorized by Article III, Sec. 2. Act 23 imposes such an additional limitation, requiring photographic proof of an elector’s identity at the polls as a condition to vote. The requirement that an elector display photo identification before receiving a ballot imposes a qualification on electors not authorized by Article III, Sec. 2 of the Wisconsin Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs request judgment as follows:

- A. A declaration that 2011 Act 23 is unconstitutional;

- B. Issue temporary and permanent injunctions enjoining the state from enforcing and implementing 2011 Act 23.
- B. For the costs, fees and disbursements of this action, and,
- C. For such other relief as the Court may deem just and proper.

Dated this 16<sup>th</sup> day of December, 2011.

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