

APPEAL,CLOSED,TYPE-L

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:20-cv-03791-JEB**

WISCONSIN VOTERS ALLIANCE et al v. PENCE et al
Assigned to: Judge James E. Boasberg
Cause: 28:1343 Violation of Civil Rights

Date Filed: 12/22/2020
Date Terminated: 01/08/2021
Jury Demand: None
Nature of Suit: 441 Voting
Jurisdiction: Federal Question

Non-Party Respondent

Erick G. Kaardal

Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street
Suite 3100
Minneapolis, MN 55402

represented by **Justin Michael Flint**
ECCLESTON & WOLF, P.C.
1629 K Street, NW
Suite 260
Washington, DC 20006
(202) 857-1696
Fax: (202) 857-0762
Email: flint@ewdc.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Channing Lynn Shor
ECCLESTON & WOLF, P.C.
1629 K Street NW
Suite 260
Washington, DC 20006
(202) 857-1696
Fax: (202) 857-0762
Email: shor@ewdc.com
ATTORNEY TO BE NOTICED

Non-Party Respondent

Mohrman, Kaardal & Erickson, P.A.
150 South Fifth Street
Suite 3100, MN 55402

represented by **Justin Michael Flint**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Channing Lynn Shor
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

WISCONSIN VOTERS ALLIANCE

represented by **Erick G. Kaardal**
MOHRMAN, KAARDAL, &
ERICKSON, P.A.
150 South Fifth Street
Suite 3100

Minneapolis, MN 55402
(612) 341-1074
Fax: (612) 341-1076
Email: kaardal@mkllaw.com
ATTORNEY TO BE NOTICED

Plaintiff

**PENNSYLVANIA VOTERS
ALLIANCE**

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

GEORGIA VOTERS ALLIANCE

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

ELECTION INTEGRITY FUND

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

**ARIZONA VOTER INTEGRITY
ALLIANCE**

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

LYNIE STONE

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

BARON BENHAM

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

DEBI HAAS

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

BRENDA SAVAGE

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

MATTHEW DADICH

represented by

Erick G. Kaardal
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

LEAH HOOPES

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

RON HEUER

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

RICHARD W. KUCKSDORF

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

DEBBIE JACQUES

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

JOHN WOOD

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

SONNY BORRELLI
Senator

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

WARREN PETERSON
Representative

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

MATTHEW MADDOCK
Representative

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

DAIRE RENDON
Representative

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

DAVID STEFFEN
Representative

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

JEFF L MURSAU
Representative

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

WILLIAM T LIGON
Senator

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

BRANDON BEACH
Senator

represented by **Erick G. Kaardal**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

MICHAEL RICHARD PENCE
*Vice President, in his official capacity as
President of the United States Senate*

Defendant

U.S HOUSE OF REPRESENTATIVES

Defendant

U.S. SENATE

Defendant

ELECTORAL COLLEGE, THE

Defendant

TOM WOLF
*Governor of Pennsylvania, in his official
capacity*

Defendant

BRYAN CARTER
*Speaker of the Pennsylvania House of
Representatives, in his official capacity*

Defendant

JAKE CORMAN

*Senate majority Leader of Pennsylvania
Senate, in his official capacity*

Defendant

GRETCHEN WHITMER

*Governor of Michigan, in her official
capacity*

Defendant

LEE CHATFIELD

*Speaker of the Michigan House of
Representatives, in his official capacity*

Defendant

MIKE SHIRKEY

*Senate Majority Leader of the Michigan
Senate, in his official capacity*

Defendant

TONY EVERS

*Governor of Wisconsin, in his official
capacity*

Defendant

ROBIN VOS

*Speaker of the Wisconsin State Assembly,
in his official capacity*

Defendant

HOWARD MARKLEIN

*Senate Majority Leader of the Wisconsin
Senate, in his official capacity*

Defendant

BRIAN KEMP

*Governor of Georgia, in his official
capacity*

Defendant

DAVID RALSTON

*Speaker of the Georgia House of
Representatives, in his official capacity*

Defendant

BUTCH MILLER

*President Pro Tempore of the Georgia
Senate, in his official capacity*

Defendant**DOUG DUCEY***Governor of Arizona***Defendant****RUSSELL BOWERS***Speaker of the Arizona House of Representatives***Defendant****RICK GRAY***Senate Majority Leader of the Arizona Senate, in his official capacity*

| Date Filed | # | Page | Docket Text |
|------------|----------|------|---|
| 12/22/2020 | <u>1</u> | | COMPLAINT against All Defendants (Filing fee \$ 402 receipt number ADCDC-7990281) filed by JEFF L MURSAU, BARON BENHAM, WARREN PETERSON, PENNSYLVANIA VOTERS ALLIANCE, WISCONSIN VOTERS ALLIANCE, MATTHEW MADDOCK, SONNY BORRELLI, DAVID STEFFEN, DEBBIE JACQUES, MATTHEW DADICH, LEAH HOOPES, WILLIAM T LIGON, BRANDON BEACH, RICHARD W KUCKSDORF, LYNIE STONE, GEORGIA VOTERS ALLIANCE, BRENDA SAVAGE, RON HEUER, JOHN WOOD, DEBI HAAS, ELECTION INTEGRITY FUND, DAIRE RENDON, ARIZONA VOTER INTEGRITY ALLIANCE. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons)(Kaardal, Erick) (Entered: 12/22/2020) |
| 12/22/2020 | <u>2</u> | | MOTION for Preliminary Injunction by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPES, DEBBIE JACQUES, RICHARD W KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS ALLIANCE, JOHN WOOD (Kaardal, Erick) (Entered: 12/22/2020) |
| 12/22/2020 | <u>3</u> | | NOTICE OF HEARING by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPES, DEBBIE JACQUES, RICHARD W KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS ALLIANCE, JOHN WOOD re <u>2</u> MOTION for Preliminary Injunction (Kaardal, Erick) (Entered: 12/22/2020) |
| 12/22/2020 | <u>4</u> | | MEMORANDUM re <u>2</u> MOTION for Preliminary Injunction filed by WISCONSIN VOTERS ALLIANCE, SONNY BORRELLI, RICHARD W |

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| | | <p>KUCKSDORF, DEBBIE JACQUES, ARIZONA VOTER INTEGRITY ALLIANCE, WARREN PETERSON, DAIRE RENDON, MATTHEW DADICH, BRENDA SAVAGE, JOHN WOOD, JEFF L MURSAU, GEORGIA VOTERS ALLIANCE, BARON BENHAM, PENNSYLVANIA VOTERS ALLIANCE, LEAH HOOPEES, MATTHEW MADDOCK, LYNIE STONE, WILLIAM T LIGON, RON HEUER, DEBI HAAS, BRANDON BEACH, ELECTION INTEGRITY FUND, DAVID STEFFEN by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPEES, DEBBIE JACQUES, RICHARD W KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS ALLIANCE, JOHN WOOD. (Kaardal, Erick) (Entered: 12/22/2020)</p> |
| 12/22/2020 | <u>5</u> | <p>AFFIDAVIT re <u>2</u> MOTION for Preliminary Injunction <i>Declaration of Erick Kaardal</i> by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPEES, DEBBIE JACQUES, RICHARD W KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS ALLIANCE, JOHN WOOD. (Attachments: # <u>1</u> Appendix part 1, # <u>2</u> Appendix part 2, # <u>3</u> Appendix part 3, # <u>4</u> Appendix part 4, # <u>5</u> Appendix part 5, # <u>6</u> Appendix part 6, # <u>7</u> Appendix part 7, # <u>8</u> Appendix part 8, # <u>9</u> Appendix part 9, # <u>10</u> Appendix part 10, # <u>11</u> Appendix part 11, # <u>12</u> Appendix part 12)(Kaardal, Erick) (Attachment 6 replaced on 12/23/2020) (ztnr). (Entered: 12/22/2020)</p> |
| 12/22/2020 | <u>6</u> | <p>NOTICE of Proposed Order for <i>Preliminary Injunction</i> by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPEES, DEBBIE JACQUES, RICHARD W KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS ALLIANCE, JOHN WOOD re <u>2</u> MOTION for Preliminary Injunction (Kaardal, Erick) (Entered: 12/22/2020)</p> |
| 12/22/2020 | | <p>Case Assigned to Judge James E. Boasberg. (adh,) (Entered: 12/22/2020)</p> |
| 12/22/2020 | <u>7</u> | <p>SUMMONS (19) Issued Electronically as to RUSSELL BOWERS, BRYAN CARTER, LEE CHATFIELD, JAKE CORMAN, DOUG DUCEY, ELECTORAL COLLEGE, THE, TONY EVERS, RICK GRAY, BRIAN KEMP, HOWARD MARKLEIN, BUTCH MILLER, MICHAEL RICHARD PENCE, DAVID RALSTON, MIKE SHIRKEY, U.S HOUSE OF REPRESENTATIVES, U.S. SENATE, ROBIN VOS, GRETCHEN WHITMER, TOM WOLF. (Attachment: # <u>1</u> Notice and Consent)(adh,) (Entered: 12/22/2020)</p> |

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| 12/22/2020 | <u>8</u> | AFFIDAVIT re <u>2</u> MOTION for Preliminary Injunction <i>Second Declaration of Erick G. Kaardal</i> by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPEES, DEBBIE JACQUES, RICHARD W KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS ALLIANCE, JOHN WOOD. (Attachments: # <u>1</u> Appendix)(Kaardal, Erick) (Entered: 12/22/2020) |
| 12/23/2020 | | MINUTE ORDER: The Court ORDERS that, as soon as Plaintiffs file proofs of service on all Defendants, a briefing schedule and hearing shall be set. So ORDERED by Judge James E. Boasberg on 12/23/2020. (lcjeb3) (Entered: 12/23/2020) |
| 01/04/2021 | <u>9</u> | ORDER: For the reasons set forth in the accompanying Memorandum Opinion, the Court ORDERS that Plaintiffs' <u>2</u> Motion for Preliminary Injunction is DENIED. Signed by Judge James E. Boasberg on 1/4/2021. (lcjeb1) (Entered: 01/04/2021) |
| 01/04/2021 | <u>10</u> | MEMORANDUM OPINION re <u>9</u> Order on Motion for Preliminary Injunction. Signed by Judge James E. Boasberg on 1/4/2021. (lcjeb1) (Entered: 01/04/2021) |
| 01/05/2021 | <u>11</u> | ENTERED IN ERROR.....NOTICE <i>Letter to Judge James E. Boasberg with attachment</i> by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPEES, DEBBIE JACQUES, RICHARD W. KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS ALLIANCE, JOHN WOOD re <u>10</u> Memorandum & Opinion, <u>9</u> Order on Motion for Preliminary Injunction (Kaardal, Erick); Modified on 1/6/2021 (ztth). (Entered: 01/05/2021) |
| 01/05/2021 | <u>12</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. ELECTORAL COLLEGE, THE served on 12/23/2020; MICHAEL RICHARD PENCE served on 12/23/2020; U.S HOUSE OF REPRESENTATIVES served on 12/23/2020; U.S. SENATE served on 12/23/2020 (Kaardal, Erick) (Entered: 01/05/2021) |
| 01/05/2021 | <u>13</u> | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. BRYAN CARTER served on 12/28/2020, answer due 1/18/2021; JAKE CORMAN served on 12/28/2020, answer due 1/18/2021; DOUG DUCEY served on 12/24/2020, answer due 1/14/2021; TONY EVERS served on 1/4/2021, answer due 1/25/2021; BRIAN KEMP served on 12/26/2020, answer due 1/16/2021; HOWARD MARKLEIN served on 12/31/2020, answer due 1/21/2021; BUTCH MILLER served on 12/26/2020, answer due 1/16/2021; DAVID RALSTON served on 12/23/2020, answer due 1/13/2021; TOM WOLF served on 12/24/2020, answer due 1/14/2021 (Kaardal, Erick) (Entered: 01/05/2021) |

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| 01/05/2021 | <u>14</u> | WAIVER OF SERVICE. LEE CHATFIELD waiver sent on 12/23/2020, answer due 2/21/2021; RICK GRAY waiver sent on 12/23/2020, answer due 2/21/2021; MIKE SHIRKEY waiver sent on 12/23/2020, answer due 2/21/2021; GRETCHEN WHITMER waiver sent on 12/23/20, answer due 2/21/2021. (Kaardal, Erick); Modified date of waiver sent and answer due date on 1/7/2021 (ztth). (Entered: 01/05/2021) |
| 01/05/2021 | 17 | RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 12/23/2020. RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 12/23/2020. (Answer due for ALL FEDERAL DEFENDANTS by 2/21/2021.) (See Docket Entry <u>13</u> to view document) (ztth) (Entered: 01/07/2021) |
| 01/06/2021 | | NOTICE OF ERROR re <u>11</u> Notice (Other); emailed to kaardal@mklaw.com, cc'd 5 associated attorneys -- The PDF file you docketed contained errors: 1. Please refile document, 2. Docket Entry <u>11</u> was entered in error. Please see LCvR 5.1. (ztth,) (Entered: 01/06/2021) |
| 01/06/2021 | <u>15</u> | NOTICE OF FILING OF PROOFS OF SERVICE by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPES, DEBBIE JACQUES, RICHARD W. KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS ALLIANCE, JOHN WOOD re <u>10</u> Memorandum & Opinion, <u>9</u> Order on Motion for Preliminary Injunction (Kaardal, Erick) (Entered: 01/06/2021) |
| 01/07/2021 | <u>16</u> | NOTICE of Voluntary Dismissal by All Plaintiffs (Kaardal, Erick) (Entered: 01/07/2021) |
| 01/07/2021 | | MINUTE ORDER: Per Plaintiffs' <u>16</u> Notice, the Court ORDERS that the case is DISMISSED WITHOUT PREJUDICE. So ORDERED by Judge James E. Boasberg on 1/7/2021. (lcjeb1) (Entered: 01/07/2021) |
| 01/07/2021 | | MINUTE ORDER: As Plaintiffs' <u>16</u> Notice of Voluntary Dismissal has now terminated the litigation, the Court ORDERS that by January 22, 2021, Plaintiffs' counsel shall show cause why the Court should not refer him to the Committee on Grievances for all of the reasons discussed in its recent <u>10</u> Memorandum Opinion. So ORDERED by Judge James E. Boasberg on 1/7/2021. (lcjeb1) (Entered: 01/07/2021) |
| 01/07/2021 | <u>18</u> | CERTIFICATE OF SERVICE by ARIZONA VOTER INTEGRITY ALLIANCE, BRANDON BEACH, BARON BENHAM, SONNY BORRELLI, MATTHEW DADICH, ELECTION INTEGRITY FUND, GEORGIA VOTERS ALLIANCE, DEBI HAAS, RON HEUER, LEAH HOOPES, DEBBIE JACQUES, RICHARD W. KUCKSDORF, WILLIAM T LIGON, MATTHEW MADDOCK, JEFF L MURSAU, PENNSYLVANIA VOTERS ALLIANCE, WARREN PETERSON, DAIRE RENDON, BRENDA SAVAGE, DAVID STEFFEN, LYNIE STONE, WISCONSIN VOTERS |

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| | | ALLIANCE, JOHN WOOD re <u>16</u> Notice of Voluntary Dismissal . (Kaardal, Erick) (Entered: 01/07/2021) |
| 01/19/2021 | <u>19</u> | NOTICE of Appearance by Justin Michael Flint on behalf of Erick G. Kaardal, Mohrman, Kaardal & Erickson, P.A. (Flint, Justin) (Entered: 01/19/2021) |
| 01/19/2021 | <u>20</u> | NOTICE of Appearance by Channing Lynn Shor on behalf of Erick G. Kaardal, Mohrman, Kaardal & Erickson, P.A. (Shor, Channing) (Entered: 01/19/2021) |
| 01/19/2021 | <u>21</u> | MOTION for Extension of Time to File Response/Reply to <i>January 7, 2021, Minute Order to Show Cause</i> by Erick G. Kaardal, Mohrman, Kaardal & Erickson, P.A. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Exhibit)(Shor, Channing) (Entered: 01/19/2021) |
| 01/19/2021 | | MINUTE ORDER GRANTING <u>21</u> Motion for Extension of Time. The Court ORDERS that Plaintiffs' Counsel shall file his response to this Court's January 7, 2021, Minute Order to Show Cause by February 5, 2021. So ORDERED by Judge James E. Boasberg on 1/19/2021. (lcjeb1) (Entered: 01/19/2021) |
| 01/19/2021 | | Set/Reset Deadlines: Response to Show Cause due by 2/5/2021. (zbnbn) (Entered: 01/19/2021) |
| 02/05/2021 | <u>22</u> | RESPONSE TO ORDER TO SHOW CAUSE by Mohrman, Kaardal & Erickson, P.A., Erick G. Kaardal re Order, filed by Mohrman, Kaardal & Erickson, P.A., Erick G. Kaardal. (Attachments: # <u>1</u> Exhibit Part 1, # <u>2</u> Exhibit Part 2, # <u>3</u> Exhibit Part 3, # <u>4</u> Exhibit Part 4, # <u>5</u> Exhibit Part 5, # <u>6</u> Exhibit Part 6, # <u>7</u> Exhibit Part 7, # <u>8</u> Exhibit Part 8, # <u>9</u> Exhibit Part 9, # <u>10</u> Exhibit Part 10, # <u>11</u> Exhibit Part 11, # <u>12</u> Exhibit Part 12)(Shor, Channing) (Entered: 02/05/2021) |
| 02/19/2021 | <u>23</u> | ORDER: The Court ORDERS that Plaintiffs' counsel shall be referred to the Committee on Grievances. Signed by Judge James E. Boasberg on 2/19/2021. (lcjeb1) (Entered: 02/19/2021) |
| 03/03/2021 | <u>24</u> | NOTICE OF APPEAL TO DC CIRCUIT COURT as to <u>23</u> Order by Erick G. Kaardal, Mohrman, Kaardal & Erickson, P.A.. Filing fee \$ 505, receipt number ADCDC-8271067. Fee Status: Fee Paid. Parties have been notified. (Shor, Channing) (Entered: 03/03/2021) |

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WISCONSIN VOTERS ALLIANCE, *et al.*,

PLAINTIFFS,

V.

**VICE PRESIDENT MICHAEL R. PENCE,
et al.,**

DEFENDANTS.

CASE NO.: 1:20-CV-03791-JEB

CIVIL NOTICE OF APPEAL

Pursuant to Rules 3(a) and 4(a)(1)(A) of the Federal Rules of Appellate Procedure, notice is hereby given this 3rd day of March, 2021, that Non-Party Respondents Erick G. Kaardal, Esq. and Mohrman, Kaardal & Erickson, P.A. (collectively referred to as “Plaintiffs’ Counsel”) hereby appeal to the United States Court of Appeals for the District of Columbia Circuit from the Minute Entry this Court entered on the 19th day of February, 2021, which states in full “ORDER: The Court ORDERS that Plaintiffs’ counsel shall be referred to the Committee on Grievances. Signed by Judge James E. Boasberg on 2/19/2021. (lcjeb1) (Entered: 02/19/2021)” as well as the Order, which is a separate document, at ECF No. 23 which concludes “[t]he Court, accordingly, ORDERS that Plaintiffs’ counsel shall be referred to the Committee on Grievances. It expresses no opinion on whether discipline should be imposed or, if so, what form that should take.”

The United States Court of Appeals for the District of Columbia Circuit has jurisdiction to hear this appeal because the underlying case has been dismissed and is closed; the District Court has finally resolved all issues in the case; the February 19, 2021, Order constitutes a final order for

the case; there are no motions listed in Federal Rule of Appellate Procedure 4(a)(4) or 4(b)(3) that would make the filing of a notice of appeal ineffective; and this appeal is being filed in good faith for review of the Minute Entry this Court entered on the 19th day of February, 2021, and the accompanying separate document which constitutes this Court's Order.

Respectfully submitted,

ECCLESTON & WOLF, P.C.

/s/ Channing L. Shor
Justin M. Flint (#491782)
Channing L. Shor (#1024861)
1629 K Street, N.W., Suite 260
Washington, D.C. 20006
(202) 857-1696 (Tel)
(202) 857-0762 (Fax)
flint@ewdc.com
shor@ewdc.com
*Counsel for Erick G. Kaardal, Esq. and
Mohrman, Kaardal & Erickson, P.A.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of March 2021, a copy of the foregoing Civil Notice of Appeal was served on the District Court's clerk and electronically filed via the Court's CM/ECF system pursuant to Rule 3(a)(1) of the Federal Rules of Appellate Procedure and District of Columbia Circuit Rule 25(c)(3).

/s/ Channing L. Shor
Channing L. Shor (#1024861)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WISCONSIN VOTERS ALLIANCE, *et al.*,

Plaintiffs,

v.

**VICE PRESIDENT MICHAEL R.
PENCE, *et al.*,**

Defendants.

Civil Action No. 20-3791 (JEB)

ORDER

On January 7, 2021, this Court ordered Plaintiffs’ counsel, Erick G. Kaardal, Esq., to show cause why it should not refer him to the Committee on Grievances for his filings in this matter. Represented by his own counsel, Kaardal has now responded. See ECF No. 22 (OSC Response). As he has not sufficiently allayed the Court’s concerns regarding potential bad faith, it will refer the matter to the Committee via separate letter so that it may determine whether discipline is appropriate.

The Court will not rebut each point Kaardal’s Response makes, including those pertaining to the flimsiness of the underlying basis for the suit, but it will note several of the numerous shortcomings that the Committee may wish to consider. First, Kaardal’s Declaration, which accompanies the Response, spends most of its time supporting the suit’s theory on the unconstitutionality of the federal and state statutes at issue. See ECF No. 22-1, Exh. B (Declaration of Erick G. Kaardal, Esq.) at 15–42. Yet, it neither acknowledges nor addresses a significant criticism from the Court’s Memorandum Opinion: “After explicitly disclaiming any theory of fraud, see ECF No. 1 (Complaint), ¶ 44 (‘This lawsuit is not about voter fraud.’),

Plaintiffs spend scores of pages cataloguing every conceivable discrepancy or irregularity in the 2020 vote in the five relevant states, already debunked or not, most of which they nonetheless describe as a species of fraud. E.g., id., at 37–109.” ECF No. 10 (Mem. Op.) at 2. The only reason the Court can see for the Complaint to spend 70+ pages on irrelevant allegations of fraud, not one instance of which persuaded any court in any state to question the election’s outcome, is political grandstanding. The Response never explains otherwise.

Second, the Opinion wondered how this Court could possibly have personal jurisdiction over the fifteen battleground-state officials (all of whom serve in states that former President Donald J. Trump lost), who were sued in their official capacities. Id. at 4. The Declaration offers some thoughts on potential jurisdiction, but none is availing. First, it correctly notes that a suit against a state official in his official capacity can be regarded as a suit against a state itself. See Kaardal Decl. at 6. Yet, the very block quotation the Declaration excerpts, see id., conveniently omits the next sentence in the cited opinion, which states: “But the D.C. Circuit has held that the District of Columbia’s long-arm statute does not apply to states themselves.” Trump v. Comm. on Ways & Means, 415 F. Supp. 3d 98, 106 (D.D.C. 2019) (emphasis added) (citation omitted). Second, it is true that in certain limited cases, a suit against a state official in her official capacity may be considered a suit against her in her individual capacity for purposes of the D.C. long-arm statute. West v. Holder, 60 F. Supp. 3d 190, 194 (D.D.C. 2014) (citation omitted). What the Declaration again does not explain, however, is how the state-official Defendants had any contact with the District of Columbia so as to render them subject to that long-arm statute, let alone be consistent with due process. This is thus another point that may require attention from the Committee.

Third, the Court questioned the timing of the Complaint and its accompanying Motion for Preliminary Injunction. See Mem. Op. at 6. In other words, if Plaintiffs were in good faith challenging the constitutionality of federal and state statutes that have long been on the books, why wait until two weeks before the electoral votes were to be counted? The Declaration says that counsel waited because of ripeness and mootness concerns, see Kaardal Decl. at 5–6, but that makes little sense. Plaintiffs’ theory is that the challenged state statutes are facially unconstitutional because each expressly provides for a method of certification other than by the state legislature itself. This claim, just like the one attacking the federal election statutes, could have been brought any time over the past years (or, in some cases, decades). It is fanciful that counsel needed to worry whether states would in fact take the allegedly unlawful action of certifying their election results without the state legislature’s involvement, as state statutes required them to do just that. To wait as counsel did smacks once again of political gamesmanship and may be relevant to the Committee.

Fourth, the Declaration spends time listing the efforts to serve all Defendants in accordance with the Court’s Minute Order of December 23, 2020. See Kaardal Decl. at 12–14. This misses the forest for the trees, however. The Motion sought to have the Court enjoin the January 6, 2021, counting of the electoral votes. See ECF No. 4 (PI Mem.) at 45 (“The Court should issue the preliminary injunction prior to January 6, 2021, when federal Defendants meet to count the Presidential electors to elect a President and Vice President, because the Plaintiffs have met the factors required.”). That means that the Court would have had to hold a hearing and issue an opinion before that date, but Plaintiffs were still in the process of serving Defendants on January 4. See Kaardal Decl. at 13. A suit that truly wished a merits opinion before January 6 would have given notice to all Defendants as soon as (or before) the Complaint

and Motion were filed on December 22, 2020. See Fed. R. Civ. P. 65(a)(1). Plaintiffs never did this or ever contacted the Court about a hearing prior to its January 4 Opinion, leading the Court to conclude that they wished only to file a sweeping Complaint filled with baseless fraud allegations and tenuous legal claims to undermine a legitimate presidential election.

The Court ends by underlining that the relief requested in this lawsuit is staggering: to invalidate the election and prevent the electoral votes from being counted. When any counsel seeks to target processes at the heart of our democracy, the Committee may well conclude that they are required to act with far more diligence and good faith than existed here.

The Court, accordingly, ORDERS that Plaintiffs' counsel shall be referred to the Committee on Grievances. It expresses no opinion on whether discipline should be imposed or, if so, what form that should take.

/s/ James E. Boasberg
JAMES E. BOASBERG
United States District Judge

Date: February 19, 2021