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November 23, 2020

VIA FEDERAL EXPRESS

Wisconsin Supreme Court  
Sheila Reiff, Clerk of the Supreme Court  
110 E Main St Ste 215  
PO Box 1688  
Madison, WI 53701-1688

Re: *Emergency Petition for Original Action in Donald Trump, et al. v. Wisconsin Elections Commission, et al.*

Dear Ms. Reiff:

Enclosed for filing in the above-referenced matter are the following:

1. 1 original Emergency Petition for Original Action and 9 copies;
2. 1 original Memorandum in Support of Emergency Petition for Original Action and 9 copies;
3. 1 original set of exhibits in support of Emergency Petition for Original Action and 9 copies. Each set of the exhibits is bound with a rubber band.
4. 1 original and 9 copies of the Matthew Braynard Expert Report.

Please do not hesitate to contact me if you have any questions or concerns.

Very truly yours,

  
Gregory M. Erickson

GRM/Encls.

No. \_\_\_\_\_

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**In the Supreme Court of Wisconsin**

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Wisconsin Voters Alliance, Ronald H. Heuer, William Joseph Laurent, Richard Kucksdorf, James Fitzgerald, Kelly Ruh, William Berglund, John Jaconi, Donna Utschig, Jeff Wellhouse, Kurt Johnson, Thomas Reczek, Linda Sinkula, Atilla Thorbjorsson, Jeff Kleiman, Navin Jarugumilli, Jonathan Hunt, Suzanne Vlach, Jacob Blazkovec, Donald Utschig, Carol Aldinger, Jay Plaumann, Deborah Gorman, Robert R. Liebeck, Valerie M. Bruns Liebeck, Edward Hudak, Ron Cork, Charles Risch, Karl Lehrke, Arnet Holty and Joseph McGrath, PETITIONERS,

v.

Wisconsin Elections Commission, and its members  
Ann S. Jacobs, Mark L. Thomsen, Marge Bostelman,  
Julie M. Glancey, Dean Knudson, Robert F. Spindell,  
Jr., in their official capacities, Governor Tony Evers,  
in his official capacity, RESPONDENTS

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On Petition For Original Action  
Before this Court

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**EMERGENCY PETITION FOR ORIGINAL ACTION**

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## **Introduction**

1. The petitioners are bringing this petition to ensure election integrity in any Presidential Election result in Wisconsin.

2. A systematic effort was launched in Wisconsin, using millions of dollars in private money sourced to Mark Zuckerberg, the Facebook billionaire, to illegally circumvent Wisconsin absentee voting laws, including primarily one absentee voting law which is the sole exception to Wisconsin's photo ID law, to cast tens of thousands of illegal absentee ballots.

3. As set forth below, the Zuckerberg-funded private organization, the Center for Technology and Civic Life, gifted over \$6,000,000 to the Cities of Racine, Kenosha, Green Bay, Madison and Milwaukee, all Democratic Party strongholds, in order for those cities to facilitate the use of absentee voting in violation of Wisconsin law.

4. Based on government data and other evidence collected by Petitioners, the Wisconsin Presidential Election contest margin of 20,608 votes includes ineligible and illegal votes which exceed the 20,608 vote margin—including illegal votes counted, legal votes not counted, counting errors and illegalities – all sufficient to nullify any Presidential Election result.

**Wisconsin Presidential Election Contest  
Margin +20,608 votes**

<b>Type*</b>	<b>Description</b>	<b>Votes</b>
1) Illegal Votes Counted	Estimate of ballots requested in the name of a registered Republican by someone other than that person	14,426
2) Legal Votes Not Counted	Estimate of Republican ballots that the requester returned but were not counted	12,071
3) Illegal Votes Counted	Electors voted where they did not reside.	26,673
4) Illegal Votes Counted	Electors who avoided Wisconsin Voter ID laws by voting absentee as an “indefinitely confined” elector and were not indefinitely confined	96,437
5) Illegal Votes Counted	Out of State Residents Voting in State	6,966
6) Illegal Votes Counted	Double Votes	234
<b>TOTAL 1 &amp; 2</b>		26,497
<b>TOTAL</b>		156,807

\*may include overlap

## **Jurisdiction**

5. The Wisconsin Supreme Court has “original jurisdiction” under the Wisconsin Constitution, Article VII, Section 3(2), which provides: “The supreme court has appellate jurisdiction over all courts and may hear original actions and proceedings. The Supreme Court may issue all writs necessary in aid of its jurisdiction.”

6. Wis. Sup. Ct. R. 809.07 governs the submission of a Petition for Original Action.

7. This Court has held that “[w]e exercise original jurisdiction when ‘the matter is one that should trigger the institutional responsibilities of the Supreme Court.’” Wis. S. Ct. IOP III (September 12, 2019). *See Petition of Heil*, 230 Wis. 428, 436, 284 N.W. 42, 45 (1939) (“[T]he purpose of the constitution was, ‘To make this court indeed a supreme judicial tribunal over the whole state; a court of last resort on all judicial questions under the constitution and laws of the state; a court of first resort on all judicial questions affecting the sovereignty of the state, its franchises or prerogatives, or the liberties of its people.’ ” (quoted source omitted)). *Wisconsin Legislature v. Palm*, 942 N.W.2d 900, 907 (Wis. 2020).

### **Issue presented by the controversy**

8. Whether there is sufficient evidence of the Wisconsin Election Commission and local elections officials, primarily in the cities which received Zuckerberg money, failing to administer and conduct the November 3, 2020 election for presidential electors in accordance with Wisconsin law that the election should be declared void and the choice of the Presidential Electors revert back to the State Legislature.

### **Statement of facts**

#### **I. Parties**

9. Petitioner Wisconsin Voters Alliance is a Wisconsin non-profit corporation. The Wisconsin Voters Alliance is an organization with members who seek to ensure, as part of their objectives, public confidence in the integrity of Wisconsin's elections, in election results and election systems, processes, procedures, and enforcement, and that public officials act in accordance with the law in exercising their obligations to the people of the State of Wisconsin. The Wisconsin Voters Alliance also works to protect the rights of its members whenever laws, statutes, rules, regulations, or government actions that threaten or impede implied or expressed rights or privileges afforded to them under our constitutions or laws or both. Its membership includes candidates seeking elective offices. Petitioner Ron H.

Heuer is the President of Wisconsin Voters Alliance.

10. The other Petitioners are Ronald H. Heuer, William Joseph Laurent, Richard Kucksdorf, James Fitzgerald, Kelly Ruh, William Berglund, John Jaconi, Donna Utschig, Jeff Wellhouse, Kurt Johnson, Thomas Reczek, Linda Sinkula, Atilla Thorbjorsson, Jeff Kleiman, Navin Jarugumilli, Jonathan Hunt, Suzanne Vlach, Jacob Blazkovec, Donald Utschig, Carol Aldinger, Jay Plaumann, Deborah Gorman, Robert R. Liebeck, Valerie M. Bruns Liebeck, Edward Hudak, Ron Cork, Charles Risch, Karl Lehrke, Arnet Holty and Joseph McGrath. Each one of these individual Petitioners is a Wisconsin elector, voter and taxpayer. As such, each one of these individual Petitioners has standing to challenge the government election officials' certification of the Wisconsin election results based on illegal votes counted, legal votes not counted, counting errors and illegalities to nullify any election result.

11. The Respondents are Wisconsin Elections Commission, a state agency, its members Ann S. Jacobs, Mark L. Thomsen, Marge Bostelman, Julie M. Glancey, Dean Knudson, Robert F. Spindell, Jr., in their official capacities, and Governor Tony Evers, in his official capacity. The Wisconsin Election Commission certifies the Presidential Election results. It is scheduled to do that on December 1, 2020. After certification, the Governor notifies the federal government who

Wisconsin's Presidential Electors for the Electoral College are.

**II. Wisconsin election laws, adopted by the state legislature, are at issue in this case.**

12. The Wisconsin State Legislature has adopted laws governing the voting for the selection of Presidential electors. Those laws provide for the voting to be conducted pursuant to Wisconsin general election laws. Wisconsin Statutes § 8.25.

**A. Wisconsin has a photo identification requirement for voting.**

13. In 2011, in order to prevent the casting of ineligible ballots due to, among other reasons, fraud, the Wisconsin State Legislature adopted Act 23 to require Wisconsin voters, known as electors under Wisconsin Statutes, to present an identification containing a photograph, such as a driver's license, to either a municipal or county clerk when registering to vote or to a municipal or county clerk or other official when voting. Wisconsin Statutes §§ 6.34; 6.79 (2). The Wisconsin State Legislature adopted the photo ID requirement to deter the casting of ballots by persons either not eligible to vote or persons fraudulently casting multiple ballots. *League of Women Voters of Wisconsin Educ. Network, Inc. v. Walker*, 851 N.W.2d 302, 314 (Wis. 2014).

14. The Wisconsin State Legislature has also provided for voters to vote



by absentee processes which are set forth in very detailed language in Wisconsin statutes at Wisconsin Statutes §§ 6.84-6.89.

15. It is important to note that the Wisconsin State Legislature recognized in the absentee voter section of the statutes the potential for election fraud in connection with absentee processes. In the first subsection of Wisconsin's absentee voter law, Wisconsin Statutes § 6.84 (1), the Wisconsin State Legislature recognized the potential for fraud in the use of absentee balloting:

(1) Legislative policy. The legislature finds that voting is a constitutional right, the vigorous exercise of which should be strongly encouraged. In contrast, voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place. The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for fraud or abuse; to prevent overzealous solicitation of absent electors who may prefer not to participate in an election; to prevent undue influence on an absent elector to vote for or against a candidate or to cast a particular vote in a referendum; or other similar abuses.

16. Consistent with recognizing that voting by absentee processes is a privilege and not a right, and also recognizing the potential for election fraud, the Wisconsin State Legislature further provided in Wisconsin Statutes § 6.84 (2) if a voter or government official does not comply with the detailed procedures for voting absentee, ballots cast in contravention of those procedures cannot be counted and cannot be included in the certified results.

(2) Interpretation. Notwithstanding s. 5.01(1), with respect to matters relating to the absentee ballot process, ss. 6.86, 6.87(3) to (7) and 9.01(1)(b) 2. and 4. shall be construed as mandatory. Ballots cast in contravention of the procedures specified in those provisions may not be counted. Ballots counted in contravention of the procedures specified in those provisions may not be included in the certified result of any election.

**B. Wisconsin has created the Wisconsin Election Commission and Other Election Commissions or Boards to Administer State Election Laws.**

17. The Wisconsin State Legislature created the Wisconsin Election Commission (“WEC”) as an independent agency under the Executive branch to administer Wisconsin’s election laws. Wis. Stat. § 15.61. The Wisconsin Legislature created the WEC to administer Wisconsin’s election laws in 2015. Wis. Stat. §5.03. The WEC is authorized to adopt administrative rules pursuant to Chapter 227 of Wisconsin Statutes governing administrative rule making. However, nothing under Wisconsin’s election laws authorizes the WEC to issue any documents, make any oral determinations or instruct governmental officials administering elections to perform any act contrary to Wisconsin law governing elections.

18. Furthermore, the Wisconsin State Legislature also created municipal elections commissions for municipalities with a population greater than 500,000 and a county elections commissions for counties with a population greater than 750,000.

Wis. Stat. § 7.20. As a result, the City of Milwaukee Elections Commission was created as well as the Milwaukee County Elections Commission and the Dane County Elections Commission. These county and municipal elections commissions are responsible for administering the elections in their respective jurisdictions.

**C. Wisconsin requires registration in order to vote.**

19. The Wisconsin State Legislature requires Wisconsin electors to register to vote in order to vote in an election. Only registered electors may obtain an absentee ballot. In order to register to vote in Wisconsin, Wisconsin Statutes § 6.33 specifically provides that the elector must fill out a registration form designed by WEC which contains, among other information, the elector's representation that the elector is a citizen of the United States, the elector will be 18 years old on election day, the elector has been a resident of Wisconsin for at least 28 days prior to the election day and intends to permanently reside in Wisconsin and that the elector has not been convicted on a felony for which the elector is not currently serving a sentence for a crime (i.e., the elector is on probation).

20. Pursuant to its authority under Wisconsin law, WEC developed a form for electors to register under Wisconsin law. *See, Form El – 131 attached as Exhibit 1.* In the first row of this form, the voter is required to check four boxes testifying that the elector is (i) 18 or older on election day, (ii) not currently serving

a sentence for a crime including being on probation, (iii) currently residing at the address the electoral fills in at least 28 days prior to the election and does not intend to move prior to election day and (iv) is a citizen of the United States. The potential elector is required to sign the form under penalty of perjury.

21. After completing the form containing the information set forth above, Wisconsin Statutes § 6.34 requires that the elector provide the governmental entity taking the registration application with proof of identity required on Wisconsin's photo ID law.

**D. Wisconsin has a photo identification requirement for absentee voting.**

22. As set forth above, the Wisconsin State Legislature adopted Act 23 in 2011 to require Wisconsin electors to present an identification containing a photograph, such as a driver's license, to either a municipal or county clerk, when registering to vote and when voting. Wis. Stat. §§ 6.34; 6.79 (2). The Wisconsin State Legislature adopted the photo ID requirement to deter the casting of ballots by persons either not eligible to vote or persons fraudulently casting multiple ballots. *League of Women Voters of Wisconsin Educ. Network, Inc. v. Walker*, 851 N.W.2d 302, 314 (Wis. 2014).

23. Wisconsin's absentee voting is governed by Wisconsin Statutes § 6.84 - § 6.89.

24. Wisconsin Statutes § 6.86 governs how Wisconsin electors may obtain an absentee ballot.

25. Under Wisconsin Statutes § 6.86, every absentee elector applicant must present a photo ID when registering to vote absentee except absentee voters who registered as “indefinitely confined” or “hospitalized.” Wis. Stat. §§ 6.86 (ac) and (ar).

26. As a result, Wisconsin election procedures for voting absentee based on “indefinitely confined” status can circumvent the photo ID requirement and open up an avenue for fraudulent voting.

27. Wisconsin Statutes § 6.86 (2)(a) restricts “indefinitely confined” electors to only those electors who sign a statement on a form created by WEC stating they are “indefinitely confined because of age, physical illness or infirmity or is disabled for an indefinite period.”

28. Thus, because of the restriction limiting to those “indefinitely confined” as opposed to temporarily confined, Wisconsin Statutes § 6.86 (2)(a) was intended primarily for elderly electors who are homebound because of age.

29. The form WEC created states that the absentee voter applying as indefinitely confined certify as follows:

I certify that I am indefinitely confined because of age, illness, infirmity or disability and request absentee ballots be sent to me automatically until I am no longer confined, or I fail to return a ballot. Anyone who makes false statements in order to obtain an absentee ballot may be fined not more than \$1,000 or imprisoned not more than 6 months or both. Wis. Stats. §§ 12.13(3)(i), 12.60(1)(b).

*See, Exhibit 2 – Form El – 121.*

30. Unlike other absentee voter applications, indefinitely confined electors do not need to present a photo ID to register to vote and to receive an absentee ballot because their indefinitely confined status (i.e., homebound) would make it difficult to impossible to travel to present a photo ID to a municipal clerk or travel to obtain a copy of a photo ID. Thus, this indefinitely confined absentee voter provision creates an avenue for obtaining ballots which can used to circumvent Wisconsin’s photo ID laws.

31. In order to ensure that only those who are “indefinitely confined” may use the “indefinitely confined” absentee ballot in an election, Wisconsin Statutes § 6.86 provides that any elector who files an application for an absentee ballot based on indefinitely confined status may not use the absentee ballot if the electoral is no longer “indefinitely confined.” Wisconsin Statutes § 6.86 (2)(a) specifically provides that “any [indefinitely confined] elector [who] is no longer indefinitely confined ... shall so notify the municipal clerk.” Wisconsin Statutes § 6.86 (2)(b)

further provides that the municipal clerk “shall remove the name of any other elector from the list upon request of the elector or upon receipt of reliable information that an elector no longer qualifies for the service.”

32. Pursuant to Wisconsin Statutes § 6.86, once a person has applied for “indefinitely confined” status for a particular election, and the municipal clerk has approved such status, the indefinitely confined need not apply to obtain an absentee ballot in any future election. Rather, the clerk is to mail to the indefinitely confined absentee elector a ballot in any future election unless (i) the absentee voter did not vote in the next election, (ii) the absentee voter notifies the clerk that the voter is no longer indefinitely confined or (iii) the clerk obtains reliable information that the elector is no longer indefinitely confined.

**E. Wisconsin’s procedures for identification apply to all absentee voters.**

33. With respect to all absentee voters, Wisconsin Statutes § 6.87 governs how the clerk is to transmit an absentee ballot to the absentee elector after the clerk approves the absentee voter application.

34. Under Wisconsin Statutes §6.87, if the clerk approves the absentee ballot application, the clerk will then mail to the absentee voter an envelope containing (i) the absentee ballot and (ii) a return envelope which the absentee voter is to use to mail the absentee ballot back to the clerk. The use of the return

envelope is to help prevent fraud by ensuring that the ballot as well the envelope the clerk sends to the absentee voter are returned to the clerk.

35. On the back of the absentee envelope the clerk sends to the potential absentee voter, Wisconsin Statutes §6.87 (2) requires that the clerk print two certifications: (i) a certification for the absentee voter to sign and (ii) a separate certification of a witness who is an adult to print the witnesses' name and address and sign the verification.

36. The absentee voter's certification must be in substantially the following form pursuant to Wisconsin Statutes §6.87 (2):

I, \_\_\_\_\_, certify subject to the penalties of s. 12.60(1)(b), Wis. Stats., for false statements, that I am a resident of the [\_\_\_\_\_ ward of the] (\_\_\_\_\_ town)(\_\_\_\_\_ village) of \_\_\_\_\_, or of the \_\_\_\_\_ aldermanic district in the city of \_\_\_\_\_, residing at \_\_\_\_\_ in said city, the county of \_\_\_\_\_, state of Wisconsin, and am entitled to vote in the (ward)(election district) at the election to be held on ...; that I am not voting at any other location in this election; that I am unable or unwilling to appear at the polling place in the (ward)(election district) on election day or have changed my residence within the state from one ward or election district to another later than 28 days before the election. I certify that I exhibited the enclosed ballot unmarked to the witness, that I then in (his)(her) presence and in the presence of no other person marked the ballot and enclosed and sealed the same in this envelope in such a manner that no one but myself and any person rendering assistance under s. 6.87(5), Wis. Stats., if I requested assistance, could know how I voted.



\_\_\_\_\_  
Signed

*See, Form El 121 attached as Exhibit 3.*

37. As set forth in the Wisconsin Statutes § 6.87 (4)(b)(1), the absentee voter must fill in the blanks on the certification which would include, at a minimum, the absentee voter's address, in the presence of a witness.

38. In addition to the electoral certification the absentee elector fills in on the back of the envelope, the absentee elector must sign the certification set forth in paragraph 36 above in the presence of witness who is an adult U.S. citizen.

39. In addition, the witness who witnesses the proposed absentee elector fill and sign the certification on the back of the return envelope must also sign a certification which is also written on the back of the envelope. Wisconsin Statutes §6.87 (2) requires that the witness certification state the following word for word:

I, the undersigned witness, subject to the penalties of s. 12.60(1)(b), Wis. Stats., for false statements, certify that I am an adult U.S. citizen and that the above statements are true and the voting procedure was executed as there stated. I am not a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk). I did not solicit or advise the elector to vote for or against any candidate or measure.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

Signed

*See, Form El 122 attached as Exhibit 3.*

40. Wisconsin Statutes § 6.87 (2) requires that the witness print their name and address on the form. Wisconsin Statutes 6.87 (6d) specifically provides that “[i]f a certificate is missing the address of a witness, the ballot may not be counted.”

41. Wisconsin Statutes § 6.87 (b)(1) requires that the absentee voter “shall make and subscribe to the certification before one witness who is an adult U.S. citizen.” In other words, the absentee voter must fill in the information required in the certificate, including the absentee voter’s address, and sign the certificate all in the presence of the witness. In addition, Wisconsin Statutes § 6.87 (b)(1) then requires that the elector, in the presence of the witness, fold the ballot, place the ballot in the envelope, seal the envelope and deposit the envelope in the mail or deliver it directly to the clerk’s office.

42. Furthermore, in the case of an indefinitely confined voter, Wisconsin Statutes §6.87 (2) requires that if the absentee voter does not provide proof of identification, the clerk sent the indefinitely confined absentee voter the ballot automatically under Wisconsin Statutes §6.86 (2)(a) and the indefinitely confined

absentee voter had provided a photo ID to obtain that ballot, the indefinitely confined absentee voter must include a statement signed by the witness who signs the absentee ballot envelope certification that the ballot contains the name and address of the indefinitely confined absentee voter and the witness verifies that the name and address are correct.

43. Finally, Wisconsin Statutes §6.87 (9) requires the clerk to return the envelope to the elector if the certificate is “improperly completed.”

44. These procedures for the requiring both witness and elector certification are provided as a barrier to voter fraud. Among other things, requiring the witness to provide the witnesses’ address allows election officials after the election to prosecute any witness or elector who is not properly following these procedures. Moreover, the separate statement from the witness verifying the indefinitely confined absentee voter’s name and address if the ballot was sent automatically under Wisconsin Statutes §6.86 (2)(a) serves as a further deterrent to fraud by requiring the witness to separately verify the name and address of such absentee voter.

45. Pursuant to Wisconsin Statutes 6.88 (1), when the absentee ballot envelope arrives at the clerk’s office, either by mail or personal delivery, the clerk must enclose the each absentee ballot envelope the clerk receives unopened in a

separate envelope, called a “carrier envelope” under Wisconsin Statutes. The clerk must then “securely seal” the carrier envelope, and endorse each carrier envelope with the following words:

This envelope contains the ballot of an absent elector and must be opened in the same room where votes are being cast at the polls during polling hours on election day or, in municipalities where absentee ballots are canvassed under s. 7.52, stats., at a meeting of the municipal board of absentee ballot canvassers under s. 7.52, stats.

*See, Form El 125 attached as Exhibit 4.*

46. Petitioners believe that Respondents will argue that the clerks are not required to put each absentee ballot into a separate “carrier envelope.” Such an argument is directly contrary to the statutory text. Wisconsin Statutes § 6.88 (1) specifically states that the clerk is supposed to “enclose it [meaning the singular ballot]” into “a” carrier envelope which carrier envelope singular is to be “securely sealed” and endorsed as set forth above. Moreover, the endorsement states that “[t]his” (singular) “envelope” (singular) contains “the” (singular) “ballot” (singular).

47. On election day, at the place where the absentee ballots are to be counted, Wisconsin Statutes § 6.88 (3)(a) and Wisconsin Statutes § 7.52 (in the case of the City of Milwaukee), require the clerks in charge of counting to do the following:

The board of absentee ballot canvassers shall first open the carrier envelope only, and, in such a manner that a member of the public, if he or she desired, could hear, announce the name of the absent elector or the identification serial number of the absent elector if the elector has a confidential listing under s. 6.47(2). When the board of absentee ballot canvassers finds that the certification has been properly executed and the applicant is a qualified elector of the ward or election district, the board of absentee ballot canvassers shall enter an indication on the poll list next to the applicant's name indicating an absentee ballot is cast by the elector.

48. This process is done to ensure that the absentee voter complied with the certification requirements in order to deter vote fraud. Pursuant to Wisconsin Statutes § 6.88 (3)(a), when the absentee ballot envelope is received in the counting room on election day, the clerk must first determine if the absentee voter certification contained on the back of the envelope has been properly executed. If the clerk or the inspectors find that the certification has not been properly executed, the clerk and inspectors are not to open the envelope. Consequently, pursuant to Wisconsin Statutes § 6.88 (3)(c), if the inspectors find that the certificate is “insufficient,” the inspectors are not to cast the ballot.

### **III. Wisconsin’s election officials violated state law.**

#### **A. Mark Zuckerberg, funded a non-profit, giving the Cities of Racine, Madison, Kenosha, Milwaukee and Green Bay \$6,000,000 to conduct the federal election as Zuckerberg’s non-profit entity requires.**

49. As set forth below, the Cities of Madison, Green Bay, Racine, Kenosha and Milwaukee entered into agreements with a non-profit organization, the

Center for Technology and Civic Life (“CTCL”), an organization funded with \$350,000,000 by Facebook billionaire Mark Zuckerberg, a well-known Democratic activist and partisan, to take millions of dollars from CTCL to conduct the November 3, 2020 election in violation of Wisconsin law. *See, news media announcement of CTCL attached as Exhibit 5.*

50. Wisconsin cities are created by state statute and cannot exercise any power unless specifically provided for by statute.

The legislative power in this state is lodged in the legislature. When it exerts that power, it exerts it on behalf of and in the name of the people of the State of Wisconsin.” *Van Gilder v. City of Madison*, 222 Wis. 58, 67, 267 N.W. 25 (1936). Conversely, “cities are creatures of the state legislature [that] have no inherent right of self-government beyond the powers expressly granted to them.”

*Black v. City of Milwaukee*, 882 N.W.2d 333, 342–43 (Wis. 2016).

51. Wisconsin cities and counties may only take in revenue from taxes, bonding, fines, fees or state grants. Wisconsin Statutes §§ 59.51, 65.07, and, generally, Ch. 70.

52. In fact, the State Legislature only allows the “state or state agencies” to accept gifts and only after the gift has been approved by State Legislature’s “joint committee on finance.” Wisconsin Statutes § 20.907 (1). Wisconsin Statutes § 20.907 then provides for very detailed provisions regarding how the gift is handled

including auditing of the gift.

53. The State Legislature did not allow for cities and counties to take in gifts and certainly did not allow for cities and counties to take in gifts without any oversight such as that provided by the Joint Committee on Finance.

54. Moreover, specifically with respect to elections, only the WEC can take in monies from sources other than taxation and that is limited to applying for a federal grant under Wisconsin's Election Plan created under the Help America Vote Act ("HAVA"). Wisconsin Statutes § 5.05 (10) provides that only the Wisconsin Election Commission can seek funds from the federal government under HAVA.

55. Most importantly, only the Wisconsin Elections Commission can provide "aid" to cities and counties for the administration of elections. Wis. Stat. § 5.05 (11).

56. There is nothing in Wisconsin state law that allows cities and counties to take in millions of dollars sourced to an incredibly wealthy, interested and partisan actor (i.e., Zuckerberg) in order to "assist" those cities and counties in administering the vote.

57. The Elections Clause of the United States Constitution requires that federal elections be exclusively publicly funded.

58. Occurrences of voter fraud in Wisconsin in recent elections have

occurred primarily in Milwaukee County, Dane County and Racine County. *See, WEC Fraud Report attached as Exhibit 6.*

59. Prior to the April 7, 2020 primary, the City of Madison passed a resolution ratifying the Mayor's actions in closing 14 polling locations and the potential for closing an additional 21 locations in advance of the April 7, 2020 primary. *See, March 31, 2020 City of Madison Resolution attached as Exhibit 7.* Such an action by the mayor severely limited the ability of Wisconsin electors to vote in person thereby compelling more residents in Madison to vote absentee – a practice the Wisconsin Legislature specifically discouraged in Wisconsin Statute §6.84 (2).

60. On April 6, 2020, Governor Tony Evers issued an emergency order the day before the primary ordering the entire primary be conducted by absentee ballot. This Court entered an Order the same day holding that the Governor's was void because of lack of authority.

61. On April 7, 2020, the Mayor of Green Bay Erin Genrich closed 29 of 31 polling stations due to COVID because clerks said they would not work at the polling station. The Mayor refused support offered from the Wisconsin National Guard to man the polling stations. After losing nearly 250 poll workers and refusing National Guard assistance, Mayor Genrich and Brown County Clerk Juno



used private CTCL funding and promoted recruiting untrained volunteers to work at the Green Bay polls. *See, news media of Green Bay actions attached as Exhibit 8.*

62. Wisconsin adopted a plan in 2003 pursuant to the federally enacted Help America vote Act (“HAVA”). *See, Wisconsin HAVA Plan attached as Exhibit 9.* Pursuant to Section 3 of the HAVA plan, each election commission was “required to conduct regular training and administer examinations to ensure that individuals who are certified are knowledgeable concerning their authority and responsibilities.” Using “volunteers” to assist in elections is a violation of Wisconsin’s HAVA plan.

63. The City of Madison used untrained volunteers for the April 7, 2020 primary. *See, City of Madison Resolution 60266 attached as Exhibit 10.*

64. In May and June, 2020, the Cities of Racine, Madison, Green Bay, Milwaukee and Kenosha (“CTCL Wisconsin Cities”) entered into agreement with CTCL to take “as a gift” \$6,324,527 from CTCL (“CTCL Agreement”). *See, May 28, 2020 CTCL Letter Agreement attached as Exhibit 11.*

65. Pursuant to the terms of the CTCL Agreement, the cities would be required to remit back to CTCL the entire \$6,324,527 “gift” if CTCL, in its sole discretion, determined that the cities have not complied with the CTCL Agreement. Such a provision thereby compelled these cities to do what CTCL told them to do.

*See, CTCL Funding Documents to all the CTCL Wisconsin Cities attached as Exhibit 12.*

66. The CTCL Agreement provides that the purpose of the funds CTCL provided to the cities was to “be used exclusively for the public purpose of planning safe and secure election administration in the City of Racine in 2020, and coordinating such planning with other cities in Wisconsin.” *See, Exhibit 11.* The CTCL Agreement required these cities to develop a plan for their elections pursuant to the agreement by June 15, 2020. *See, Exhibit 11.*

67. On June 15, 2020, the CTCL Wisconsin Cities presented their June 15, 2020 plan to CTCL (“CTCL Cities June 15 Plan”). Among other things, the CTCL these cities entered into agreements with CTCL to use the monies to:

- Hire additional personnel for elections;
- Increase existing salaries for staff;
- Encourage and Increase Absentee Voting (By Mail and Early, In-Person)
- Provide assistance to help voters comply with absentee ballot requests & certification requirements;
- Utilize secure drop-boxes to facilitate return of absentee ballots;
- Deploy additional staff and/or technology improvements to expedite & improve accuracy of absentee ballot processing;

- Expand In-Person Early Voting (Including Curbside Voting); and
- Commit “to conducting the necessary voter outreach and education to promote absentee voting and encourage higher percentages of our electors to vote absentee.

*See, CTCL Cities June 15 Plan attached as Exhibit 13.*

68. None of these provisions contained in the Wisconsin Safe Voting Report, which the CTCL Wisconsin Cities were required to do under the CTCL Agreement, are allowed under Wisconsin law. Most egregiously, the Wisconsin Safe Voting Report specifically provided that these Cities would be “promoting” and “encouraging higher percentages of our electors to vote absentee” which directly violates Wisconsin Statutes § 6.84 (1) in which the State Legislature states:

The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for fraud or abuse; to prevent ***overzealous solicitation of absent electors*** who may prefer not to participate in an election

69. The use of CTCL funds to also create “mobile” drop off locations to deliver an absentee ballot. Mobile drop boxes are not drop boxes at the offices of the City Clerk which are either secured to the municipal building or to the sidewalk. Rather, they are “mobile” meaning that these drop boxes are simply sitting at locations. Once again, Wisconsin law requires that the absentee elector must either mail the absentee ballot envelope or deliver the absentee ballot envelope to the

municipal clerk. Wisconsin Statutes § 6.87 (3)(b)(1). This Court has held under this statute's predecessor that delivery of the absentee ballot to the municipal clerk is mandatory and the ballot shall not be counted. *Olson v. Lindberg*, 85 N.W.2d 775, 779–80 (Wis. 1957). Nothing in Wisconsin Statutes allows municipal clerks to set up mobile drop boxes for the absentee voter to place the absentee ballot envelope in a drop box as opposed to delivering the absentee ballot envelope to the municipal clerk.

70. The Cities and CTCL knew in 2020 that Biden's voters would be voting primarily by absentee vote which is why the Cities and CTCL aggressively "promoted," "encouraged" and overzealously solicited" voters to vote absentee—including eliminating absentee ballot security requirements. *See, John McLaughlin Report attached as Exhibit 14.*

71. In response to a federal lawsuit filed in Wisconsin, clerks from the Cities of Milwaukee, Madison, Racine, Kenosha and Green Bay filed affidavits or declarations admitting the receipt of the CTCL funding. *See, Affidavit of Kris Teske attached as Exhibit 14A, Affidavit of Diana Ellenbecker attached as Exhibit 14B, Affidavit of Carol Stancato attached as Exhibit 14C, Affidavit of John Morrissey attached as Exhibit 14D, Affidavit of Maribeth Witzel Behl attached as Exhibit 14E, Affidavit of S. Claire Woodall-Voog attached as Exhibit 14F, Affidavit of Kathleen*

*Fisher attached as Exhibit 14G, Affidavit of Tara Coolidge attached as Exhibit 14H.*

72. Zuckerberg's non-profit paying millions of dollars to the Cities of Milwaukee, Madison, Racine, Kenosha and Green Bay to administer the November 3 Presidential Election contest violated state and federal law.

**B. Dane County election officials violate Wisconsin Law in allowing individuals to apply for indefinitely confined status based on COVID.**

73. As detailed in this Court's Order in *Jefferson v. Dane County*, No. 2020AP557-OA, Dane County clerk Scott McDonnell advised voters that they could apply for indefinitely confined absentee voter status based solely on fear of COVID prior to the April 7, 2020 presidential preference primary election. In addition, this Court noted in footnote 1 that the petitioners in *Jefferson* had noted that the clerk for Milwaukee County had issued similar advice. The Jefferson Petitioners moved for an injunction to enjoin the Dane County clerk from issuing such advice as contrary to Wisconsin State Law governing indefinitely confined persons. On March 31, 2020, this Court issued an injunction requiring the Dane County Clerk to cease issuing such advice to Dane County voters because fear of COVID does not qualify someone to be an indefinitely confined voter under Wisconsin law. However, the Court's injunction did not require the Dane County Clerk to determine which electors had applied for indefinitely confined status for the April 7, 2020 and

remove such electors from the list of indefinitely confined voters. *See, Supreme Court's March 31, 2020 Order in Jefferson v. Dane County attached as Exhibit 15.*

74. As a result, persons who had applied for indefinitely confined status during the April 7, 2020 election and whose application was approved and who voted in that election, would be automatically issued an absentee ballot for the November 3, 2020 Presidential election.

**C. WEC directs county and municipal clerks to not reject indefinitely confined absentee voters even if the clerk possesses reliable information that the allegedly indefinitely confined absentee voter is no longer indefinitely confined.**

75. Wisconsin Statutes §6.86 (2)(a) creates a category of absentee voter for voters who are “indefinitely confined” “because of age, physical illness, infirmity or is disable for an indefinite period” may vote absentee. However, unlike other absentee voters, a voter who is indefinitely confined is not required to provide a photo ID to verify the absentee voter’s identification.

76. Because Wisconsin Statutes do not require an indefinitely confined voter to provide a photo ID to prove identity under Wisconsin election laws, the use of indefinitely confined status creates a more significant possibility for an ineligible absentee voter voting in Wisconsin’s elections.

77. Wisconsin Statutes § 6.86 (2)(b) provides that the county clerks must

remove an “indefinitely confined” voter as a registered voter if the clerk learns “reliable information” showing that the alleged “indefinitely confined” voter is eligible to vote as an “indefinitely confined” voter.

78. WEC was created by the Wisconsin Legislature. The Wisconsin Legislature passed Wisconsin Statutes § 5.05 delineating the powers WEC has. Under § 5.05, WEC does not have the power to issue any “guidance” to clerks in administering Wisconsin’s except in response to a Court decision. Wisconsin Statutes § 505 (5)(t).

79. Despite this clear statutory requirement, the Administrator of the Wisconsin Election Commission, Meagan Wolfe, issued a written directive on May 13, 2020 to the clerks across the State of Wisconsin stating that the clerks cannot remove an allegedly “indefinitely confined” absentee voter from the absentee voter register based on reliable information that the an allegedly “indefinitely confined” absentee voter is no longer “indefinitely confined.” The directive specifically stated:

Can I deactivate an absentee request if I believe the voter is not indefinitely confined?

No. All changes to status must be made in writing and by the voter’s request. Not all medical illnesses or disabilities are visible or may only impact the voter intermittently.

*See, WEC’s May 13, 2020 Memorandum to Wisconsin’s clerks attached as Exhibit*

16 at p. 3.

80. WEC's administrator's directive directly contradicts Wisconsin law which specifically provides that clerks "shall" remove an indefinitely confined voter from the absentee voter list if the clerk obtains "reliable information" that the voter is no longer indefinitely confined.

81. As a result of the directive, clerks did not remove from the absentee voter list maintained by the County absentee voters who claimed "indefinitely confined" status but who in fact were no longer "indefinitely confined" if municipal clerks learned of "reliable information" demonstrating that the municipal clerks should have removed those individuals as qualified to vote absentee as "indefinitely confined." See, *Affidavits of Wisconsin Municipal Clerks, Affidavit of Carol Poehnlein attached as Exhibit 17A, Affidavit of Mary Ann Salmon attached as Exhibit 17B, Affidavit of DaleAnn Bohac attached as Exhibit 17C, Affidavit of Judy K. Potter attached as Exhibit 17D, Affidavit of Linda Sinkula attached as Exhibit 17E, Affidavit of Claudia J. Clark attached as Exhibit 17F, Affidavit of Kara Skarlupka attached as Exhibit 17G, Affidavit of Judith A. Suhs attached as Exhibit 17H and Affidavit of Holly Stevens attached as Exhibit 17I.*

82. This fact resulted in electors who were allegedly "indefinitely confined" absentee voters casting ballots as "indefinitely confined" absentee voters



who were not actually “indefinitely confined” absentee voters.

83. Because of the greater potential for persons to use “indefinitely confined” absentee voter status because of the lack of a requirement for a photo ID, the WEC administrator’s directive resulted in numerous persons casting ballots as “indefinitely confined” absentee voters who were not eligible to vote as “indefinitely confined” absentee voters.

**D. Milwaukee Election Commission instructs clerks reviewing absentee envelope certifications to fill in missing information on the return envelope.**

84. Again, WEC has no authority to issue “guidance” to Wisconsin clerks regarding the Wisconsin election particularly when such guidance in violation of Wisconsin election laws.

85. In 2015, the Wisconsin Legislature passed Act 261 amending Wisconsin’s election laws. In Section 78 of Act 261 the Wisconsin Legislature added Wisconsin Statutes §6.87 (6)(d) which states: “If a certificate is missing the address of a witness, the ballot may not be counted.”

86. The Wisconsin Legislature passed Section 78 to make sure election officials do what it says – not count ballots in which the witnesses address is missing.

87. WEC reacted to this legislation by writing a “memorandum” signed

by Michael Haas, Interim Elections Administrator and Diane Lowe, Lead Elections Specialist, directing how Wisconsin clerks are to “interpret” Section 78 of Act 261 as if there was anything to interpret. *See, WEC October 18, 2016 Memorandum attached as Exhibit 18.*

88. In the memorandum, the Haas and Lowe incredibly ask “What constitutes an address?” Even more incredibly, the memorandum then states that WEC had already issued a guidance defining “address” as anyone would normally interpret it: “street number, street name and name of municipality.” Despite this, the October 18, 2016 memorandum contradicts previous WEC guidance defining “address” by advising the clerks to use whatever resources they want to obtain a witness address and then write the address onto the certificate itself.

89. The guidance unequivocally violates Wisconsin law. As set forth above, all the clerk is to do upon receiving an absentee ballot envelope is to put the absentee ballot envelope into the carrier envelope immediately.

90. Claire Woodall-Voog is the administrator of the City of Milwaukee Elections Commission which, as set forth above, is charged with administering and conducting elections in the City of Milwaukee.

91. Prior to the November 3, 2020 presidential election, Claire Woodall-Voog had the City of Milwaukee Elections Commission post a YouTube video on

the City of Milwaukee Elections Commission's website. Ms. Woodall-Voog appeared in the video providing guidance to the clerks on handling absentee ballot envelopes and absentee ballots. The video can be found at the following internet link: <https://www.youtube.com/watch?v=hbm-pPaYIqk>.

92. In the video, Ms. Woodall-Voog provides that clerks under her authority had upon receipt of an absentee ballot envelope containing the elector and witness certifications set forth above, to not worry if the witness address is filled in red ink by her staff. The discussion of the red ink starts 10:45 of the video. Ms. Woodall-Voog states on the video, which video contains instructions to her clerks reviewing the absentee ballot envelope, the following regarding the witness address on the absentee ballot envelope witness certification:

Some of these items like witness address may be written in red and that is because we were able to locate the witnesses' address for the voter.

*See, vide at 10:43 to 11:07.*

93. Once again, nothing allowed Ms. Woodall-Voog's staff to fill in a missing witness address. Moreover, as set forth above, the Wisconsin Legislature passed a statute in 2015 specifically stating that the ballot contained in any absentee envelope missing a witness address "may not be counted." Wisconsin Statutes §6.87 (6d).

94. Nothing in Wisconsin Statutes allows a clerk to make efforts to determine the address of the elector or witness and write in the elector or witnesses' address in red ink on the absentee ballot envelope.

95. As set forth above, Wisconsin Statutes § 6.87 (b)(1), requires that the absentee voter "make and subscribe" in the presence of a witness. "Making" the certificate means absentee voter has completely filled out the certificate. In addition, as set forth above, the inspectors must review the certificate to determine if it is "insufficient." "Insufficient" means not complete. Thus, if the absentee voter did not completely fill out the certificate, the ballot must be rejected.

96. Furthermore, Wisconsin Statutes § 6.87 (9) specifically addresses what the clerk must do if the clerk receives "an improperly completed certificate or no certificate." Wisconsin Statutes § 6.87 (9) provides that the clerk "may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits the elector to correct the defect and return the ballot within the period authorized under sub. (6)."

97. Nothing in Wisconsin statutes allows the clerks to complete the certification on behalf of the absentee voter or witness.

98. Furthermore, Wisconsin Statutes § 6.87 provides that the witness must write the witnesses address on the certification. Upon receipt of an envelope

containing an absentee ballot in which the witness failed to properly write his or her address on the certification, , Ms. Woodall-Voog also instructed her staff to use any means to ascertain the witnesses address and write in the address so ascertained in red ink on the certification.

99. Ms. Woodall-Voog's instructions to her staff regarding ascertaining the missing address of the witness and writing the address on the certificate is in direct violation of Wisconsin law. Wisconsin Statutes § 6.87 (6d) provides that "[i]f a certificate is missing the address of a witness, the ballot may not be counted." Nothing in Wisconsin law allowed the City of Milwaukee clerk's office to complete the witness certification which Wisconsin statutes require the witness to complete. In fact, the clerk's doing so defeats the whole purpose of protecting against election fraud.

100. Ms. Woodall-Voog's instructions to the City of Milwaukee's clerks are in direct violation of Wisconsin Statutes §§ 6.87 and 6.88. Nothing in the comprehensive statutory scheme the Wisconsin State Legislature has developed for absentee voting authorizes employees of the City of Milwaukee to complete an absentee voter's certificate or the witness certificate.

101. On November 3, 2020, at the central balloting casting location in the City of Milwaukee, numerous inspectors and witnesses saw City of Milwaukee

employees using red ink pens to complete sections of the absentee voter certificate on the back of the absentee envelope and then cast and count the absentee ballot in violation of Wisconsin law.

**E. WEC issues directive instructing clerks reviewing absentee envelope certifications to fill in missing information on the return envelope.**

102. Similarly to the City of Milwaukee's instructions to its clerks, WEC issued an October 19, 2020 guidance to the clerks throughout Wisconsin instructing those clerks to fill in missing witness or voter certification information. In pertinent part, the memorandum states:

On Election Day, if a voter needs to correct information on the absentee certificate envelope, they and/or their original witness, depending on what the error is, must appear at the polling place or central count. This would be due to missing voter information, missing voter signature, or missing witness signature. The witness can appear without the voter to add their signature or address. Please note that the clerk should attempt to resolve any missing witness address information prior to Election Day if possible, and this can be done through reliable information (personal knowledge, voter registration information, through a phone call with the voter or witness). The witness does not need to appear to add a missing address.

*See Wisconsin Election Commission October 19, 2020 Guidance attached as Exhibit 19.*

103. Nothing under Wisconsin law allowed the WEC to issue this guidance in complete contradiction to Wisconsin law.

104. Due to the clerks' illegal curing of legally rejected absentee ballots,

the City of Milwaukee for the November 3 election caused a lower than legally-required absentee ballot rejection rate.

**F. Wisconsin's election officials did not enforce residency requirements on voters who changed addresses before the November 3 election.**

105. Wisconsin law requires that its election officials enforce residency requirements on voters.

106. Wisconsin election officials had change of address information to verify that an actual person was voting in their residence.

107. Wisconsin election officials violated Wisconsin law in not applying this change of address information to enforce residency requirements on voters who changed address before the November 3 election.

**G. Wisconsin's election officials did not enforce laws against double voting.**

108. Wisconsin law requires that its election officials enforce the prohibition on one person voting more than once.

109. Wisconsin election officials have access to information to prevent double voting.

110. Wisconsin election officials violated Wisconsin law in not applying this information to enforce Wisconsin's prohibition on double voting before the November 3 election.





**H. The 2020 election in Wisconsin was not transparent due to the CTCL Cities agreeing to conduct their elections pursuant to an agreement with CTCL rather than Wisconsin law.**

111. Election officials which were not receiving early CTCL funding generally followed Wisconsin statutes regarding the indefinitely confined status and regarding the statutory prohibition on curing ballots. *See, Exhibits 17A – 17I above.*

112. Disparate impact on non-urban electors occurred because of CTCL funding only going to Wisconsin's largest cities. Wisconsin's election officials used COVID-19 to restrict in-person voting in rural/small town areas while promoting in-person/absentee voting in urban areas.

113. Urban election officials because of CTCL funds were able to fund early voting location and absentee ballot drop boxes to reduce the distance urban voters had to go to vote while rural and small town voters in a discriminatory way had to travel further to vote.

114. The CTCL Cities consolidated their absentee ballot counting locations into a single facility to allow comingling of ballots across precincts.

**IV. The government data report and estimates support that the election result is void.**

115. Petitioners have submitted the government data report of their expert Matthew Braynard.

116. The results show that the election result is void because of illegal votes counted, legal votes not counted, counting errors and election official illegalities.

117. The estimate of ballots requested in the name of a registered Republican by someone other than that person is 14,426.

118. The estimate of Republican ballots that the requester returned but were not counted is 12,071.

119. The total of these two categories is 26,497—enough to change the election result.

120. Further, the estimate of persons who voted where they did not reside is 26,673.

121. The estimate of electors who avoided Wisconsin Voter ID laws by voting absentee as an “indefinitely confined” elector and were not indefinitely confined is 96,437.

122. The estimate of out of state residents voting in Wisconsin is 6,966.

123. The estimate of people double voting in Wisconsin is 234.

124. The total, including all categories, is 156,807—enough to change the election result.

125. The government data related to the election officials' violations of Wisconsin law support that the election result is inconclusive.

126. In addition, the CTCL Cities, by accepting over \$6,000,000 from Mark Zuckerberg's non-profit entity to "assist" in the collection of these absentee ballots, demonstrates that the statewide Presidential election in Wisconsin should not be certified.

#### **Statement of the relief sought**

The petitioners seek the following relief in this petition:

1. Issue a declaratory judgment that Wisconsin election officials' materials violations of Wisconsin law and the Elections Clause rendered the results of a close Presidential election in Wisconsin null;
2. Issue an injunction enjoining the Wisconsin Elections Commission or any election body in Wisconsin from certifying the election so that the state legislature can lawfully appoint the electors;
3. Issue an injunction requiring the Governor to certify the electors under 3 U.S.C. 6 appointed by the state legislature; and

4. Any other relief the Court deems appropriate.

#### **Statement of the reasons why this Court should take jurisdiction**

127. This Court has held that “[w]e exercise original jurisdiction when ‘the matter is one that should trigger the institutional responsibilities of the Supreme Court.’” Wis. S. Ct. IOP III (September 12, 2019). *See Petition of Heil*, 230 Wis. 428, 436, 284 N.W. 42, 45 (1939) (“[T]he purpose of the constitution was, ‘To make this court indeed a supreme judicial tribunal over the whole state; a court of last resort on all judicial questions under the constitution and laws of the state; a court of first resort on all judicial questions affecting the sovereignty of the state, its franchises or prerogatives, or the liberties of its people.’ ” (quoted source omitted)). *Wisconsin Legislature v. Palm*, 942 N.W.2d 900, 907 (Wis. 2020).


128. The matters raised in this petition are of the utmost importance relating to Wisconsin election officials violating Wisconsin law in a material way nullifying a close Presidential election. Such a matter “triggers” the “institutional responsibilities” of this Court.

#### **Conclusion**

129. This Court should grant the Emergency Petition for Original Action and grant the relief sought because the Wisconsin election officials violated

Wisconsin's elections laws in a material way which nullified a close Presidential election in Wisconsin.

Dated: November 23, 2020



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