

FILED
03-24-2023
CIRCUIT COURT
DANE COUNTY, WI
2022CV001178
Honorable Frank D.
Remington
Branch 8

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 8

DANE COUNTY

KHARY PENEBAKER, individually and as a
relator on behalf of the State of Wisconsin,

[REDACTED]
[REDACTED];

Case No. 22CV001178

MARY ARNOLD, individually and as a relator
on behalf of the State of Wisconsin,

[REDACTED]
[REDACTED];

Case Code: 30106; 30701; 30956

and

BONNIE JOSEPH, individually and as a relator
on behalf of the State of Wisconsin,

[REDACTED]
[REDACTED],

Plaintiffs,

v.

ANDREW HITT

[REDACTED]
[REDACTED];

ROBERT F. SPINDELL, JR.

[REDACTED]
[REDACTED];

BILL FEEHAN

[REDACTED]
[REDACTED];

KELLY RUH

[REDACTED]
[REDACTED];

CAROL BRUNNER

[REDACTED]
[REDACTED];

EDWARD SCOTT GRABINS

[REDACTED]
[REDACTED];

KATHY KIERNAN

[REDACTED]
[REDACTED];

DARRYL CARLSON

[REDACTED]
[REDACTED];

PAM TRAVIS

[REDACTED]
[REDACTED];

MARY BUESTRIN

[REDACTED]
[REDACTED];

JAMES R. TROUPIS

[REDACTED]
[REDACTED];

KENNETH CHESEBRO

[REDACTED]
[REDACTED]
[REDACTED];

and

ABC Defendants,

Defendants.

FIRST AMENDED SUMMONS

THE STATE OF WISCONSIN

To each person named above as a Defendant:

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

Within 45 days of receiving this Amended Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Amended 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 Circuit Court, 215 S. Hamilton Street, Madison, WI 53703; to Law Forward, Inc., 222 West Washington Avenue, Suite 250, Madison, Wisconsin, 53703; to Stafford Rosenbaum LLP, 222 West Washington Avenue, Suite 900, Madison, Wisconsin 53701; and to ICAP, Georgetown University Law Center, 600 New Jersey Ave NW, Washington, DC 20001. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the Court may grant Judgment against you for the award of money or other legal action requested in the Amended Complaint, and you may lose your right to object to anything that is or may be incorrect in the Amended 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: March 24, 2023

Electronically signed by Scott B. Thompson
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Elizabeth M. Pierson (State Bar No. 1115866)
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STATE OF WISCONSIN

CIRCUIT COURT
BRANCH 8

DANE COUNTY

KHARY PENEBAKER, individually and as a
relator on behalf of the State of Wisconsin,

[REDACTED]
[REDACTED];

Case No. 22CV1178

MARY ARNOLD, individually and as a relator
on behalf of the State of Wisconsin,

[REDACTED]
[REDACTED];

Case Code: Civil - 30106 Intentional Tort;
30701 - Declaratory Judgment;
30956 - Pet. for Writ of Quo Warranto

and

BONNIE JOSEPH, individually and as a relator
on behalf of the State of Wisconsin,

[REDACTED]
[REDACTED];

Plaintiffs,

v.

ANDREW HITT

[REDACTED]
[REDACTED];

ROBERT F. SPINDELL, JR.

[REDACTED]
[REDACTED];

BILL FEEHAN

[REDACTED]
[REDACTED];

KELLY RUH

[REDACTED]
[REDACTED];

CAROL BRUNNER

[REDACTED]
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[REDACTED]
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[REDACTED]
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[REDACTED];

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[REDACTED]
[REDACTED];

MARY BUESTRIN

[REDACTED]
[REDACTED];

JAMES R. TROUPIS

[REDACTED]
[REDACTED];

KENNETH CHESEBRO

[REDACTED]
[REDACTED]
[REDACTED];

and

ABC Defendants,

Defendants.

**FIRST AMENDED COMPLAINT FOR DAMAGES AND DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiffs Khary Penebaker, Mary Arnold, and Bonnie Joseph bring this Complaint for Damages and Declaratory and Injunctive Relief against Defendants Andrew Hitt, Robert F. Spindell, Jr., Bill Feehan, Kelly Ruh, Carol Brunner, Edward Scott Grabins, Kathy Kiernan,

Darryl Carlson, Pam Travis, Mary Buestrin, James R. Troupis, and Kenneth Chesebro, and allege as follows:

INTRODUCTION

Two years ago, a violent mob broke into the United States Capitol. Amid chants of “hang Mike Pence,” the intruders swept through the building, many of them aiming to stop the Vice President—who was presiding over Congress’s counting of electoral votes—from accepting votes cast in favor of President-Elect Joseph R. Biden, Jr., and Vice President-Elect Kamala D. Harris.¹ These rioters were not acting spontaneously. To the contrary, President Donald J. Trump had repeatedly encouraged his supporters to assemble in Washington, D.C., on January 6, 2021, where he had advertised that there would be a “BIG Protest Rally” to “StopTheSteal!”² Once there, at a gathering near the White House, Trump urged his supporters to “walk down to the Capitol” and “demand that Congress do the right thing and only count the electors who have been lawfully slated.”³

Trump’s reference to “the electors who have been lawfully slated” is at the heart of this case. In the months following his loss on November 3, 2020, Trump and his allies developed a plan to overturn the election results by assembling slates of fraudulent presidential electors in

¹ See Ashley Parker, Carol D. Leonnig, Paul Kane & Emma Brown, *How the Rioters Who Stormed the Capitol Came Dangerously Close to Pence*, Wash. Post (Jan. 15, 2021), available at https://www.washingtonpost.com/politics/pence-rioters-capitol-attack/2021/01/15/ab62e434-567c-11eb-a08b-f1381ef3d207_story.html.

² See Dan Barry & Sheera Frenkel, *‘Be There. Will Be Wild!’: Trump All but Circled the Date*, N.Y. Times (Jan. 6, 2021), available at <https://www.nytimes.com/2021/01/06/us/politics/capitol-mob-trump-supporters.html>.

³ *Transcript of Trump’s Speech at Rally Before US Capitol Riot*, AP News (Jan. 13, 2021), available at <https://apnews.com/article/election-2020-joe-biden-donald-trump-capitol-siege-media-e79eb5164613d6718e9f4502eb471f27>.

select swing States where he had lost. The Defendants in this case are the fraudulent electors from the State of Wisconsin, along with two individuals who conspired with, aided, and abetted them. Like their counterparts in six other swing States, the Wisconsin fraudulent electors gathered on December 14, 2020—the day statutorily designated for the meeting of the Electoral College—and purported to cast their State’s electoral votes for Trump and Pence.⁴ They did so even though they knew that Biden and Harris had won the election in Wisconsin; even though those results had been recounted and certified; and even though Trump and Pence had exhausted all available legal mechanisms for challenging the outcome. The Wisconsin fraudulent electors and their counterparts in the other swing States purported to cast electoral votes for Trump and Pence because they hoped to lay the foundation for Pence and Congress to count their ballots on January 6, 2021, and to reject those cast by the real electors who had won the popular vote.⁵ The actions of the fraudulent electors were thus a necessary predicate for the subsequent efforts by Trump and his supporters to intervene at the Capitol.

Defendants not only helped lay the groundwork for the events of January 6, 2021, but also inflicted lasting damage on Wisconsin’s civic fabric. The public’s faith in the integrity of our elections is critical to the continued functioning of our democracy. If citizens believe that their votes can be overridden by the scheming of partisan actors, they will have little incentive to participate in the political process. And if voters are falsely told that an election was stolen from them, they will doubt the legitimacy of their government’s authority and its actions. Although

⁴ See Alan Feuer, Maggie Haberman & Luke Broadwater, *Memos Show Roots of Trump’s Focus on Jan. 6 and Alternate Electors*, N.Y. Times (Feb. 2, 2022), available at <https://www.nytimes.com/2022/02/02/us/politics/trump-jan-6-memos.html>.

⁵ See *id.*

Defendants were unsuccessful in having their fake ballots counted, they caused significant harm simply by trying, and there is every reason to believe that they will try again if given the opportunity.⁶

Defendants' actions also violated a host of state and federal laws.⁷ Thus far, however, none of the fraudulent electors has been held accountable.⁸ This lawsuit seeks to change that.

Plaintiffs are individual Wisconsin taxpayers and voters, and include lawfully elected presidential electors for the State in the 2020 presidential election. They ask for a declaration from this Court that Defendants acted unlawfully when they falsely assumed—and conspired with, aided, and abetted each other in falsely assuming—the office of presidential elector for the State of Wisconsin, as well as an injunction both correcting the historical record and preventing

⁶ See Sam Levine, *Widely Criticized Wisconsin Report Repeats Falsehoods in Argument to 'Decertify' 2020 Election*, Guardian (Mar. 1, 2022), available at <https://www.theguardian.com/us-news/2022/mar/01/widely-criticized-wisconsin-report-repeats-falsehoods-argument-de-certify-2020-election>.

⁷ The Wisconsin fraudulent electors are similar in this respect to fraudulent electors in other States. For example, the Attorney General of Michigan is criminally investigating the fraudulent electors in that State, and she has publicly opined that there is “clear evidence to support charges against” them. See Zachary Cohen, *Michigan Attorney General Re-Opens Criminal Probe into Fake Electors for Trump*, CNN (Jan. 6, 2023), available at <https://www.cnn.com/2023/01/06/politics/michigan-fake-electors-attorney-general-dana-nessel-investigation/index.html>. Georgia prosecutors have likewise indicated that the fake electors in that State are the targets of an ongoing criminal investigation. See Zachary Cohen, Sara Murray & Jason Morris, *Georgia Prosecutors Say All 16 Fake Trump Electors Are Targets in Criminal Probe*, CNN (July 19, 2022), available at <https://www.cnn.com/2022/07/19/politics/georgia-grand-jury-trump-electors/index.html>.

⁸ On March 9, 2022, the Wisconsin Elections Commission dismissed an administrative complaint, filed by undersigned counsel, alleging that the Wisconsin fraudulent electors violated Wis. Stat. §§ 5.10 and 7.75. The complainant has requested judicial review of the actions of Defendant Spindell—who in addition to being a fraudulent elector is also a member of the Wisconsin Elections Commission—in participating in that decision, notwithstanding the complainant's motion for recusal. See *Sickel v. WEC, et al.*, No. 22CV884 (Dane Cnty. Cir. Ct.). That request is currently pending.

Defendants from engaging in similar violations in the future. Plaintiffs also request damages in recognition of the reputational harm that Defendants inflicted on Wisconsin's lawfully elected presidential electors—whose offices Defendants usurped, and whose legitimacy Defendants impugned—and Defendants' unlawful use of public resources on December 14, 2020. As alleged below, Plaintiffs are entitled to relief under several statutory and common-law theories, as well as under the Wisconsin Constitution.

PARTIES

1. Plaintiff Khary Penebaker is a taxpayer and duly qualified voter of Wisconsin, residing at [REDACTED]. Mr. Penebaker served as a lawfully elected presidential elector for the State of Wisconsin in the 2020 presidential election. He also voted in Wisconsin's 2020 general election and objects to Defendants' unlawful interference in Wisconsin's participation in the Electoral College, as described below.

2. Plaintiff Mary Arnold is a taxpayer and duly qualified voter of Wisconsin, residing at [REDACTED]. Ms. Arnold served as a lawfully elected presidential elector for the State of Wisconsin in the 2020 presidential election. She also voted in Wisconsin's 2020 general election and objects to Defendants' unlawful interference in Wisconsin's participation in the Electoral College, as described below.

3. Plaintiff Bonnie Joseph is a taxpayer and duly qualified voter of Wisconsin, residing at [REDACTED]. Ms. Joseph voted in Wisconsin's 2020 general election and objects to Defendants' unlawful interference in Wisconsin's participation in the Electoral College, as described below.

4. Defendant Andrew Hitt is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, he was

nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector. At all times relevant to the events at issue here, Defendant Hitt was Chairman of the Republican Party of Wisconsin. He no longer holds that position.

5. Defendant Robert F. Spindell, Jr., is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, he was nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector. Defendant Spindell is an appointed Wisconsin Elections Commissioner, but he is sued here in his personal capacity.

6. Defendant Bill Feehan is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, he was nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector.

7. Defendant Kelly Ruh is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, she was nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector. At all times relevant to the events at issue here, Defendant Ruh was a member of the City of De Pere Common Council, but on April 5, 2022, she lost her reelection bid. She is sued here in her personal capacity.

8. Defendant Carol Brunner is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, she was nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector.

9. Defendant Edward Scott Grabins is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, he was

nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector.

10. Defendant Kathy Kiernan is an adult resident of Wisconsin whose last known address is [REDACTED]. She was designated by her co-defendants to fill a purported but fictitious vacancy in Wisconsin's slate of electors following the 2020 presidential election.

11. Defendant Darryl Carlson is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, he was nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector.

12. Defendant Pam Travis is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, she was nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector.

13. Defendant Mary Buestrin is an adult resident of Wisconsin whose last known address is [REDACTED]. On October 6, 2020, she was nominated by the Republican Party of Wisconsin as a candidate for the office of presidential elector.

14. Defendant James R. Troupis is an adult resident of Wisconsin whose last known address is [REDACTED]. At all times relevant to the events at issue, he was one of the lead lawyers for the Trump campaign in Wisconsin.

15. Defendant Kenneth Chesebro is an adult resident of New York whose last known address is [REDACTED]. At all times relevant to the events at issue, he was a legal advisor to the Trump campaign.

16. ABC Defendants are presently unknown defendants, named fictitiously pursuant to Wis. Stat. § 807.12, who will be named in this dispute when their identity is discovered.

JURISDICTION AND VENUE

17. This Court has jurisdiction over the subject matter of this dispute pursuant to Article VII, Section 8 of the Wisconsin Constitution and Wis. Stat. § 753.03, which provide for subject matter jurisdiction over all civil matters within this State.

18. Jurisdiction over Defendants Hitt, Spindell, Feehan, Ruh, Brunner, Grabins, Kiernan, Carlson, Travis, Buestrin, and Troupis is conferred by Wis. Stat. § 801.05(1)(b).

19. Jurisdiction over Defendant Chesebro is conferred by several provisions of the Wisconsin Statutes, including, but not limited to, Wis. Stat. § 801.05(1)(d), (3), and (4).

20. Venue is proper in Dane County because it is the county where Defendants Hitt, Spindell, Feehan, Ruh, Brunner, Grabins, Kiernan, Carlson, Travis, and Buestrin—pursuant to a conspiracy in which Defendants Troupis and Chesebro participated—unlawfully met and engaged in the actions at the heart of this Complaint. Wis. Stat. § 801.50(2)(a).

BACKGROUND

Legal Framework

21. Every four years, the American people decide who will serve as President and Vice President of the United States.

22. This political tradition has continued unbroken for over two centuries, making the United States one of the longest-surviving democracies in the world.

23. The rules governing presidential elections are delineated in the U.S. Constitution, as well as in various federal and state laws.

24. Under the Constitution, the President and Vice President are chosen by

presidential electors, who are appointed by each State. *See* U.S. Const. Art. II, § 1, cl. 2.

25. Each State is allocated “a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress.” *Id.*

26. For the 2020 presidential election, Wisconsin was allocated ten electoral votes.⁹

27. Although some state legislatures chose their presidential electors directly in the first decades of the Nation’s history, all States have long provided that their presidential electors will be chosen by popular vote.

28. Since statehood, Wisconsin has always assigned its electoral votes to the winner of the statewide presidential election.¹⁰

29. The Wisconsin Statutes explicitly state that, when voters participate in a presidential election, they are voting for the slate of electors that will cast Wisconsin’s Electoral College votes:

Although the names of the electors do not appear on the ballot and no reference is made to them, a vote for the president and vice president named on the ballot is a vote for the electors of the candidates for whom an elector’s vote is cast. Under chs. 5 to 12 [the provisions of which regulate elections], all references to the presidential election, the casting of votes and the canvassing of votes for president, or for president and vice president, mean votes for them through their pledged presidential electors.

Wis. Stat. § 5.10.

30. Accordingly, in Wisconsin, as in every State, voters choose presidential electors,

⁹ *See Distribution of Electoral Votes*, Nat’l Archives, available at <https://www.archives.gov/electoral-college/allocation> (last visited Mar. 24, 2023).

¹⁰ *See* Michael Keane, Wisconsin Legislative Reference Bureau, Wisconsin’s Role in Electing the President, July 2016 app. at 9–26, available at <http://lrbdigital.legis.wisconsin.gov/digital/collection/p16831coll2/id/1836/rec/5>; *2016 Electoral College Results*, Nat’l Archives, available at <https://www.archives.gov/electoral-college/2016> (last visited Mar. 24, 2023); *2020 Electoral College Results*, Nat’l Archives, available at <https://www.archives.gov/electoral-college/2020> (last visited Mar. 24, 2023).

and presidential electors choose the President and Vice President.

31. Before voters can choose their presidential electors, there is a process for determining who will be on the slates of electors associated with different candidates.

32. Under Wisconsin law, candidates for the office of presidential elector may be nominated by members of qualifying political parties at a meeting that takes place at the Wisconsin State Capitol “on the first Tuesday in October of each year in which there is a presidential election.” Wis. Stat. § 8.18(1).

33. For the 2020 presidential election, the nomination by qualifying political parties of Wisconsin’s candidates for the office of presidential elector took place on October 6, 2020.

34. Voters in each State choose their presidential electors on Election Day, which Congress has designated as “the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President.” 3 U.S.C. § 1;¹¹ *see* U.S. Const. Art. II, § 1, cl. 4 (empowering Congress to “determine the Time of chusing the Electors”).

35. For the 2020 presidential election, Election Day took place on November 3, 2020.

36. Wisconsin law prescribes a multi-step process for determining which slate of electors has been selected in a presidential election.

37. The votes cast by voters residing in each ward are counted and tallied at the ward. Wis. Stat. § 7.51.¹²

¹¹ All references to Title 3 of the United States Code are to the version in effect at the time of the 2020 presidential election. Title 3 has since been amended by the Electoral Count Reform Act of 2022 (ECRA). *See* Pub. L. No. 117-328, 136 Stat. 4459, 5233–41.

¹² A small number of municipalities count all absentee ballots at a central count facility. *See* Wis. Stat. § 7.51(1).

38. The tallies are reported to the municipal clerk, who convenes the municipal board of canvass to canvass the results. Wis. Stat. § 7.53.

39. The Clerk of each county then convenes the county board of canvass to canvass the election results from all municipalities within the county. Wis. Stat. § 7.60(2)–(3).

40. The County Clerk then transmits to the Wisconsin Elections Commission a certified statement containing those results. Wis. Stat. § 7.60(5)(a).

41. The Chairperson of the Wisconsin Elections Commission is then required to prepare a statement certifying the election results and a certificate of determination indicating the names of the persons elected. Wis. Stat. § 7.70(3)(g).

42. Following the state canvass, the Wisconsin Elections Commission staff “prepare a certificate showing the determination of the results of the canvass and the names of the persons elected” as presidential electors. Wis. Stat. § 7.70(5)(b).

43. The Governor is then required to “sign, affix the great seal of the state, and transmit the certificate by registered mail to the U.S. administrator of general services.” *Id.*

44. Federal law refers to this document as a certificate of ascertainment and requires that it be submitted to the Archivist of the United States. *See* 3 U.S.C. § 6.

45. Federal law empowers each State to resolve any contests that may arise regarding which slate of presidential electors has been chosen by the State’s voters. *See* 3 U.S.C. § 5.

46. Wisconsin law prescribes a detailed set of procedures for resolving any contests that may arise regarding which slate of candidate electors was chosen by the State’s voters. Specifically, Wisconsin law provides that the losing candidate in a presidential election may petition for a recount if that candidate trails the leading candidate by one percent of the vote or less. *See* Wis. Stat. § 9.01(1)(a)1.–5. Any candidate aggrieved by the recount can then appeal to

circuit court, and any party aggrieved by an order of the circuit court can in turn appeal. *See* Wis. Stat. § 9.01(6)–(9). This set of procedures “constitutes the exclusive judicial remedy for testing the right to hold an elective office as the result of an alleged irregularity, defect or mistake committed during the voting or canvassing process.” Wis. Stat. § 9.01(11).

47. After each State’s presidential electors have been chosen, the Constitution provides that those electors will meet in their respective States and cast their votes for President and Vice President. *See* U.S. Const. amend. XII.

48. Federal law contemplates that “[e]ach State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote.” 3 U.S.C. § 4.

49. Congress has specified that the meeting of the electors must take place in every State “on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct.” 3 U.S.C. § 7.¹³

50. For the 2020 presidential election, the meeting of the electors took place on December 14, 2020.

51. Consistent with federal law, Wis. Stat. § 7.75 sets forth the requirements for Wisconsin’s lawfully elected presidential electors to participate in the meeting of the electors:

- (1) The electors for president and vice president shall meet at the state capitol following the presidential election at 12:00 noon the first Monday after the 2nd Wednesday in December. If there is a vacancy in the office of an elector due to death, refusal to act, failure to attend or other cause, the electors present shall immediately proceed to fill by ballot, by a plurality of votes, the electoral college vacancy. When all electors are present, or the vacancies filled, they shall perform their

¹³ The ECRA moved the meeting of the electors from the first Monday to the first Tuesday after the second Wednesday in December. *See* 136 Stat. at 5236.

required duties under the constitution and laws of the United States.

- (2) The presidential electors, when convened, shall vote by ballot for that person for president and that person for vice president who are, respectively, the candidates of the political party which nominated them under s. 8.18

52. The U.S. Constitution provides that, during the meeting of the presidential electors, the electors for each State shall make lists of their votes, “which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate.” U.S. Const. amend. XII.

53. Federal law provides that the presidential electors, in addition to transmitting certificates of their votes to the President of the Senate, shall also transmit certificates to the secretaries of state for their respective States, the Archivist of the United States, and “the judge of the district in which the electors shall have assembled.” 3 U.S.C. § 11.

54. The U.S. Constitution specifies the procedures for counting the electoral votes. The President of the Senate “shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted,” and “[t]he person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed.” U.S. Const. amend. XII.

55. Congress has provided that the counting of the votes of the presidential electors must take place “on the sixth day of January succeeding every meeting of the electors.” 3 U.S.C. § 15.

56. At the time of the counting of the votes of the presidential electors in the 2020 presidential election, Vice President Pence was the President of the Senate, *see* U.S. Const. art. I, § 3, cl. 4, and therefore was responsible for opening the certificates of the votes of the presidential electors so that those votes could be counted on January 6, 2021.

Factual Allegations

The 2020 Presidential Election

57. The 2020 presidential election took place on November 3, 2020.

58. Prior to the election, the Democratic Party nominated Joseph R. Biden, Jr., as its candidate for President and Kamala D. Harris as its candidate for Vice President. The Republican Party nominated Donald J. Trump as its candidate for President and Michael R. Pence as its candidate for Vice President.

59. Also prior to the election, each party's candidates for the office of presidential elector were chosen in each State.

60. In Wisconsin, each political party that qualified for ballot access met at the State Capitol on October 6, 2020, as contemplated by Wis. Stat. § 8.18, and nominated the individuals who would serve as presidential electors in the event that the party's candidates won the statewide popular vote for the offices of President and Vice President. *See Exs. A–C.*

61. The Democratic Party of Wisconsin nominated the following individuals as its candidates for the office of presidential elector: Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachtner, Shannon Holsey, Tony Evers, and Benjamin Wikler. *See Ex. B.*

62. Penebaker and Arnold are Plaintiffs in this case.

63. The Republican Party of Wisconsin nominated the following individuals as its candidates for the office of presidential elector: Andrew Hitt, Robert F. Spindell, Jr., Bill Feehan, Kelly Ruh, Tom Schreiber, Carol Brunner, Edward Scott Grabins, Darryl Carlson, Pam Travis, and Mary Buestrin. *See Ex. C.*

64. Hitt, Spindell, Feehan, Ruh, Brunner, Grabins, Carlson, Travis, and Buestrin are Defendants in this case.

65. On November 3, 2020, nearly 3.3 million Wisconsin voters cast their ballots—more than in any presidential election in the State’s history.¹⁴

66. Based on a preliminary canvass by each county in the State, the Wisconsin Elections Commission reported that Biden and Harris had received 1,630,673 votes, whereas Trump and Pence had received 1,610,065 votes.¹⁵

67. On November 18, 2020, pursuant to Wis. Stat. § 9.01(1), Trump and Pence petitioned the Wisconsin Elections Commission for a partial recount. The petition sought a recount of the election results only in Dane and Milwaukee Counties.¹⁶

68. The partial recount concluded on November 30, 2020. Based on the recount, the updated statewide vote totals showed that Biden and Harris had received 1,630,866 votes, whereas Trump and Pence had received 1,610,184 votes.¹⁷

69. Also on November 30, 2020, after public notice and broadcast live on Wisconsin

¹⁴ See Wis. Elections Comm’n, November 3, 2020 Election Data Report 3–4 (2021), available at <https://www.wispolitics.com/wp-content/uploads/2021/01/D.-November-2020-Election-Data-Report-Updated.pdf>.

¹⁵ See *County by County Report President of the United States (Under Recount)*, Wis. Elections Comm’n, available at <https://elections.wi.gov/sites/default/files/legacy/County%2520by%2520County%2520Report%2520President%2520of%2520the%2520United%2520States%2520%2528under%2520recount%2529.pdf> (last visited Mar. 24, 2023).

¹⁶ See *Trump Campaign Recount Petition*, Wis. Elections Comm’n, available at <https://elections.wi.gov/sites/default/files/legacy/2020-11/Trump%2520Campaign%2520Recount%2520Petition.pdf> (last visited Mar. 24, 2023).

¹⁷ See *County by County Report - President of the United States Post Recount*, Wis. Elections Comm’n, available at <https://elections.wi.gov/sites/default/files/legacy/County%2520by%2520County%2520Report%2520-2520-%2520President%2520of%2520the%2520United%2520States%2520post%2520recount.pdf> (last visited Mar. 24, 2023).

Eye, Ann S. Jacobs, the Chair of the Wisconsin Elections Commission, determined and certified, pursuant to Wis. Stat. § 7.70(3), that the Democratic candidates for the office of presidential elector had received the greatest number of votes cast in the general election, and that they were the duly elected presidential electors for the State of Wisconsin. *See* Ex. D.

70. Also on November 30, 2020, Wisconsin Governor Tony Evers executed a certificate of ascertainment, pursuant to Wis. Stat. § 7.70(5)(b), recognizing that the Democratic candidates for the office of presidential elector had received the greatest number of votes cast in the general election and were therefore the duly elected presidential electors for the State of Wisconsin. *See* Ex. E.

71. Trump and Pence subsequently sought judicial review of the results of the partial recount in the circuit courts for Dane and Milwaukee Counties, pursuant to Wis. Stat. § 9.01(6)(a).

72. The Chief Justice of the Wisconsin Supreme Court consolidated the two actions and designated a single judge to preside over the consolidated case. *See* Wis. Stat. § 9.01(6)(b).

73. On Friday, December 11, 2020, the circuit court affirmed the results of the partial recount. *See Trump v. Biden*, Nos. 2020CV2514 & 2020CV7092 (Milwaukee Cnty. Cir. Ct. 2020).

74. Trump and Pence immediately appealed to the Wisconsin Court of Appeals and filed an emergency petition for bypass to the Wisconsin Supreme Court, which granted the petition; ordered expedited, simultaneous briefing that evening; held oral argument on Saturday, December 12, 2020; and affirmed the judgment of the circuit court on the morning of Monday, December 14, 2020. *See Trump v. Biden*, 2020 WI 91, 394 Wis. 2d 629, 951 N.W.2d 568.

75. At noon on December 14, 2020, the ten duly elected presidential electors for the

State of Wisconsin, including Plaintiffs Pennebaker and Arnold, convened at the State Capitol building, as prescribed by Wis. Stat. § 7.75 and 3 U.S.C. § 7, and publicly noticed in advance.

76. In an open meeting broadcast live by Wisconsin Eye, Wisconsin's presidential electors called the roll to ensure all were present, elected a chairperson and a secretary, cast and counted the necessary ballots, and signed the necessary papers.

77. After the meeting, they sent valid, official documents reflecting the lawful disposition of Wisconsin's ten electoral votes to the President of the United States Senate, the Wisconsin Secretary of State, the Archivist of the United States, and the Chief Judge of the United States District Court for the Western District of Wisconsin, as prescribed by 3 U.S.C. § 7. These documents included official copies of the certificate of the presidential electors' votes for Biden and Harris.¹⁸

78. By these actions, the duly elected presidential electors followed the requirements of state and federal law, carried out the will of Wisconsin's electorate, and advanced American democracy.

The Scheme to Overturn the Election

79. While Plaintiffs Pennebaker and Arnold and the other duly elected presidential electors were preparing for their meeting on December 14, 2020, Trump and his allies were developing a scheme to overturn the results of the presidential election.¹⁹

80. Pursuant to this scheme, Trump's team sought to ensure that, in select swing States, losing Republican candidates for the office of presidential elector would falsely assume

¹⁸ A copy of the certificate of votes is attached as Exhibit F.

¹⁹ See Feuer, Haberman & Broadwater, *supra* n.4.

that office and purport to cast their States' electoral votes for Trump and Pence on December 14, 2020.²⁰

81. Once these fraudulent votes were cast, Trump and his allies would pressure Pence to count them on January 6, 2021, and to reject the votes of the duly elected presidential electors from each State.²¹

82. The schemers believed that, if Pence were to count the fraudulent electoral votes from each swing State, rather than the votes cast by the States' duly elected presidential electors, Trump would win the Electoral College and be inaugurated.²²

83. Trump's allies began discussing this scheme in the days immediately following the election.

84. On November 4, 2020, while the outcome of the election was still uncertain, former Secretary of Energy Rick Perry texted then-White House Chief of Staff Mark Meadows to suggest that Republican-controlled state legislatures should “just send their own electors to

²⁰ *See id.*

²¹ *See id.*; Nick Niedzwiadek & Kyle Cheney, *Trump Pressures Pence to Throw Out Election Results—Even Though He Can't*, Politico (Jan. 5, 2021), available at <https://www.politico.com/news/2021/01/05/trump-pressures-pence-election-results-455069>.

²² As an alternate plan, Trump and his allies hoped that, by sending in fraudulent slates of votes from each swing State, they would provide Pence with a basis either to reject the votes cast by the duly elected presidential electors in those States, or to “send the ‘disputed’ electoral votes back to the States” for further deliberation. *See* Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol, H.R. Rep. 117-663, at 445 (Dec. 22, 2022) (hereinafter “Final Report”), available at <https://www.govinfo.gov/content/pkg/GPO-J6-REPORT/pdf/GPO-J6-REPORT.pdf>.

vote and have it go to the SCOTUS.”²³

85. The next day, one of Trump’s sons, Donald Trump, Jr., texted Meadows with a similar idea: have Republican-controlled state legislatures “step in” and advance slates of “Trump electors,” notwithstanding the results of the popular vote.²⁴

86. This plan—to override the will of the people with slates of fraudulent electors—was as legally baseless as it was repugnant to democracy. Trump’s team nevertheless chose to pursue the plan as it became clear that Trump had no legitimate path to victory.

87. Defendants Chesebro and Troupis were integral to this effort. According to materials released by the House Select Committee to Investigate the January 6th Attack on the United States Capitol (hereinafter referred to as the “January 6th Committee”), Defendant “Chesebro—an attorney based in Boston and New York recruited to assist the Trump Campaign as a volunteer legal advisor—was central to the creation of the plan.”²⁵ And Defendant Troupis, who was one of the lead lawyers for the Trump campaign in Wisconsin, was Defendant

²³ See Ryan Nobles, Zachary Cohen & Annie Grayer, *CNN Exclusive: ‘We Control Them All’: Donald Trump Jr. Texted Meadows Ideas for Overturning 2020 Election Before It Was Called*, CNN (Apr. 9, 2022), available at <https://www.cnn.com/2022/04/08/politics/donald-trump-jr-meadows-text/index.html>.

²⁴ See *id.*

²⁵ Final Report 343.

Chesebro's initial point of contact with the campaign.²⁶

88. In November and December of 2020, Defendant Chesebro drafted memoranda regarding the fraudulent elector scheme that “laid the plan’s foundation.”²⁷

89. Defendant Chesebro sent the first of these memoranda to Defendant Troupis on November 18, 2020, the same day that Trump and Pence filed their petition for a partial recount.²⁸

90. In his November 18 Memorandum, titled “The Real Deadline for Settling a State’s Electoral Votes,” Defendant Chesebro argued that: “Assuming the electors pledged to Trump and Pence end up meeting at the Wisconsin Capitol on December 14, 2020, to cast their votes, and then send their votes to the President of the Senate in time to be opened on January 6, 2021, a court decision (or, perhaps, a state legislative determination) rendered after December 14, 2020, in favor of the Trump-Pence slate of electors should be considered timely.”²⁹

²⁶ See, e.g., Josh Kovensky, *Exclusive: Trump Lawyer Kenneth Chesebro Talks About His Role in the Runup To Jan. 6*, Talking Points Memo (June 16, 2022), available at <https://talkingpointsmemo.com/feature/exclusive-trump-lawyer-kenneth-chesebro-talks-about-his-role-in-the-runup-to-jan-6> (“Chesebro told TPM that his work for Trump began with a request from an old friend of his named Jim Troupis, who contacted him on Nov. 10, 2020”); H. Select Comm. to Investigate the Jan. 6th Attack on the U.S. Capitol, Deposition of Kenneth Chesebro 12–13 (Oct. 26, 2022) (hereinafter Chesebro Dep.), available at <https://www.govinfo.gov/content/pkg/GPO-J6-TRANSCRIPT-CTRL0000923618/pdf/GPO-J6-TRANSCRIPT-CTRL0000923618.pdf> (testifying that he began doing work for the Trump campaign after being contacted by Troupis, whom he described as “the lead attorney for Trump in Wisconsin”).

²⁷ Final Report 343; see *id.* (“The fake elector plan emerged from a series of legal memoranda written by . . . Kenneth Chesebro.”).

²⁸ See Memorandum from Kenneth Chesebro to James R. Troupis (Nov. 18, 2020) (hereinafter “November 18 Memorandum”), available at <https://int.nyt.com/data/documenttools/trump-electors-memo-november/6dfa71755c7d0879/full.pdf>.

²⁹ *Id.* at 1.

91. In other words, Defendant Chesebro argued that, by meeting on December 14, 2020, and falsely assuming the functions of the office of presidential elector for the State of Wisconsin, the losing candidates for that office (nine of whom are Defendants here) could lay the foundation for an attempt to overturn the election results on January 6, 2021.

92. Defendant Chesebro wrote again to Defendant Troupis on December 9, 2020, over a week after the Wisconsin Elections Commission had finished its partial recount, and after the Chair of the Wisconsin Elections Commission and the Governor had certified that the Democratic candidates for the office of presidential elector were the duly elected presidential electors for the State of Wisconsin.³⁰

93. In his December 9 Memorandum, titled “Statutory Requirements for December 14 Electoral Votes,” Defendant Chesebro acknowledged that none of the Republican candidates for the office of presidential elector in the targeted swing States were “*currently* certified as having been elected by the voters of their State,” but he nevertheless argued that “most of the electors . . . will be able to take the essential steps needed to validly cast and transmit their votes, so that the votes might be eligible to be counted if later recognized (by a court, the state legislature, or Congress) as the valid ones that actually count in the presidential election.”³¹

94. Contrary to Defendant Chesebro’s assertion, the losing Republican candidates for the office of presidential elector could not “take the essential steps needed to validly cast and transmit their votes,” because they were not elected to the office of presidential elector by Wisconsin voters. *See* Wis. Stat. § 12.13(1)(a), (h).

³⁰ *See* Memorandum from Kenneth Chesebro to James R. Troupis (Dec. 9, 2020) (hereinafter “December 9 Memorandum”), available at <https://int.nyt.com/data/documenttools/trump-electors-memo-december/eb149df1a68cc512/full.pdf>.

³¹ *Id.* at 1.

95. Furthermore, Defendant Chesebro's suggestion that not only "a court," but also "the state legislature, or Congress" could recognize the losing Republican candidates for the office of presidential elector as duly elected presidential electors is contrary to state and federal law.

96. Under the U.S. Constitution, presidential electors are appointed in the manner prescribed by state law. *See* U.S. Const. Art. II, § 1, cl. 2.

97. And under Wisconsin law, presidential electors are chosen by popular vote, with any election contests resolved exclusively by the Wisconsin Elections Commission and the state courts. *See* Wis Stat. §§ 5.10, 9.01.

98. There is no legal mechanism for other institutional actors to install their preferred slate of presidential electors.

99. In his December 9 Memorandum, Defendant Chesebro recommended a detailed set of steps to be taken in the targeted swing States by losing Republican candidates for the office of presidential elector. These included: meeting on December 14, 2020, in the same location that state law prescribed for the meeting of the duly elected presidential electors; filling any vacancies created by losing Republican candidates for the office of presidential elector who were unable or unwilling to participate in the scheme; casting votes for Trump for President and Pence for Vice President; preparing and signing certificates of those votes; and transmitting those certificates to the President of the Senate, the state Secretary of State, the National Archives, and the local federal district court.³²

100. As described below, the Wisconsin fraudulent electors took each of these steps.

101. They did so because they intended for their purported votes to be counted, even

³² *Id.* at 2–3.

though they knew they were not the lawfully elected presidential electors for the State of Wisconsin.

102. It is no coincidence, moreover, that the Wisconsin fraudulent electors took the exact steps outlined in Defendant Chesebro's memoranda to Defendant Troupis.

103. To the contrary, Defendant Chesebro worked with Trump's inner circle to ensure that the ideas in his memoranda were translated into action.

104. As the January 6th Committee recounted in its Final Report, "the highest levels of the Trump Campaign took note of Chesebro's fake elector plan and began to operationalize it."³³

105. On December 6, 2020, Meadows sent a copy of Defendant Chesebro's November 18 Memorandum to Jason Miller, a senior advisor for the Trump campaign.³⁴

106. Meadows wrote to Miller: "We just need to have someone coordinating the electors for states."³⁵

107. Miller responded later that week with a spreadsheet the Trump campaign had compiled of nearly all the GOP nominees for the office of presidential elector in Arizona, Georgia, Michigan, Nevada, Pennsylvania, and Wisconsin.³⁶

108. In the coming days, Meadows and others had dozens of calls and meetings in which they discussed the scheme, and Trump personally reached out to RNC Chairwoman

³³ Final Report 345.

³⁴ *Id.*

³⁵ *Id.*; Email from Mark Meadows to Jason Miller (Dec. 6, 2020), available at <https://www.govinfo.gov/content/pkg/GPO-J6-DOC-MM003771/pdf/GPO-J6-DOC-MM003771.pdf>.

³⁶ *See* Final Report 345.

Ronna McDaniel to enlist the RNC's support.³⁷

109. Trump's inner circle worked tirelessly to execute the plan in each of the targeted swing States, with Trump's personal attorney, Rudy Giuliani, taking charge of coordinating the scheme, despite concerns from other Trump allies that the scheme was unlawful.³⁸

110. According to an email sent by Joshua Findlay, then the associate general counsel for the Trump campaign, Giuliani "designated Ken Chesebro as the point person for the legal documents" necessary to effectuate the scheme.³⁹

111. Furthermore, "Findlay also recalled being told that Chesebro's elector memos had become 'the justification for why Rudy [Giuliani] and Ken [Chesebro] were going to keep going forward with this stuff,'" and "[h]e explained that Giuliani 'really bought into Ken [Chesebro]'s theory on this,' and that the two of them 'were kind of the main ones driving this' from that point forward."⁴⁰ Indeed, in an email to one of the Nevada fake electors, Defendant Chesebro conveyed that Giuliani was "focused on doing everything possible to ensure that . . . all the

³⁷ See *id.* at 345–46.

³⁸ See *id.* at 346–49; see also Marshall Cohen, Zachary Cohen & Dan Merica, *Trump Campaign Officials, Led by Rudy Giuliani, Oversaw Fake Electors Plot in 7 States*, CNN (Jan. 20, 2022), available at <https://www.cnn.com/2022/01/20/politics/trump-campaign-officials-rudy-giuliani-fake-electors/index.html> (reporting that "Giuliani and his allies coordinated the nuts-and-bolts of the process on a state-by-state level," and that "there were multiple planning calls between Trump campaign officials and GOP state operatives").

³⁹ Email from Joshua Findlay to Jon Black, Clayton Henson, Jeremy Hughes, Brian Seitchik & Mike Roman (Dec. 11, 2020), available at https://www.govinfo.gov/content/pkg/GPO-J6-DOC-CTRL0000082463_00014/pdf/GPO-J6-DOC-CTRL0000082463_00014.pdf.

⁴⁰ Final Report 349–50 (first quoting H. Select Comm. to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Joshua Findlay 44 (May 25, 2022), then quoting *id.* at 30).

Trump-Pence electors vote on Dec. 14.”⁴¹

112. Defendant Chesebro continued to advise Giuliani on this effort.

113. On December 13, 2020, Defendant Chesebro sent an email to Giuliani that laid out an “originalist view of the 12th Amendment” that provided a pathway to prevent the certification of President Trump’s loss during the Joint Session on January 6, 2021, provided that there were competing slates of electors.⁴²

114. Defendant Chesebro intended this scheme to disrupt the transfer of power to the lawfully elected President.

115. The January 6th Committee wrote that Defendant Chesebro “suggested [his plan] might result in a second term for President Trump, or, at minimum, it would force a debate about purported election fraud—neither of which was a lawful, legitimate reason to organize and convene fake electors.”⁴³

116. The January 6th Committee also detailed in its Final Report that, in the days leading up to December 14:

Chesebro would draft and distribute documents intended for use in the Trump team’s fake elector ceremonies that were then shared with key contacts in Arizona, Georgia, Michigan, Nevada, New Mexico, Pennsylvania, and Wisconsin. He also gave some of the groups step-by-step logistical guidance, such as when and where they should convene, how many copies each person would need to sign, and to send their fake votes to Congress via registered mail. “Pretty Simple!” he commented in

⁴¹ Email from Kenneth Chesebro to Jim DeGraffenreid (Dec. 10, 2020), available at https://www.govinfo.gov/content/pkg/GPO-J6-DOC-CTRL0000044010_00031/pdf/GPO-J6-DOC-CTRL0000044010_00031.pdf.

⁴² Email from Kenneth Chesebro to John Eastman (Jan. 2, 2021); Email from Kenneth Chesebro to Rudy Giuliani (Dec. 13, 2020), available at <https://www.govinfo.gov/content/pkg/GPO-J6-DOC-Chapman004708/pdf/GPO-J6-DOC-Chapman004708.pdf>.

⁴³ Final Report 345.

some of these emails.⁴⁴

117. With respect to the execution of the scheme in Wisconsin, Defendant Chesebro worked closely with Defendant Troupis—who, as noted above, *see supra* ¶87, originally connected Defendant Chesebro with the Trump campaign.

118. Ahead of December 14, Brian Schimming—who is now the Chair of the Republican Party of Wisconsin—sent Defendant Chesebro an email saying: “State party wants Jim [Troupis] to put this statement out before the electors meeting here on Monday. Jim wanted you to get a look”⁴⁵ The statement, titled “Proposed Jim Troupis Statement on Electors Meeting,” began by saying: “As the legal proceedings continue to work their way through the Wisconsin court system, I have advised the Republican Party of Wisconsin to convene a separate Republican electors meeting and vote at the Wisconsin State Capitol on December 14.”⁴⁶

119. Defendant Chesebro replied to Schimming, copying Defendant Troupis and proposing revisions to the statement.⁴⁷ Schimming then forwarded the email chain to Mark Jefferson, the Executive Director of the Republican Party of Wisconsin, with the note: “Slight

⁴⁴ Final Report 350 (footnotes omitted).

⁴⁵ Email from Brian Schimming to Kenneth Chesebro (Dec. 10, 2020), available at https://www.govinfo.gov/content/pkg/GPO-J6-DOC-CTRL0000042150_00009/pdf/GPO-J6-DOC-CTRL0000042150_00009.pdf.

⁴⁶ *Id.*

⁴⁷ *See* Email from Kenneth Chesebro to Brian Schimming & James Troupis (Dec. 10, 2020), available at https://www.govinfo.gov/content/pkg/GPO-J6-DOC-CTRL0000042150_00009/pdf/GPO-J6-DOC-CTRL0000042150_00009.pdf.

revision from Chesebro [sic]; Jim [Troupis] was fine on phrasing.”⁴⁸ Jefferson later forwarded the email chain to Defendant Hitt.⁴⁹

120. Defendant Hitt testified during his deposition before the January 6th Committee that Defendant Troupis frequently communicated about the meeting of the electors with Republican Party of Wisconsin outside counsel Joe Olson, who in turn advised Defendant Hitt on the fraudulent scheme.⁵⁰

121. Defendant Chesebro also identified Defendant Troupis as one of his “main points of contact” with the Trump Campaign, along with campaign official Justin Clark and campaign advisor Boris Epshteyn.⁵¹

122. Nor did Defendant Troupis keep his role secret. In a December 7, 2020, email to Epshteyn, Defendant Troupis promoted Defendant Chesebro’s proposal for fraudulent electors to cast ballots on December 14, explaining that, “[t]he second [i.e., fraudulent] slate just shows up at noon on Monday [December 14] and votes and then transmits the results,” and “[i]t is up to

⁴⁸ Email from Brian Schimming to Mark Jefferson (Dec. 10, 2020), available at https://www.govinfo.gov/content/pkg/GPO-J6-DOC-CTRL0000042150_00009/pdf/GPO-J6-DOC-CTRL0000042150_00009.pdf.

⁴⁹ See Email from Mark Jefferson to Andrew Hitt (Feb. 18, 2021), available at https://www.govinfo.gov/content/pkg/GPO-J6-DOC-CTRL0000042150_00009/pdf/GPO-J6-DOC-CTRL0000042150_00009.pdf. It appears that the proposed statement was never published. See *id.* It nevertheless showcases the central role that Defendants Chesebro and Troupis played with respect to the fraudulent elector scheme in Wisconsin.

⁵⁰ See H. Select Comm. to Investigate the Jan. 6th Attack on the U.S. Capitol, Deposition of Andrew Hitt 23, 33 (Feb. 28, 2022) (hereinafter Hitt Dep.), available at <https://www.govinfo.gov/content/pkg/GPO-J6-TRANSCRIPT-CTRL0000050979/pdf/GPO-J6-TRANSCRIPT-CTRL0000050979.pdf>.

⁵¹ Chesebro Dep. 16.

Pence on Jan 6 to open them.”⁵² Defendant Troupis described this proposal as “[o]ur strategy, which we believe is replicable in all 6 contested states.”⁵³

123. Defendant Troupis likewise promoted Defendant Chesebro’s proposal to Trump campaign official Justin Clark. In an interview with the January 6th Committee, Clark stated that he first heard of the idea to coordinate slates of fraudulent electors from Defendant Troupis, who sent him a copy of one of Defendant Chesebro’s memoranda.⁵⁴

124. Defendants Chesebro and Troupis took these steps even though *they* themselves believed that the scheme was legally problematic.

125. On December 8, 2020, for example, an attorney named Jack Wilenchik, who helped organize the Arizona fraudulent electors, emailed Epshteyn: “I just talked to the gentleman who did that memo, Ken Chesebro. His idea is basically that all of us (GA, WI, AZ, PA, etc.) have our electors send in their votes (*even though the votes aren’t legal under federal law* – because they’re not signed by the Governor); so that members of Congress can fight about

⁵² Maggie Haberman & Luke Broadwater, ‘Kind of Wild/Creative’: Emails Shed Light on Trump Fake Electors Plan, N.Y. Times (July 26, 2022), available at <https://www.nytimes.com/2022/07/26/us/politics/trump-fake-electors-emails.html>.

⁵³ *Id.* (emphasis added). Defendant Troupis’s email to Epshteyn is consistent with the perception expressed by Defendant Hitt during his deposition before the January 6th Committee, that “Chesebro may have . . . come up with [the fraudulent elector scheme] in Wisconsin, and then it grew to other States.” Hitt Dep. 34.

⁵⁴ See H. Select Comm. to Investigate the Jan. 6th Attack on the U.S. Capitol, Interview of Justin Clark 110–11 (May 17, 2022), available at <https://www.govinfo.gov/content/pkg/GPO-J6-TRANSCRIPT-CTRL0000083778/pdf/GPO-J6-TRANSCRIPT-CTRL0000083778.pdf>.

whether they should be counted on January 6th.”⁵⁵

126. Likewise, Defendant Chesebro’s December 9 Memorandum to Defendant Troupis described the fraudulent elector scheme as “slightly problematic in Michigan . . . somewhat dicey in Georgia and Pennsylvania . . . and very problematic in Nevada.”⁵⁶ As described above, Defendant Troupis nevertheless had been promoting the scheme as “replicable in all 6 contested states.”⁵⁷

127. And on December 13, 2020, Defendant Chesebro sent an email titled “Word documents for New Mexico electors” to Mike Roman, whom Giuliani had tapped as “the lead for executing the voting” by fraudulent electors on December 14.⁵⁸ Defendant Chesebro wrote: “Attached are the documents you requested. I added the new qualifying [sic] language at the start of the Certificate. Might be good to have it added in all states.”⁵⁹ The qualifying language clarified that the fake New Mexico electors were purporting to cast their ballots only “on the understanding that it might later be determined that we are the duly elected and qualified

⁵⁵ Haberman & Broadwater, *supra* n.52 (emphasis added). Wilenchik went on to describe how he had responded to Defendant Chesebro’s proposal by saying that there would be “no harm” in the plan and that “we would just be sending in ‘fake’ electoral votes to Pence so that ‘someone’ in Congress can make an objection when they start counting votes, and start arguing that the ‘fake’ votes should be counted.” *Id.* Perhaps realizing what he had just admitted, Wilenchik followed up: “PPS – ‘alternative’ votes is probably a better term than ‘fake’ votes. ☺.” *Id.*

⁵⁶ December 9 Memorandum 5.

⁵⁷ Haberman & Broadwater, *supra* n.52.

⁵⁸ See Final Report 350; Email from Kenneth Chesebro to Mike Roman & Joshua Findlay (Dec. 13, 2020), available at https://www.govinfo.gov/content/pkg/GPO-J6-DOC-CTRL0000082463_00020/pdf/GPO-J6-DOC-CTRL0000082463_00020.pdf.

⁵⁹ Email from Kenneth Chesebro to Mike Roman & Joshua Findlay, *supra* n.58.

Electors.”⁶⁰ As discussed below, the certificate that Defendant Chesebro sent to the Wisconsin electors did not include this qualification.

128. Defendants Troupis and Chesebro continued to execute their scheme, in Wisconsin and the other targeted swing States, because they wanted the fraudulent electors’ votes to be counted, even though Defendants Troupis and Chesebro knew that these fraudulent electors were not the lawfully elected presidential electors.

The Meeting of the Fraudulent Electors

129. On December 14, at around the same time that the duly elected presidential electors were convening at the Wisconsin State Capitol, a separate group of individuals gathered elsewhere in the building. This group included Defendants Hitt, Spindell, Feehan, Ruh, Brunner, Grabins, Kiernan, Carlson, Travis, and Buestrin (referred to hereinafter as the “Fraudulent Elector Defendants”).

130. Earlier in the day, the Fraudulent Elector Defendants had assembled at a “secret meeting place” with “armed security.”⁶¹

131. Notwithstanding that pandemic-related restrictions had closed the State Capitol to the public, the Fraudulent Elector Defendants successfully arranged to be admitted to the building, and they were able to secure a room there for their meeting.⁶²

⁶⁰ Certificate of the Votes of the 2020 Electors from New Mexico, available at <https://www.govinfo.gov/content/pkg/GPO-J6-DOC-CTRL0000037946/pdf/GPO-J6-DOC-CTRL0000037946.pdf>.

⁶¹ Fact Check with Bill Feehan, *The Electoral College*, at 04:05–04:22 (Jan. 13, 2021), available at <https://omny.fm/shows/fact-check-with-bill-feehan/the-electoral-college>.

⁶² *Id.* at 04:23–04:36.

132. Defendant Chesebro was also present at the meeting.⁶³

133. An open records request initiated by Wisconsin State Senator Chris Larson indicates that then-Wisconsin State Senate Majority Leader Scott Fitzgerald reserved a room for the Fraudulent Elector Defendants to hold their meeting.⁶⁴

134. The Fraudulent Elector Defendants' use of State Capitol facilities required the allocation of resources from the Wisconsin Department of Administration, which is funded by Wisconsin taxpayers.

135. All Wisconsin taxpayers, including Plaintiffs, were harmed by this unlawful use of public resources.

136. At the time of their meeting, the Fraudulent Elector Defendants were not duly elected presidential electors for the State of Wisconsin. Instead, all but Kiernan were nominated by the Republican Party of Wisconsin on October 6 as candidates for the office of presidential elector. Kiernan was not nominated by any party as a candidate for the office of presidential elector.

137. Because the Fraudulent Elector Defendants were not duly elected presidential electors, they had no legal authority to meet at the State Capitol on December 14 nor to purport to act as the duly elected presidential electors for the State of Wisconsin, undertaking duties assigned by law to others.

138. Furthermore, the Fraudulent Elector Defendants learned during their meeting that

⁶³ See Hitt Dep. 86.

⁶⁴ See Press Release, State Sen. Chris Larson, Open Records Regarding Wisconsin's Fake Electors Suggest Congressman Scott Fitzgerald Played Significant Role in Trying to Overturn a Free and Fair Election (Jan. 25, 2022), available at <https://legis.wisconsin.gov/senate/07/Larson/media/2056/1-25-22-fitzgerald-electors-pr.pdf>.

the Wisconsin Supreme Court had affirmed the results of the partial recount sought by Trump and Pence.⁶⁵

139. They thereby learned that the process Wisconsin law expressly identifies as the exclusive mechanism for challenging the outcome of a presidential election in Wisconsin had been exhausted, and that Trump had lost.

140. The Fraudulent Elector Defendants nevertheless conducted their meeting, at which they purported to exercise the powers assigned by law to the duly elected presidential electors for the State of Wisconsin.

141. First, the Fraudulent Elector Defendants purported to fill a vacancy created by the absence of Tom Schreibel, who had been nominated by the Republican Party of Wisconsin on October 6, 2020, as a candidate for the office of presidential elector.

142. Schreibel did not join the Fraudulent Elector Defendants' meeting at the State Capitol.

143. In purporting to fill his vacancy, Defendants Hitt and Ruh executed a document titled "Certificate of Filling Vacancy of the 2020 Electors from Wisconsin," in which they certified that Defendant Kiernan "[w]as elected by the Electors present, as an Elector of President and Vice President of the United States of America for the State of Wisconsin to fill the vacancy in the manner provided by law." Ex. G at 2.⁶⁶

144. Federal and state law authorize only duly elected presidential electors to fill vacancies in the office of presidential elector. *See* 3 U.S.C. § 4; Wis. Stat. § 7.75(1).

⁶⁵ Fact Check with Bill Feehan, *supra* n.61, at 07:04–08:07.

⁶⁶ The document spells Defendant Kiernan's last name as "Kiernen," but this appears to be a typographical error.

145. Because the Fraudulent Elector Defendants were not duly elected presidential electors, they had no authority to fill any vacancies in the office of presidential elector.

146. Upon information and belief, the Fraudulent Elector Defendants knew that they were not duly elected presidential electors, and that they therefore had no authority to fill any vacancies in the office of presidential elector.

147. After purporting to fill the vacancy created by Schreiber's absence, the Fraudulent Elector Defendants executed a document titled "Certificate of the Votes of the 2020 Electors from Wisconsin." Ex. G at 3–4.

148. In this document, the Fraudulent Elector Defendants purported to designate Defendants Hitt and Ruh as their Chairperson and Secretary, respectively, and they falsely represented that they were "the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Wisconsin." *Id.* at 3.

149. In the same document, the Fraudulent Elector Defendants falsely certified that they had met at the State Capitol "to perform the duties enjoined upon" them, and that they had cast Wisconsin's ten electoral votes for Trump and Pence. *Id.*

150. The document was then transmitted—with a cover memorandum from Defendant Hitt titled "Wisconsin's Electoral Votes for President and Vice President"—to the President of the United States Senate, the Archivist of the United States, the Wisconsin Secretary of State, and the Chief Judge of the United States District Court for the Western District of Wisconsin. *Id.* at 1.

151. Defendant Hitt's cover memorandum falsely represented that it accompanied "duplicate originals of Wisconsin's electoral votes for President and Vice President." *Id.*

152. As it turned out, the Archivist of the United States did not receive the Fraudulent

Elector Defendants' votes.⁶⁷

153. Accordingly, in a last-ditch effort to get the votes to Vice President Pence, Defendant Troupis texted U.S. Senator Ron Johnson on the morning of January 6, 2021, telling him: "We need to get a document on the Wisconsin electors to you for the VP immediately."⁶⁸

154. Senator Johnson attempted to comply with Defendant Troupis's request by having his chief of staff contact a senior aide to Vice President Pence, but the aide refused to accept the fraudulent votes.⁶⁹

155. After the aide rebuffed the attempt to transmit the fraudulent votes, Senator Johnson texted Defendant Troupis: "We have been informed the VP cannot accept any unsealed mail and I cannot hand it to him."⁷⁰

156. Because the Fraudulent Elector Defendants were not duly elected presidential electors, they had no authority to represent that they were duly elected presidential electors, purport to cast Wisconsin's electoral votes for President and Vice President, or transmit those votes under false pretenses.

157. Upon information and belief, the Fraudulent Elector Defendants knew that they had no authority to represent that they were duly elected presidential electors, purport to cast Wisconsin's electoral votes for President and Vice President, or transmit those votes under false pretenses.

⁶⁷ See Final Report 357.

⁶⁸ Text Message from James Troupis to Sen. Ron Johnson (Jan. 6, 2021), available at <https://justthenews.com/sites/default/files/2022-06/TroupisJohnson1.pdf>.

⁶⁹ See Final Report 357.

⁷⁰ Text Message from Sen. Ron Johnson to James Troupis & Sean Reilly (Jan. 6, 2021), available at <https://justthenews.com/sites/default/files/2022-06/JohnsonTroupis2Redacted.pdf>.

158. The Fraudulent Elector Defendants nevertheless falsely assumed the functions of the office of presidential elector for the State of Wisconsin.

159. They did so because they intended for their fraudulent votes, rather than the legitimate votes of Plaintiffs Penebaker and Arnold and the other duly elected presidential electors, to be counted on January 6, 2021.

The Aftermath of Defendants' Actions

160. With fake votes in hand from the Fraudulent Elector Defendants and their counterparts in other swing States, Trump and his allies began exerting pressure on Pence and preparing for January 6, 2021.⁷¹

161. One aspect of this pressure campaign was the filing of frivolous legal challenges intended to cast doubt on the legitimacy of the election results in the targeted swing States.

162. By calling these results into question, Trump sought to provide Pence with an excuse to disregard the votes of each swing State's duly elected presidential electors.

163. Several of these challenges targeted Wisconsin. Their stated goal was to overturn the results of the election in the State and decertify the slate of duly elected presidential electors, including Plaintiffs Penebaker and Arnold.⁷²

⁷¹ See Feuer, Haberman & Broadwater, *supra* n.4.

⁷² For example, Defendant Feehan filed a petition for a writ of mandamus with the United States Supreme Court, in which he sought “to decertify the election of the Biden slate of electors from Wisconsin; or at a minimum to declare the certified result unconstitutional.” Emergency Petition Under Rule 20 for Extraordinary Writ of Mandamus at 10, *In re* William Feehan, No. 20-859 (U.S. Dec. 15, 2020). In the petition, filed on his behalf by disgraced attorney Sidney Powell, Feehan made the fantastical assertion that “**hundreds of thousands if not millions of illegal, fraudulent, ineligible or purely fictitious ballots were cast for Biden (along with hundreds of thousands of Trump votes that were intentionally destroyed, lost or switched to Biden) and this massive fraud changed the outcome from a Biden loss to Biden ‘win.’**” *Id.* at 2 (emphasis in original).

164. Had the slate been decertified, Trump and his allies would have argued that the Fraudulent Elector Defendants were in fact the duly elected presidential electors from Wisconsin, and that the votes they had purported to cast on December 14, 2020, should be counted on January 6, 2021.

165. Indeed, Trump and his allies planned to argue that the Fraudulent Elector Defendants' purported votes should be counted on January 6, 2021, regardless of how their legal challenges fared.

166. As explained above, Defendant Chesebro's memoranda suggested—contrary to federal and state law—that not only “a court,” but also “the state legislature, or Congress” could recognize the Fraudulent Elector Defendants as duly elected presidential electors.

167. Defendant Chesebro continued to participate directly in these efforts. On January

Feehan's petition was one of several materially similar filings made by Powell and her team on behalf of fraudulent electors who sought to overturn the presidential election results in different swing States. *See* Letter from Howard Kleinhendler, Att'y for Petitioner, to Scott Harris, Clerk, Supreme Court of the U.S. (Dec. 30, 2020), https://www.supremecourt.gov/DocketPDF/20/20-859/165028/20201230144904572_Letter%20to%20Clerk%20Harris.pdf (letter from Powell's co-counsel “requesting consolidation and expedited consideration of four related cases, *King v. Whitmer* (20-815) (‘The Michigan Case’); *In re Pearson* (20-816) (‘The Georgia Case’); *In re Bowyer* (20-858) (‘The Arizona Case’);] and *In re Feehan* (20-859) (‘The Wisconsin Case’),” and explaining that “[e]ach of the cases was brought by Republican presidential electors (from Michigan, Georgia, Arizona, and Wisconsin, respectively) who cast votes on December 14, 2020, for President Trump with the intention of those Trump votes being counted in the Joint Session of Congress scheduled for January 6, 2021”).

Powell and her team were sanctioned in connection with the Michigan case for engaging in “a historic and profound abuse of the judicial process,” *King v. Whitmer*, 556 F. Supp. 3d 680, 688 (E.D. Mich. 2021), and they were referred to disciplinary authorities “for investigation and possible suspension or disbarment,” *id.* at 734. A sanctions motion against Defendant Feehan and his lawyers, including Powell and Kleinhendler, was recently denied by the district court for lack of jurisdiction. That denial is currently under review at the U.S. Court of Appeals for the Seventh Circuit. *See Feehan v. Wis. Elections Comm'n*, No. 20-cv-1771-PP, 2022 WL 3647882, at *1 (E.D. Wis. Aug. 24, 2022), *appeal docketed sub nom. Feehan v. Evers*, No. 22-2704 (7th Cir. Sept. 23, 2022).

2, 2021, and again on January 4, 2021—just days before the attack on the Capitol—he forwarded to Trump ally John Eastman his December 13 email to Giuliani, which advocated for Pence’s interference in the certification of the election based on the slates of fraudulent electors.⁷³

168. By casting doubt on the legitimacy of the presidential election, Trump and his allies hoped to persuade state legislators, members of Congress, and Pence that any or all of them should unlawfully override the election results in Wisconsin and other swing States.

169. Numerous members of Congress endorsed this strategy. Among them was Representative Scott Fitzgerald, newly sworn in to Congress. As noted above, *see supra* ¶133, Fitzgerald had, in his previous role as Wisconsin State Senate Majority Leader, helped ensure that the Fraudulent Elector Defendants would have a room to meet in the Wisconsin State Capitol on December 14, 2020.

170. On January 2, 2021, a group of 11 United States senators and senators-elect issued a statement in which they pledged to object, on January 6, 2021, to the counting of votes

⁷³ Email from Kenneth Chesebro to John Eastman (Jan. 4, 2021), available at <https://www.govinfo.gov/content/pkg/GPO-J6-DOC-Chapman004708/pdf/GPO-J6-DOC-Chapman004708.pdf>. Eastman was a major participant in President Trump’s plot to overturn the election. In fact, he was the only individual other than President Trump for whom the January 6th Committee issued a criminal referral to the Department of Justice for his role in attempting to subvert the certification of the election. *See* Christina Wilkie, *Trump Lawyer John Eastman Referred for Prosecution by Jan. 6 Committee*, CNBC (Dec. 19, 2022), available at <https://www.cnbc.com/2022/12/19/trump-lawyer-john-eastman-referred-for-prosecution-by-jan-6-committee-.html>.

In January 2023, the State Bar of California filed 11 disciplinary charges against Eastman related to his efforts to overturn the results of the 2020 election. *See* News Release, State Bar of Cal., Attorney John Eastman Charged with Multiple Disciplinary Counts by the State Bar of California (Jan. 26, 2023), available at <https://www.calbar.ca.gov/About-Us/News/News-Releases/attorney-john-eastman-charged-with-multiple-disciplinary-counts-by-the-state-bar-of-california>.

from electors from “disputed states,”⁷⁴ including Wisconsin.

171. The senators were joined by approximately 140 members of the House of Representatives, who indicated that they also planned to object to the counting of votes cast by duly elected presidential electors.⁷⁵

172. In their joint statement, the senators claimed that “the 2020 election featured unprecedented allegations of voter fraud, violations and lax enforcement of election law, and other voting irregularities,” and they “called on Congress to appoint an Electoral Commission to conduct an emergency 10-day audit of the election returns in the disputed states.”⁷⁶

173. In fact, according to security officials who studied the matter across the country—including the Trump Administration’s own top cybersecurity expert—the 2020 presidential election was the “most secure in American history.”⁷⁷

174. Wisconsin election officials identified only 27 potential cases of voter fraud

⁷⁴ Bill Glauber, *U.S. Sen. Ron Johnson from Wisconsin to Join 10 Others from GOP in Refusing to Certify Electoral College Results*, Milwaukee J. Sentinel (Jan. 2, 2021), available at <https://www.jsonline.com/story/news/politics/elections/2021/01/02/ron-johnson-oppose-certifying-joe-bidens-electoral-college-win/4113042001/>. Ron Johnson, the senior United States senator from Wisconsin, was one of the objectors, and was in fact the only objecting senator from a State that voted for Biden. *Id.*

⁷⁵ See Burgess Everett, *At Least 12 GOP Senators to Challenge Biden’s Win*, Politico (Jan. 2, 2021), available at <https://www.politico.com/news/2021/01/02/ted-cruz-electoral-college-challenge-453430>.

⁷⁶ Glauber, *supra* n.74 (internal quotation marks omitted).

⁷⁷ See Stefan Becket, Melissa Quinn, Grace Segers & Caroline Linton, *2020 Election “Most Secure in History,” Security Officials Say*, CBS News (Nov. 13, 2020), available at <https://www.cbsnews.com/live-updates/2020-election-most-secure-history-dhs/>; Zach Budryk, *Krebs Doubles Down After Threat: ‘2020 Election Was Most Secure in US History,’ Hill* (Dec. 2, 2020), available at <https://thehill.com/policy/cybersecurity/528323-krebs-doubles-down-after-threat-2020-election-was-most-secure-in-us/>.

among nearly 3.3 million votes cast—less than one-thousandth of one percent.⁷⁸

175. Trump and his allies nevertheless pressed Pence to disregard the votes of the lawfully elected presidential electors from each of the targeted swing States, including Wisconsin, and to count instead the votes of the fraudulent electors, including the Fraudulent Elector Defendants, who had purported to cast those votes on December 14, 2020.⁷⁹

176. The pressure culminated on January 6, 2021.

177. Ahead of the joint session of Congress, Pence proactively altered the script that prior Vice Presidents had used when overseeing the counting of electoral votes.⁸⁰

178. His alterations made clear that the certificate of electoral votes he would introduce from each State was “the only certificate of vote from that state, and purports to be a return from the state, and that has annexed to it a certificate from an authority of that state purporting to appoint or ascertain electors.”⁸¹

179. As Pence’s chief of staff later explained, “the added words were designed to

⁷⁸ See Scott Bauer, *27 Possible Voter Fraud Cases in 3 Million Wisconsin Ballots*, AP News (May 21, 2021), available at <https://apnews.com/article/donald-trump-wisconsin-election-2020-government-and-politics-daa3ac227c936d7fc038996af6e27cbe>.

⁷⁹ See Barry & Frenkel, *supra* n.2. Trump also placed pressure on Pence personally, telling him that “it would be politically ‘damaging’ for Pence to refuse to block certification.” Kaitlan Collins & Jim Acosta, *Pence Informed Trump That He Can’t Block Biden’s Win*, CNN (Jan. 5, 2021), available at <https://www.cnn.com/2021/01/05/politics/mike-pence-donald-trump-congress-election/index.html>.

⁸⁰ See Kyle Cheney, *How Pence Used 43 Words to Shut Down Trump Allies’ Election Subversion on Jan. 6*, Politico (Mar. 11, 2022), available at <https://www.politico.com/news/2022/03/11/pence-jan-6-election-certification-script-00016539>.

⁸¹ *Id.*

clearly address Pence's views of Trump allies' push for false slates of presidential electors."⁸²

180. Trump and his allies nevertheless made a final push for Pence to count the purported votes of the fraudulent electors.

181. At noon on January 6, 2021, Trump began speaking at a rally near the White House.⁸³

182. He told his supporters: "We will never give up, we will never concede."⁸⁴

183. And he called on Pence to reject the votes of lawfully elected presidential electors, warning: "Mike Pence, I hope you're going to stand up for the good of our Constitution and for the good of our country. And if you're not, I'm going to be very disappointed in you."⁸⁵

184. Finally, Trump told those at the rally to "walk down to the Capitol" and "demand that Congress do the right thing and only count the electors who have been lawfully slated."⁸⁶

185. Less than an hour later, the attack on the Capitol began.⁸⁷

The Future of Democracy in Wisconsin

186. Fortunately, notwithstanding the events of January 6, 2021, the votes of the duly elected presidential electors in Wisconsin and other swing States were ultimately counted, the

⁸² *Id.*

⁸³ Kat Lonsdorf, Courtney Dorning, Amy Isackson, Mary Louise Kelly & Ailsa Chang, *A Timeline of How the Jan. 6 Attack Unfolded—Including Who Said What and When*, NPR (Jan. 5, 2022), available at <https://www.npr.org/2022/01/05/1069977469/a-timeline-of-how-the-jan-6-attack-unfolded-including-who-said-what-and-when>.

⁸⁴ *Transcript of Trump's Speech at Rally Before US Capitol Riot*, *supra* n.3.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ Lonsdorf et al., *supra* n.83.

presidential election results were properly certified, and America's tradition of democratic transition of power continued.⁸⁸

187. The scheme to overturn the election nevertheless caused permanent and irreparable damage to the country's political institutions generally, and to representative government in Wisconsin specifically.

188. By spreading false allegations of widespread fraud, the scheme undermined—and continues to undermine—Wisconsin voters' faith in the integrity of their elections, and citizens' belief in the legitimacy of their government's authority.⁸⁹

189. Furthermore, the scheme disrupted longstanding norms regarding adherence to the outcomes of elections and the peaceful transition of power, both of which are bedrock pillars of a functioning democracy.

190. Defendants' actions were fundamental to the scheme.

191. By falsely assuming the office of presidential elector and purporting to cast

⁸⁸ Stunningly, even after the attack had finished, nearly 150 lawmakers objected to the certification of the election results. *See* Li Zhou, *147 Republican Lawmakers Still Objected to the Election Results After the Capitol Attack*, Vox (Jan. 7, 2021), available at <https://www.vox.com/2021/1/6/22218058/republicans-objections-election-results>.

⁸⁹ *See* Charles Franklin, *New Survey by Marquette Law School Poll Finds Wisconsin Democratic Primary for U.S. Senate Tightening, Kleefisch Leading Republican Gubernatorial Primary; Among Republicans, Those Least Confident in 2020 Election Are More Enthusiastic to Vote This Fall*, Marq. Univ. L. Sch. (Apr. 27, 2022), available at <https://law.marquette.edu/poll/2022/04/27/new-survey-by-marquette-law-school-poll-finds-wisconsin-democratic-primary-for-u-s-senate-tightening-kleefisch-leading-republican-gubernatorial-primary-among-republicans-those-least-confident-in-2/> (finding that a majority of Wisconsin Republicans are not confident in the accuracy of the 2020 election); Charles Franklin, *Final Pre-Election Marquette Law School Poll of Wisconsin Voters Finds Both Senate and Governor's Races Are Tossups*, Marq. Univ. L. Sch. (Nov. 2, 2022), available at <https://law.marquette.edu/poll/category/poll-release/page/3/> (finding that over multiple polls across 2022, approximately one third of registered voters in Wisconsin were not confident in the accuracy of the 2020 election).

Wisconsin’s electoral votes for Trump and Pence—and by conspiring in, aiding, and abetting this effort—Defendants helped lay the foundation for Trump and his allies to argue that the State’s election results should be decertified, and that the votes of its lawfully elected presidential electors, including Plaintiffs Penabaker and Arnold, should be disregarded.

192. Indeed, the fraudulent electors in Wisconsin and elsewhere “were the mechanism that, in Trumpworld’s thinking, could at any point from early December until Jan. 6 have allowed pressure on state legislators, officials, Congress, Mike Pence, and the Supreme Court to turn into actions that would flip the result” of the election.⁹⁰

193. Defendants’ actions were a necessary predicate for each component of the scheme, including the pressure campaign leading up to and including the events of January 6, 2021.

194. Upon information and belief, Defendants knew that their actions were part of a broader scheme to overturn the election.

195. The damage that Defendants inflicted on Wisconsin’s democracy is still palpable today.

196. Mere months after the attack on the United States Capitol, and in response to the urging of Trump, Wisconsin Assembly Speaker Robin Vos announced his appointment of former Wisconsin Supreme Court Justice Michael Gableman to oversee an “investigation” of the 2020

⁹⁰ See Josh Kovensky, *How the Fake Electors Scheme Explains Everything About Trump’s Attempt to Steal the 2020 Election*, Talking Points Memo (Feb. 10, 2023), available at <https://talkingpointsmemo.com/muckraker/how-the-fake-electors-scheme-explains-everything-about-trumps-attempt-to-steal-the-2020-election>.

presidential election.⁹¹

197. The announcement came one day after Vos and other Republican leaders in Wisconsin were criticized by Trump for “working hard to cover up election corruption” and “actively trying to prevent a Forensic Audit of the election results.”⁹²

198. At the time of his appointment, Gableman had already publicly accused the Wisconsin Elections Commission of “steal[ing] our vote” during the 2020 presidential election.⁹³

199. Gableman proceeded to open a wide-ranging probe in which he served scores of legislative subpoenas upon public and private entities.⁹⁴ For example, Gableman targeted the voting machine companies Dominion Voting Systems and Electronic Systems & Software,⁹⁵ demanded communications and financial information from nonprofit community organization Voces de la Frontera Action,⁹⁶ and sought information from the mayors of Madison and Green

⁹¹ Shawn Johnson, *Following Warning by Trump, Vos Announces Former Justice Will Lead Assembly GOP Election Probe*, Wis. Pub. Radio (June 26, 2021), available at <https://www.wpr.org/following-warning-trump-vos-announces-former-justice-will-lead-assembly-gop-election-probe>.

⁹² *Id.* (internal quotation marks omitted).

⁹³ Patrick Marley, *Michael Gableman Said Bureaucrats ‘Stole Our Votes’ Before He Was Put in Charge of Reviewing 2020 Election*, Milwaukee J. Sentinel (Aug. 9, 2021), available at <https://www.jsonline.com/story/news/politics/2021/08/09/michael-gableman-said-election-stolen-before-put-charge-wisconsin-review/5518815001/>.

⁹⁴ Shawn Johnson, *Vos Expects Gableman Election Report by End of February*, Wis. Pub. Radio (Feb. 18, 2022), available at <https://www.wpr.org/vos-expects-gableman-election-report-end-february>.

⁹⁵ *Id.*

⁹⁶ Molly Beck, *Michael Gableman Withdraws Election Investigation Subpoena to Immigrant Rights Group Voces de la Frontera*, Milwaukee J. Sentinel (Feb. 16, 2022), available at <https://www.jsonline.com/story/news/politics/2022/02/16/michael-gableman-withdraws-subpoena-immigrant-rights-group-voces/6816480001/>.

Bay, whom he has subsequently attempted to have jailed.⁹⁷

200. On March 1, 2022, Gableman delivered his second interim report to the Wisconsin State Assembly, in which he made unsubstantiated allegations that various laws had been violated during the administration of the 2020 presidential election.⁹⁸

201. Gableman also told Assembly members that they “ought to take a very hard look” at decertifying the results of the 2020 presidential election,⁹⁹ and he laid out a roadmap in his report for how he believed decertification could take place.¹⁰⁰

202. Gableman wrote in his report that “it is clear that the Wisconsin Legislature . . . could decertify the certified electors in the 2020 presidential election.”¹⁰¹ And he detailed a set of steps that he believed “would lead to decertifying the relevant electors, if the Legislature concluded that they were not the slate of electors that best accorded with the election if run consistent with all relevant Wisconsin laws in effect on election day.”¹⁰²

203. Contrary to Gableman’s report, state legislatures do not have the power to

⁹⁷ *Gableman Wants to Jail Mayors Again in Elections Probe*, AP News (Feb. 19, 2022), available at <https://apnews.com/article/elections-wisconsin-milwaukee-madison-green-bay-d6cb12810b57a17d839c0e0498eee548>.

⁹⁸ Shawn Johnson, *Gableman Report Calls for Decertifying 2020 Election. The Legislature’s Nonpartisan Lawyers Say That’s Not Possible.*, Wis. Pub. Radio (Mar. 1, 2022), available at <https://www.wpr.org/gableman-report-calls-decertifying-2020-election-legislatures-nonpartisan-lawyers-say-thats-not>.

⁹⁹ *Id.*

¹⁰⁰ Off. of Special Couns., *Second Interim Investigative Report* 131–36 (Mar. 1, 2022), available at <https://www.wpr.org/sites/default/files/osc-second-interim-report.pdf>.

¹⁰¹ *Id.* at 135–36.

¹⁰² *Id.* at 136.

decertify presidential electors after an election has taken place.

204. Indeed, the Assembly’s nonpartisan attorneys had already confirmed that “[t]here is no mechanism in state or federal law for the Legislature to reverse certified votes cast by the Electoral College and counted by Congress.”¹⁰³

205. Gableman’s own hired litigation counsel subsequently testified to the Assembly that decertification is not possible.¹⁰⁴

206. Even Gableman himself acknowledged to Assembly Speaker Vos, in a memorandum sent on the heels of his testimony, that “the legal obstacles to [decertification’s] accomplishment render such an outcome a practical impossibility.”¹⁰⁵

207. The idea of decertifying the 2020 presidential electors nevertheless took hold among a number of politicians, becoming a flash point in Wisconsin.

¹⁰³ Memorandum from Katie Bender-Olson, Senior Staff Att’y, and Peggy Hurley, Staff Att’y, Wis. Legis. Council, to Senator Kathy Bernier 1 (Nov. 1, 2021), available at http://thewheelerreport.com/wheeler_docs/files/110121bernierlegcouncil_01.pdf.

¹⁰⁴ Molly Beck, *Michael Gableman Has Promoted Decertifying Wisconsin’s 2020 Election. His Own Attorney Says It’s Impossible and Pointless*, Milwaukee J. Sentinel (Mar. 24, 2022), available at <https://www.jsonline.com/story/news/politics/elections/2022/03/24/michael-gablemans-attorney-james-bopp-says-decertifying-wisconsin-election-is-impossible/7154995001/>.

¹⁰⁵ Memorandum from Zakory Niemierowicz to Steve Fawcett (Mar. 16, 2022), available at <https://www.documentcloud.org/documents/22124205-wisconsin-assembly-records-of-additional-communications-from-election-investigation#document/p29>. The Memorandum is untitled and unsigned, but it speaks in Gableman’s voice: for example, the memorandum says that it “responds to your request for *my office* to further analyze,” and it refers to “*my presentation* of the reports [sic] findings to the Assembly Committee on Campaigns and Elections.” *Id.* (emphases added). Niemierowicz worked in the Office of Special Counsel (as indicated in his signature line) and sent the memorandum to Fawcett, Assembly Speaker Robin Vos’s General Counsel. See *Representative Robin Vos*, Wis. State Legislature, available at <https://docs.legis.wisconsin.gov/2023/legislators/assembly/2531> (last visited Mar. 24, 2023); Steve Fawcett, LinkedIn, available at <https://www.linkedin.com/in/steve-fawcett-29804b47/> (last visited Mar. 24, 2023).

208. For example, several candidates in Wisconsin's 2022 gubernatorial race either actively endorsed or were slow to disavow the concept of decertification. Former State Representative Timothy Ramthun, an active decertification proponent, repeatedly clashed with Assembly Speaker Vos on the issue.¹⁰⁶

209. Gubernatorial candidate Tim Michels, who ultimately secured the Republican nomination, publicly stated as late as August 2022 that he would consider attempting to decertify the election results.¹⁰⁷ Michels also equivocated over whether he would accept defeat if he lost in November (in the end, he did), and told voters that if he were elected, his party would “never lose another election” in Wisconsin.¹⁰⁸ Michels won nearly 48 percent of the popular vote in Wisconsin in November 2022.¹⁰⁹

210. An attorney who gained notoriety advocating for decertification ran for Attorney General of Wisconsin, earning over 25 percent of the vote in the Republican primary.¹¹⁰

¹⁰⁶ Shawn Johnson, *Republicans Running for Wisconsin Governor Won't Commit to Backing Trump in 2024*, WPR (Aug. 1, 2022), available at <https://www.wpr.org/republicans-running-wisconsin-governor-wont-commit-backing-trump-2024>; Marcus Aarsvold, *Wisconsin Republicans Debate 2020 Presidential Election Decertification*, WMTV (Mar. 16, 2022), available at <https://www.nbc15.com/2022/03/16/wisconsin-republicans-debate-2020-presidential-election-decertification/>.

¹⁰⁷ Johnson, *supra* n.106.

¹⁰⁸ Martin Pengelly, *Republican Says Party 'Will Never Lose Another Election' in Wisconsin If He Wins*, Guardian (Nov. 2, 2022), available at <https://www.theguardian.com/us-news/2022/nov/02/wisconsin-republican-gubernatorial-candidate-tim-michels>.

¹⁰⁹ *Statewide Summary Results*, Wis. Elections Comm'n, available at https://elections.wi.gov/sites/default/files/documents/Statewide%20Summary%20Results_1.pdf (last visited Mar. 24, 2023).

¹¹⁰ *Statewide Percentage Results*, Wis. Elections Comm'n, available at <https://elections.wi.gov/sites/default/files/documents/Statewide%20Percentage%20Results.pdf> (last visited Mar. 24, 2023).

211. Trump also weighed in, praising Gableman’s report and endorsing the “Decertification of Electors.”¹¹¹

212. Gableman’s “Second Interim Report” proved to be his last to the Assembly, but he continued to publicly promote election denialism. In early August 2022, Gableman appeared on Trump ally Steve Bannon’s podcast and asserted that the Wisconsin Elections Commission “stole [the election] from the voters and the good citizens of the state of Wisconsin.”¹¹²

213. Assembly Speaker Vos terminated Gableman’s contract, and with it his “investigation,” on August 12, 2022,¹¹³ but the harms it generated linger in the public sphere.

214. Marquette University Law School polls conducted in 2022 reveal persistent distrust of Wisconsin’s election administration.

215. In a poll conducted between October 24 and November 1, 2022, one third of registered voters said they were not too confident or not at all confident in the outcome of the 2020 presidential election. One half of Republican respondents expressed a lack of confidence in the outcome.¹¹⁴

216. In the same poll, 56 percent of registered voters reported being “very concerned” about the accuracy of the casting and counting of votes in the upcoming November elections,

¹¹¹ David Weigel, *The Trailer: Decertify the 2020 Election? In Wisconsin, It May Be on the Ballot*, Wash. Post (Mar. 15, 2022), available at <https://www.washingtonpost.com/politics/2022/03/15/trailer-decertify-2020-election-wisconsin-it-may-be-ballot/>.

¹¹² Patrick Marley, *Wisconsin GOP Fires Election Investigator Who Pushed False Fraud Claims*, Wash. Post (Aug. 12, 2022), available at <https://www.washingtonpost.com/politics/2022/08/12/wisconsin-gop-fires-election-investigator-who-pushed-false-fraud-claims/>.

¹¹³ *Id.*

¹¹⁴ Franklin, *Final Pre-Election Marquette Law School Poll of Wisconsin Voters*, *supra* n.89.

including 81 percent of Republican respondents, 50 percent of Independents, and 38 percent of Democrats.¹¹⁵

217. Voter confidence (or lack of confidence) in the outcome of the 2020 election results was remarkably stable throughout 2022, even after the end of the Gableman investigation, with 30 to 35 percent expressing a lack of confidence in the outcome.¹¹⁶

218. The threat remains that antidemocratic actors will renew their calls for decertification, especially as the next presidential election approaches. A similar danger exists around the contention—incorrect as a matter of law—that state legislatures have plenary power to choose presidential electors, regardless of the outcome of the popular vote.

219. As long as skepticism of our electoral system remains at alarmingly high levels, there is a significant probability that the Fraudulent Elector Defendants will be called upon again to falsely assume the office of presidential elector.

220. Indeed, an underlying assumption of the decertification movement seems to be that the Fraudulent Elector Defendants are in fact the duly elected presidential electors for the State of Wisconsin.

221. Despite the grave risks that the decertification movement poses to democracy in Wisconsin, the Fraudulent Elector Defendants have disavowed neither their false assumption of the office of presidential elector nor the actions that they took following the 2020 presidential election.

222. The Fraudulent Elector Defendants have not attempted to rescind the “Certificate of the Votes of the 2020 Electors from Wisconsin” that they executed and transmitted under false

¹¹⁵ *Id.*

¹¹⁶ *Id.*

pretenses, and they have not attempted to correct the numerous false statements contained therein.

223. Nor have any Defendants acknowledged that what they did was wrong, let alone unlawful, or recognized the serious consequences of their misconduct following the election.

224. To the contrary, Defendants have publicly stated that there was nothing objectionable about their conduct following the 2020 presidential election.¹¹⁷

225. Several of the Defendants have continued to hold positions of authority and influence in Wisconsin's legal and political communities.

226. The Wisconsin Supreme Court recently reappointed Defendant Troupis to the State's Judicial Conduct Advisory Committee, triggering three dissenting votes, which are rare in this context.¹¹⁸

227. Defendant Spindell remains a Wisconsin Elections Commissioner and has publicly applauded the reduction of Black and Hispanic voting in Milwaukee.¹¹⁹

¹¹⁷ See, e.g., Wis. Elections Comm'n, *November Special Teleconference Meeting*, at 01:30–01:45 (Nov. 3, 2021), available at <https://elections.wi.gov/event/november-special-teleconference-meeting> (statement of Defendant Spindell, describing his actions following the 2020 presidential election as “solely performing only ministerial acts as one of the electors for the Republican Party of Wisconsin and for the Trump campaign”).

¹¹⁸ *In the Matter of Reappointment to the Judicial Conduct Advisory Committee*, Sup. Ct. of Wis. (Mar. 2, 2023), available at <https://www.wispolitics.com/wp-content/uploads/2023/03/230302Troupis.pdf>; Molly Beck, *A Divided State Supreme Court Reappoints an Attorney Tied to the Fake Elector Scheme to Judicial Advisory Panel*, Milwaukee J. Sentinel (Mar. 2, 2023), available at <https://www.jsonline.com/story/news/politics/2023/03/02/wisconsin-supreme-court-reappoints-jim-troupis-to-judicial-panel/69964662007/>.

¹¹⁹ Frederica Freyberg, *Robert Spindell on Voter Turnout, Suppression in Wisconsin*, PBS Wis. (Jan. 20, 2023), available at <https://pbswisconsin.org/news-item/robert-spindell-on-voter-turnout-suppression-in-wisconsin/>.

228. At least four Defendants played important roles in recent electoral campaigns.¹²⁰ And fully half of the Fraudulent Elector Defendants currently serve on the Republican Party of Wisconsin's Executive Committee.¹²¹

229. To ensure that the damage caused by Defendants' actions is remedied to the greatest extent possible, and to prevent such harms from recurring in the future, Plaintiffs bring the following claims.

CLAIMS

COUNT ONE (Civil Conspiracy Against All Defendants)

¹²⁰ Defendant Travis was a paid organizer on the reelection campaign of Senator Johnson. *See* Lawrence Andrea, *One of Wisconsin's Republican False Electors Is Working for Ron Johnson's Reelection Campaign*, Milwaukee J. Sentinel (Aug. 31, 2022), available at <https://www.jsonline.com/story/news/politics/2022/08/31/ron-johnson-reelection-campaign-employs-wisconsin-gop-false-elector/7906015001/>. Defendant Feehan held a leadership post in the 2022 gubernatorial campaign of former Lieutenant Governor Rebecca Kleefisch. *See* Press Release, Kleefisch Campaign: Names Campaign Leadership Team (Oct. 5, 2021), available at <https://www.wispolitics.com/2021/kleefisch-campaign-names-campaign-leadership-team>. Defendant Hitt served as Chairman of the 2022 campaign for Attorney General of former legislator Adam Jarchow. *See* Press Release, Jarchow Campaign: Announces Campaign Advisory Committee (Jan. 18, 2022), available at <https://www.wispolitics.com/2022/jarchow-campaign-announces-campaign-advisory-committee>. And Defendant Travis also served on the Grassroots Leadership Committee of the Jarchow campaign. *See id.*

¹²¹ WisGOP, *The Wisconsin GOP Team*, available at <https://wisgop.org/the-wisconsin-gop-team/> (last visited Mar. 24, 2023). Defendant Kiernan serves as the Second Vice Chairman of the Republican Party of Wisconsin statewide and as the Chairman of the Fifth Congressional District for the Republican Party of Wisconsin. *Id.* Defendant Feehan serves as the Chairman of the Third Congressional District for the Republican Party of Wisconsin. *Id.* Defendant Spindell serves as Chairman of the Fourth Congressional District for the Republican Party of Wisconsin. *Id.* Defendant Ruh serves as Chairman of the Eighth Congressional District for the Republican Party of Wisconsin. *Id.* And Defendant Travis serves as Vice Chairman of the Seventh Congressional District for the Republican Party of Wisconsin. *Id.* In addition, Defendant Bustrin serves as the Republican National Committee vice chair for the Midwest region. *See* Mitchell Schmidt, *Wisconsin Republicans Seek to Have Fraudulent Electors Case Split, Heard in Their Home Counties*, Wis. State J. (Mar. 20, 2023), available at https://madison.com/news/local/govt-and-politics/wisconsin-republicans-seek-to-have-fraudulent-electors-case-split-heard-in-their-home-counties/article_6601b2b3-a3ed-5dc3-94ac-ed30970f8847.html.

230. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

231. As described above, the Fraudulent Elector Defendants met at the Wisconsin State Capitol on December 14, 2020. While there, they purported to exercise the powers reserved for the duly elected presidential electors for the State of Wisconsin. In particular, the Fraudulent Elector Defendants:

- a. purported to fill a nonexistent vacancy in the office of presidential elector;
- b. executed a document titled “Certificate of the Votes of the 2020 Electors from Wisconsin,” which falsely represented that the Fraudulent Elector Defendants were “the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Wisconsin”;
- c. falsely certified that the Fraudulent Elector Defendants had met at the State Capitol “to perform the duties enjoined upon” them, and that they had cast Wisconsin’s ten electoral votes for Donald J. Trump and Michael R. Pence; and
- d. transmitted, via memorandum executed by Defendant Hitt, the document titled “Certificate of the Votes of the 2020 Electors from Wisconsin” to the President of the United States Senate, the Archivist of the United States, the Wisconsin Secretary of State, and the Chief Judge of the United States District Court for the Western District of Wisconsin.

232. The Fraudulent Elector Defendants were not, and knew then that they were not, the duly elected presidential electors for the State of Wisconsin.

233. And the Fraudulent Elector Defendants were not, and knew then that they were not, authorized to exercise the powers assigned by law to the duly elected presidential electors

for the State of Wisconsin.

234. The Fraudulent Elector Defendants nevertheless purported to exercise the powers assigned by law to the duly elected presidential electors for the State of Wisconsin.

235. The Fraudulent Elector Defendants did so because they intended for their purported votes to be counted by Congress, even though they knew then that they were not the lawfully elected presidential electors for the State of Wisconsin.

236. Through their actions, the Fraudulent Elector Defendants violated a number of civil and criminal laws. So too did Defendants Chesebro and Troupis, who conspired with, aided, and abetted the Fraudulent Elector Defendants.

Wisconsin Stat. §§ 5.10 and 7.75

237. Wisconsin Stat. § 5.10 specifies that Wisconsin's presidential electors are chosen by the statewide vote for the offices of President and Vice President.

238. Wisconsin Stat. § 7.75 sets forth the requirements for Wisconsin's lawfully elected presidential electors to participate in the meeting of the electors held on the first Monday after the second Wednesday in December following a presidential election.

239. Joseph R. Biden, Jr. and Kamala D. Harris won Wisconsin's statewide election in November 2020 for the offices of President and Vice President, respectively.

240. Accordingly, the Democratic candidates for the office of presidential elector—including Plaintiffs Penabaker and Arnold—were the duly elected presidential electors for the State of Wisconsin.

241. During the 2020 presidential election, none of the Fraudulent Elector Defendants was duly elected as a presidential elector pursuant to Wis. Stat. § 5.10.

242. None of the Fraudulent Elector Defendants was authorized to participate in the

meeting of the presidential electors pursuant to Wis. Stat. § 7.75.

243. By assuming to act as presidential electors for the State of Wisconsin, and by purporting to participate in the meeting of the presidential electors held on December 14, 2020, the Fraudulent Elector Defendants violated Wis. Stat. §§ 5.10 and 7.75.

Wisconsin Stat. §§ 939.05 and 946.69

244. Wisconsin Stat. § 946.69 prohibits falsely assuming to act as a public officer or employee or a utility employee. As relevant, it provides that: “Whoever does any of the following is guilty of a Class I felony: (a) Assumes to act in an official capacity or to perform an official function, knowing that he or she is not the public officer or public employee or the employee of a utility that he or she assumes to be.” Wis. Stat. § 946.69(2).

245. By assuming to act as presidential electors for the State of Wisconsin, while knowing that they were not presidential electors for the State of Wisconsin, the Fraudulent Elector Defendants violated Wis. Stat. § 946.69.

246. Under Wis. Stat. § 939.05, “[w]hoever is concerned in the commission of a crime is a principal and may be charged with and convicted of the commission of the crime.” Wis. Stat. § 939.05(1). “A person is concerned in the commission of the crime if the person: (a) Directly commits the crime; or (b) Intentionally aids and abets the commission of it; or (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels or otherwise procures another to commit it.” Wis. Stat. § 939.05(2).

247. In addition to directly violating Wis. Stat. § 946.69, the Fraudulent Elector Defendants intentionally aided and abetted the violation of, and conspired with each other to violate, Wis. Stat. § 946.69, in violation of Wis. Stat. § 939.05.

248. Defendants Chesebro and Troupis also intentionally aided and abetted the

violation of, and conspired with the Fraudulent Elector Defendants to violate, Wis. Stat. § 946.69, in violation of Wis. Stat. § 939.05.

18 U.S.C. § 1512(c)(2)

249. Under 18 U.S.C. § 1512(c)(2), “[w]hoever corruptly . . . obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.”

250. By purporting to cast Wisconsin’s electoral votes, knowing that they were not the duly elected presidential electors for the State of Wisconsin, and by intending that Congress count their purported votes rather than those cast by Wisconsin’s duly elected presidential electors, the Fraudulent Elector Defendants corruptly attempted to obstruct, influence, or impede an official proceeding, in violation of 18 U.S.C. § 1512(c)(2).

251. By conspiring with, aiding, and abetting the Fraudulent Elector Defendants, Defendants Chesebro and Troupis also corruptly attempted to obstruct, influence, or impede an official proceeding, in violation of 18 U.S.C. § 1512(c)(2).

18 U.S.C. § 371

252. Under 18 U.S.C. § 371, “[i]f two or more persons conspire . . . to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.”

253. “It has long been established that this statutory language is not confined to fraud as that term has been defined in the common law. It reaches any conspiracy for the purpose of impairing, obstructing, or defeating the lawful function of any department of government.” *Dennis v. United States*, 384 U.S. 855, 861 (1966) (internal quotation marks omitted).

254. By purporting to cast Wisconsin's electoral votes, knowing that they were not the duly elected presidential electors for the State of Wisconsin, and by intending that Congress count their purported votes rather than those cast by Wisconsin's duly elected presidential electors, the Fraudulent Elector Defendants conspired to defraud the United States by impairing, obstructing, or defeating the lawful function of a department of government, in violation of 18 U.S.C. § 371.

255. Defendants Chesebro and Troupis also conspired with the Fraudulent Elector Defendants to defraud the United States by impairing, obstructing, or defeating the lawful function of a department of government, in violation of 18 U.S.C. § 371.

18 U.S.C. § 494

256. Under 18 U.S.C. § 494:

Whoever falsely makes, alters, forges, or counterfeits any bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or . . .

Whoever transmits to, or presents at any office or to any officer of the United States, any such false, forged, altered, or counterfeited writing, knowing the same to be false, forged, altered, or counterfeited—

Shall be fined under this title or imprisoned not more than ten years, or both.

257. By executing a document titled "Certificate of the Votes of the 2020 Electors from Wisconsin," which falsely purported to be an official certificate reflecting the votes of Wisconsin's duly elected presidential electors; by transmitting that certificate to the President of the United States Senate, the Archivist of the United States, and the Chief Judge of the United States District Court for the Western District of Wisconsin; and by intending that Congress count their purported votes rather than those cast by Wisconsin's duly elected presidential electors: the

Fraudulent Elector Defendants falsely made, forged, and counterfeited a public record or other writing for the purpose of defrauding the United States, and transmitted such writing to an officer of the United States, in violation of 18 U.S.C. § 494.

258. Defendants Chesebro and Troupis also conspired with the Fraudulent Elector Defendants to falsely make, forge, and counterfeit a public record or other writing for the purpose of defrauding the United States, and to transmit such writing to an officer of the United States, in violation of 18 U.S.C. § 494. Among other things, Defendant Troupis did so by coordinating the meeting of the Fraudulent Elector Defendants on December 14, 2020, *see supra* ¶118, and Defendant Chesebro did so by providing the Fraudulent Elector Defendants with the documents they executed and instructions on how to transmit those documents, *see supra* ¶116. Aware of the illegality of these actions, Defendant Chesebro recommended adding qualifying language to the fraudulent electors' certificates in New Mexico—acknowledging the votes should be counted only if they were later deemed valid—but neglected to add such language to the Fraudulent Elector Defendants' false certificate or related papers in Wisconsin. *See supra* ¶127.

259. Defendants' unlawful actions formed the basis of a civil conspiracy that injured Plaintiffs.

260. “A civil conspiracy is a combination of two or more persons by some concerted action to accomplish some unlawful purpose or to accomplish by unlawful means some purpose not in itself unlawful.” *Thomas ex rel. Gramling v. Mallett*, 2005 WI 129, ¶168, 285 Wis. 2d 236, 701 N.W.2d 523 (internal quotation marks omitted).

261. The elements of a civil conspiracy claim are “(1) [t]he formation and operation of the conspiracy; (2) the wrongful act or acts done pursuant thereto; and (3) the damage resulting

from such act or acts.” *Onderdonk v. Lamb*, 79 Wis. 2d 241, 247, 255 N.W.2d 507 (1977).

262. It is not the case that “the acts which execute the conspiracy must be civilly actionable.” *Radue v. Dill*, 74 Wis. 2d 239, 244, 246 N.W.2d 507 (1976). Instead, “[i]t is only the existence of overt acts which is critical, in order that damages occur, not the actionability of the overt acts themselves.” *Id.*

263. As described above, the Fraudulent Elector Defendants formed and operated a conspiracy to falsely assume the office of presidential elector for the State of Wisconsin.

264. In doing so, they violated Wis. Stat. §§ 5.10, 7.75, 939.05, and 946.69, and 18 U.S.C. §§ 371, 494, and 1512(c)(2).

265. Defendants Chesebro and Troupis also conspired with, aided, and abetted the Fraudulent Elector Defendants, and in doing so violated Wis. Stat. §§ 939.05 and 946.69, and 18 U.S.C. §§ 371, 494, and 1512(c)(2).

266. Defendants’ wrongful acts caused Plaintiffs damages.

267. As described above, Defendants undermined Plaintiffs Penebaker and Arnold’s claims to legitimacy as presidential electors and injured Plaintiffs Penebaker and Arnold’s reputations by casting doubt on their status as presidential electors. *See Singer v. Singer*, 245 Wis. 191, 198, 14 N.W.2d 43 (1944) (injuries to plaintiff’s character actionable in civil conspiracy suit).

268. As described above, Defendants made unlawful use of public resources in which all Plaintiffs had an interest as Wisconsin taxpayers.

269. Accordingly, Plaintiffs respectfully request that this Court declare that Defendants engaged in a civil conspiracy to falsely assume the office of presidential elector for the State of Wisconsin, pursuant to which the Fraudulent Elector Defendants violated Wis. Stat. §§ 5.10,

7.75, 939.05, and 946.69, and 18 U.S.C. §§ 371, 494, and 1512(c)(2), and pursuant to which Defendants Chesebro and Troupis violated Wis. Stat. §§ 939.05 and 946.69, and 18 U.S.C. §§ 371, 494, and 1512(c)(2).

270. Plaintiffs respectfully request that the Court award them damages caused by that conspiracy.

COUNT TWO
(Public Nuisance Under Wis. Stat. § 823.01 Against All Defendants)

271. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

272. Under Wis. Stat. § 823.01, “[a]ny person, county, city, village or town may maintain an action to recover damages or to abate a public nuisance from which injuries peculiar to the complainant are suffered, so far as necessary to protect the complainant’s rights and to obtain an injunction to prevent the same.”

273. “A public nuisance is a condition or activity which substantially or unduly interferes with the use of a public place or with the activities of an entire community.”

Physicians Plus Ins. Corp. v. Midwest Mut. Ins. Co., 2002 WI 80, ¶21, 254 Wis. 2d 77, 646 N.W.2d 777 (footnote omitted).

274. In addition, “repeated violation of criminal statutes constitutes per se a public nuisance.” *State v. H. Samuels Co.*, 60 Wis. 2d 631, 637, 211 N.W.2d 417 (1973).

275. Defendants substantially and unduly interfered with the activities of the entire Wisconsin electorate when they purported to exercise—and conspired with, aided, and abetted each other in purporting to exercise—the powers assigned by law to the duly elected presidential electors for the State of Wisconsin.

276. In particular, Defendants undermined Wisconsin voters’ faith in the democratic process and their trust in the State’s political institutions.

277. Defendants' actions also interfered with every voter's interest in his or her right to exercise the franchise. *See McGrauel v. Phelps*, 144 Wis. 1, 15, 128 N.W. 1041 (1910) (“[The right to vote] is a right which the law protects and enforces as jealously as it does property in chattels or lands. The law maintains and vindicates it as vigorously as it does any right of any kind which men may have or enjoy.” (internal quotation marks and alteration omitted)).

278. Furthermore, Defendants' actions helped lay the foundation for a nationwide scheme to override the results of the 2020 election, thereby setting an anti-democratic precedent that jeopardizes all future elections inside and outside the State.

279. Defendants' actions continue to threaten the integrity of representative government in Wisconsin because they have failed to disavow their misconduct following the 2020 presidential election.

280. There is also a significant probability, in light of ongoing efforts to delegitimize and decertify the 2020 presidential election in Wisconsin, that Defendants or others inspired by Defendants will again, in the future, purport to exercise—and conspire with, aid, and abet others in purporting to exercise—the powers assigned by law to the duly elected presidential electors for the State.

281. For these reasons, Defendants' actions constituted, and continue to constitute, a public nuisance.

282. As explained above, Defendants also repeatedly violated various criminal prohibitions when they falsely assumed to act as public officers and conspired with, aided, and abetted each other to do the same.

283. There is a significant probability that Defendants or others inspired by Defendants will violate these criminal prohibitions again in the future.

284. For these reasons, Defendants' actions constituted, and continue to constitute, *per se* a public nuisance.

285. When Defendants purported to act—and conspired with, aided, and abetted each other in purporting to act—as presidential electors for the State of Wisconsin, Plaintiffs Penebaker and Arnold suffered injuries peculiar to them.

286. In particular, Defendants undermined Plaintiffs Penebaker and Arnold's claims to legitimacy as presidential electors for the State of Wisconsin.

287. And Defendants injured Plaintiffs Penebaker and Arnold's reputations by casting doubt on their status as presidential electors for the State of Wisconsin.

288. Defendants continue to inflict these injuries on Plaintiffs Penebaker and Arnold given Defendants' failure to disavow their prior actions and the ongoing efforts to delegitimize and decertify the 2020 presidential election in Wisconsin.

289. There is a significant probability that Defendants or others inspired by Defendants will inflict these injuries on Plaintiffs Penebaker and Arnold again in the future.

290. Accordingly, Plaintiffs Penebaker and Arnold respectfully request that the Court declare that Defendants' false assumption of the office of presidential elector—and the actions they took to conspire with, aid, and abet each other in doing the same—constituted, and continue to constitute, a public nuisance.

291. Plaintiffs Penebaker and Arnold also respectfully request that the Court award damages for their peculiar injuries and enjoin Defendants from falsely assuming—and conspiring with, aiding, and abetting others in falsely assuming—the office of presidential elector again in the future.

COUNT THREE
(Public Nuisance Under Wis. Stat. § 823.02 Against All Defendants)

292. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

293. Under Wis. Stat. § 823.02, “[a]n action to enjoin a public nuisance may be commenced and prosecuted in the name of the state, either by the attorney general on information obtained by the department of justice, or upon the relation of a private individual, . . . having first obtained leave therefor from the court.”

294. As explained above, Defendants’ actions constituted, and continue to constitute, a public nuisance.

295. Plaintiffs filed contemporaneously with the Complaint in this case a motion for leave to proceed under Wis. Stat. § 823.02 on behalf of the State.

296. All Plaintiffs have standing to proceed under Wis. Stat. § 823.02.

297. When Defendants purported to act—and conspired with, aided, and abetted each other in purporting to act—as presidential electors for the State of Wisconsin, all Plaintiffs suffered injuries as Wisconsin taxpayers and voters.

298. In particular, the Fraudulent Elector Defendants made unlawful use of public resources during their meeting at the State Capitol on December 14, 2020, and those resources were the property of Wisconsin and its taxpayers.

299. As Wisconsin taxpayers, all Plaintiffs had an interest in the property that Defendants unlawfully used. *Cf. Hart v. Ament*, 176 Wis. 2d 694, 699, 500 N.W.2d 312 (1993) (“Even a loss or potential loss which is infinitesimally small with respect to each individual taxpayer will suffice to sustain a taxpayer suit.”).

300. In addition, Defendants inflicted an injury on all Plaintiffs by interfering with their interest in their right to vote.

301. There is a significant probability that Defendants or others inspired by Defendants will inflict similar injuries on all Plaintiffs again in the future.

302. Accordingly, all Plaintiffs respectfully request that the Court declare that Defendants' false assumption of the office of presidential elector—and the actions they took to conspire with, aid, and abet each other in doing the same—constituted, and continue to constitute, a public nuisance.

303. All Plaintiffs also respectfully request that the Court enjoin Defendants from falsely assuming—and conspiring with, aiding, and abetting others in falsely assuming—the office of presidential elector again in the future.

COUNT FOUR
(Quo Warranto Against the Fraudulent Elector Defendants)

304. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

305. Chapter 784 of the Wisconsin Statutes codifies the common law action of *quo warranto*. See *State ex rel. Shroble v. Prusener*, 185 Wis. 2d 102, 108 n.3, 517 N.W.2d 169 (1994).

306. “An action may be brought by the attorney general in the name of the state, upon his or her own information or upon the complaint of any private party, against the parties offending in the following cases: (a) When any person shall usurp, intrude into or unlawfully hold or exercise any public office, civil or military, or any franchise within this state, or any office in a corporation created by the authority of this state” Wis. Stat. § 784.04(1).

307. “Such action may be brought in the name of the state by a private person on personal complaint when the attorney general refuses to act or when the office usurped pertains to a county, town, city, village, school district or technical college district.” Wis. Stat. § 784.04(2).

308. By falsely assuming the office of presidential elector for the State of Wisconsin, the Fraudulent Elector Defendants did “usurp, intrude into or unlawfully hold or exercise [that] public office.”

309. On April 22, 2022, Plaintiffs requested that the Wisconsin Attorney General bring an action against the Fraudulent Elector Defendants under Wis. Stat. § 784.04(1). *See* Ex. H.

310. On May 6, 2022, the Wisconsin Attorney General declined to bring such an action. *See* Ex. I.

311. In addition to requesting first that the Attorney General bring an action under Wis. Stat. § 784.04(1), a private plaintiff bringing an action under § 784.04(2) “must show that he has sustained or is in danger of sustaining injury as a result of the challenged action, and he must show a special interest.” *City of Waukesha v. Salbashian*, 128 Wis. 2d 334, 349, 382 N.W.2d 52 (1986) (internal quotation marks omitted). However, “only a slight interest is necessary to qualify a person to apply for leave to prosecute the action.” *Id.* For example, “the pecuniary interest of a landowner-taxpayer is sufficient to confer standing in a *quo warranto* action.” *Id.* at 351.

312. As described above, Plaintiffs Penebaker, Arnold, and Joseph have sustained, and are in danger of sustaining in the future, injuries as a result of the Fraudulent Elector Defendants’ usurpation of the office of presidential elector for the State of Wisconsin.

313. Plaintiffs Penebaker and Arnold have a special interest because they are entitled to the office that the Fraudulent Elector Defendants usurped.

314. All Plaintiffs have a special interest because they are Wisconsin taxpayers and voters.

315. When a defendant in a *quo warranto* action is “adjudged guilty of usurping or

intruding into or unlawfully holding or exercising any office, franchise or privilege, judgment shall be rendered that the defendant be excluded from the office, franchise or privilege and that the plaintiff recover costs against the defendant. The court may also, in its discretion, fine the defendant a sum not exceeding \$2,000, which fine, when collected, shall be paid into the treasury of the state.” Wis. Stat. § 784.13.

316. In addition, “[i]f the judgment be rendered upon the right of the person so alleged to be entitled in favor of such person the person may recover by action the damages the person has sustained by reason of the usurpation by the defendant of the office from which such defendant has been excluded.” Wis. Stat. § 784.11.

317. Accordingly, Plaintiffs respectfully request that this Court: render judgment excluding the Fraudulent Elector Defendants from the office of presidential elector for the State of Wisconsin; award costs to Plaintiffs; fine each of the Fraudulent Elector Defendants \$2,000; and award to Plaintiffs Pennebaker and Arnold damages for the Fraudulent Elector Defendants’ usurpation of the office to which they are entitled by the results of Wisconsin’s 2020 presidential election.

COUNT FIVE
(Punitive Damages Against All Defendants)

318. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

319. In addition to compensatory damages, Wisconsin law allows the award of punitive damages if the factfinder determines that a defendant acted in intentional disregard of the rights of a plaintiff. Wis. Stat. § 895.043(3).

320. A person acts in intentional disregard of the rights of a plaintiff if the person acts with the purpose to disregard the plaintiff’s rights or is aware that his or her acts are substantially certain to result in the plaintiff’s rights being disregarded. *Strenke v. Hogner*, 2005 WI 25, ¶38,

279 Wis. 2d 52, 694 N.W.2d 296.

321. A finding of intentional disregard requires that the defendant's act or course of conduct was: (a) deliberate; (b) an actual disregard of a right belonging to the plaintiff; and (c) sufficiently aggravated to warrant punishment by punitive damages. *Id.*

322. An award of punitive damages does not require that a defendant intended to cause harm or injury to the plaintiff. *Wosinski v. Advance Cast Stone Co.*, 2017 WI App 51, ¶75, 377 Wis. 2d 596, 901 N.W.2d 797 (quoting *Strenke*, 2005 WI 25, ¶19; *Wischer v. Mitsubishi Heavy Indus. Am., Inc.*, 2005 WI 26, ¶24, 279 Wis. 2d 4, 694 N.W.2d 320).

323. Indeed, a defendant's conduct giving rise to punitive damages need not be directed at the specific plaintiff seeking punitive damages. *Strenke*, 2005 WI 25, ¶51.

324. Punitive damages are not awarded to compensate a plaintiff for any loss he or she has sustained. Instead, the purpose of punitive damages is to deter wrongdoers—and others—from engaging in similar conduct in the future. *Trinity Evangelical Lutheran Church & Sch.-Freistadt v. Tower Ins. Co.*, 2003 WI 46, ¶50, 261 Wis. 2d 333, 661 N.W.2d 789.

325. Under Wis. Stat. § 895.043(6), with respect to each defendant, a punitive damages award cannot exceed twice the amount of compensatory damages or \$200,000.00, whichever is greater.

326. Wisconsin law recognizes the propriety of punitive damages where both the plaintiff and society have significant interests in deterring the defendant's conduct, regardless of the lack of measurable harm that results. *See Jacque v. Steenberg Homes, Inc.*, 209 Wis. 2d 605, 617, 563 N.W.2d 154 (1997).

327. This is true even where the underlying judgment is a “nominal damage award represent[ing] the recognition that, although immeasurable in mere dollars, actual harm has

occurred.” *Id.* at 619.

328. And it is especially true where, as here, society has an interest in punishing and deterring the conduct at issue beyond that of protecting the interests of the individual plaintiffs. *See id.* at 620.

329. Defendants’ intentional conduct, as alleged in detail above and to be proven by Plaintiffs, shows that they acted deliberately, in disregard of Plaintiffs’ rights, and in a manner that warrants punitive damages.

330. Punitive damages are further appropriate here to deter Defendants—and others—from ever engaging in similar conduct in the future.

331. Accordingly, the factfinder may, and should, award Plaintiffs punitive damages up to the statutory maximum against each Defendant.

COUNT SIX

(Article I, Section 9 of the Wisconsin Constitution Against All Defendants)

332. Plaintiffs restate and re-allege all preceding paragraphs as if fully set forth herein.

333. Under Wis. Const. art. I, § 9: “Every person is entitled to a certain remedy in the laws for all injuries, or wrongs which he may receive in his person, property, or character; he ought to obtain justice freely, and without being obliged to purchase it, completely and without denial, promptly and without delay, conformably to the laws.”

334. This provision has been interpreted to mean that: “When an adequate remedy or forum does not exist to resolve disputes or provide due process, the courts, under the Wisconsin Constitution, can fashion an adequate remedy.” *Gramling*, 2005 WI 129, ¶128 (internal quotation marks omitted).

335. For the reasons above, Plaintiffs are entitled to relief under Wisconsin statutory and common law.

336. To the extent the Court disagrees, however, Plaintiffs respectfully request that the Court use its authority pursuant to Wis. Const. art. I, § 9, to award the relief detailed below.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter an order:

- (1) Declaring that Defendants engaged in a civil conspiracy, pursuant to which the Fraudulent Elector Defendants violated Wis. Stat. §§ 5.10, 7.75, 939.05, and 946.69, and 18 U.S.C. §§ 371, 494, and 1512(c)(2), and pursuant to which Defendants Chesebro and Troupis violated Wis. Stat. §§ 939.05 and 946.69, and 18 U.S.C. §§ 371, 494, and 1512(c)(2);
- (2) Declaring that Defendants' false assumption of the office of presidential elector—and the actions they took to conspire with, aid, and abet each other in doing the same—constituted, and continue to constitute, a public nuisance;
- (3) Enjoining Defendants from falsely assuming the office of presidential elector—or conspiring with, aiding, and abetting others in doing the same—and issuing such further equitable relief as appropriate;
- (4) Awarding Plaintiffs damages for Defendants' engagement in a civil conspiracy;
- (5) Awarding Plaintiffs damages for Defendants' creation of a public nuisance;
- (6) Awarding Plaintiffs punitive damages;
- (7) Pursuant to Chapter 784 of the Wisconsin Statutes, excluding the Fraudulent Elector Defendants from the office of presidential elector for the State of Wisconsin; awarding costs to Plaintiffs; fining each Fraudulent Elector Defendant \$2,000; and awarding Plaintiffs Penebaker and Arnold damages caused by the Fraudulent Elector Defendants' usurpation of the office to which they are entitled;

- (8) Pursuant to Wis. Const. art. I, § 9, awarding any other appropriate relief;
- (9) Awarding Plaintiffs reasonable attorneys' fees and costs;
- (10) Granting other such relief as may be just and proper; and
- (11) Requiring that Defendants transmit a copy of the final judgment in this matter to the President of the United States Senate, the Wisconsin Secretary of State, the Archivist of the United States, and the Chief Judge of the United States District Court for the Western District of Wisconsin.

Dated: March 24, 2023.

Electronically signed by Scott B. Thompson
Scott B. Thompson (State Bar No. 1098161)
Elizabeth M. Pierson (State Bar No. 1115866)
LAW FORWARD, INC.

Jeffrey A. Mandell (State Bar No. 1100406)
Carly Gerads (State Bar No. 1106808)
STAFFORD ROSENBAUM LLP

Mary B. McCord*
Rupa Bhattacharyya*
Joseph W. Mead*
Ben Gifford*
Jacob Glick**
INSTITUTE FOR CONSTITUTIONAL
ADVOCACY AND PROTECTION

Attorneys for Plaintiffs

* Admitted *pro hac vice*

** Application for admission *pro hac vice* forthcoming

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EXHIBIT A

CERTIFICATE OF NOMINATIONS
 PRESIDENTIAL ELECTORS 2020
 CONSTITUTION PARTY OF WISCONSIN
 Andrew Zuelke, State Chairman

Congressional District –

1st – Nigel Brown [REDACTED] [REDACTED]

2nd – Dan Herro [REDACTED] [REDACTED]

3rd – Matthew Kloskowski [REDACTED] [REDACTED] [REDACTED]

4th – Colin Hudson [REDACTED] [REDACTED]

5th – Thomas Harland [REDACTED] [REDACTED]

6th – Andrew Zuelke [REDACTED]

7th – Elizabeth Lindee [REDACTED] [REDACTED]

8th – Josh Young [REDACTED]

At Large – Glenn Petroski, [REDACTED] [REDACTED] [REDACTED] (1st District)

At Large – Lorraine Decker [REDACTED] [REDACTED] (3rd District)

EXHIBIT B

CERTIFICATE OF NOMINATION
PRESIDENTIAL ELECTORS
MEETING: OCTOBER 6, 2020

I, BENJAMIN WIKLER, Chairperson of the DEMOCRATIC PARTY OF WISCONSIN,
(name of chairperson) (name of party)

certify that the following are the names and addresses of the 2020 Presidential Electors

for the DEMOCRATIC PARTY OF WISCONSIN, as selected by the
(name of party)

members of the DEMOCRATIC PARTY OF WISCONSIN Presidential
(name of party)

Electors Nominating Convention on October 6, 2020:

Congressional District:

1st MEG ANDRIETSCH

2nd REP. STELLA STURBS

3rd RONALD MARTIN

4th LI. GOV. MANDELA BARNES

5th KHARY PENEBAKER

6th MARY ARNOLD

7th SEN. PATTY SCHACHTNER

8th SHANNON HOLSEY

At Large GOV. TONY EVERS

At Large BENJAMIN WIKLER

Signed in the CITY of MADISON, WI,
Town/Village or City (Name of Town, Village or City)

this 6th day of October 2020.

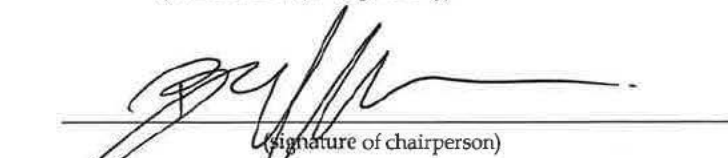

(signature of chairperson)
BEN WIKLER
(printed name of chairperson)
DEMOCRATIC PARTY OF WISCONSIN
(name of party)

EXHIBIT C

CERTIFICATE OF NOMINATION
PRESIDENTIAL ELECTORS
MEETING: OCTOBER 6, 2020

I, Andrew Hitt, Chairperson of the Republican Party of Wisconsin,
(name of chairperson) (name of party)

certify that the following are the names and addresses of the 2020 Presidential Electors
for the Republican Party of Wisconsin, as selected by the
(name of party)

members of the Republican Party Presidential
(name of party)

Electors Nominating Convention on October 6, 2020:

Congressional District:

1st Carol Brunner, [REDACTED]

2nd Edward Scott Grabins, [REDACTED]

3rd Bill Feehan, [REDACTED]

4th Robert F. Spindell, Jr. [REDACTED]

5th Tom Schreibel, [REDACTED]

6th Darryl Carlson, [REDACTED]

7th Pam Travis, [REDACTED]

8th Kelly Ruh, [REDACTED]

At Large Andrew Hitt, [REDACTED]

At Large Mary Buestrin, [REDACTED]

Signed in the city of Madison, WI,
Town/Village or City (Name of Town, Village or City)

this 6th day of October 2020.


(signature of chairperson)

Andrew Hitt
(printed name of chairperson)

Republican Party of Wisconsin
(name of party)

EXHIBIT D

STATEMENT OF CANVASS
FOR
PRESIDENT, VICE PRESIDENT AND PRESIDENTIAL ELECTORS
GENERAL ELECTION, NOVEMBER 3, 2020

I, Ann Jacobs, Chair of the Wisconsin Elections Commission, certify that the attached tabular statement, as compiled from the certified returns made to the Wisconsin Elections Commission by the county clerks of the several counties of the state, contains a correct abstract of the total number of votes given for the election of Presidential Electors, at a General Election held in the several towns, villages, cities, wards and election districts in said counties on the Third day of November, 2020.

I THEREFORE DETERMINE AND CERTIFY that the following electors for Joseph R. Biden and Kamala D. Harris, candidates for President and Vice President respectively, on the Democratic ticket, have received the greatest number of votes cast at the General Election held on November 3, 2020, and are duly elected Presidential Electors:

Presidential Electors

Meg Andrietsch
Shelia Stubbs
Ronald Martin
Mandela Barnes
Khary Penebaker
Mary Arnold
Patty Schachtner
Shannon Holsey
Tony Evers
Benjamin Wikler

Done in the City of Milwaukee, this 30th day of
November, 2020.



Ann Jacobs, Chair
Wisconsin Elections Commission

**WEC Canvass Reporting System
County by County Report
2020 General Election**

PRESIDENT OF THE UNITED STATES

County	Total Votes Cast	DEM	REP	CON	IND	IND	IND	IND	IND	IND	IND
		Joseph R. Biden Kamala D. Harris	Donald J. Trump Michael R. Pence	Don Blankenship William Mohr	Jo Jorgensen Jeremy Spike Cohen	Brian Carroll Amar Patel	Kasey Wells (write-in)	Jade Simmons Claudelliah J. Roze (write-in)	President R19 Boddie (write-in)	Howie Hawkins Angela Walker (write-in)	Gloria La Riva Sunil Freeman (write-in)
ADAMS	11,818	4,329	7,362	27	85	3	0	0	0	1	0
ASHLAND	8,757	4,801	3,841	11	70	11	0	0	0	6	0
BARRON	25,346	9,194	15,803	37	262	21	1	0	0	13	1
BAYFIELD	10,880	6,147	4,617	11	80	13	0	0	0	7	0
BROWN	144,017	65,511	75,871	215	1,829	206	1	0	0	33	2
BUFFALO	7,816	2,860	4,834	20	80	10	0	0	0	0	0
BURNETT	10,141	3,569	6,462	13	86	9	0	0	0	1	0
CALUMET	30,774	12,116	18,156	42	363	75	0	0	0	6	0
CHIPPEWA	35,938	13,983	21,317	60	501	45	0	0	0	5	1
CLARK	14,898	4,524	10,002	32	168	147	1	1	0	2	0
COLUMBIA	33,869	16,410	16,927	61	421	32	0	1	0	15	0
CRAWFORD	8,695	3,953	4,620	18	92	12	0	0	0	0	0
DANE	344,728	260,121	78,794	405	3,666	583	1	5	0	216	42
DODGE	48,436	16,356	31,355	90	535	81	1	0	0	11	0
DOOR	20,117	10,044	9,752	27	231	22	0	0	0	10	0
DOUGLAS	24,677	13,218	10,923	42	379	41	0	0	0	1	0
DUNN	23,524	9,897	13,173	44	368	28	1	0	0	11	0
EAU CLAIRE	58,275	31,620	25,341	97	925	91	0	3	0	21	1
FLORENCE	2,940	781	2,133	4	22	0	0	0	0	0	0
FOND DU LAC	57,251	20,588	35,754	91	686	75	0	2	0	17	1
FOREST	5,053	1,721	3,285	6	35	2	0	0	0	0	0
GRANT	25,608	10,998	14,142	34	350	34	0	0	0	10	0
GREEN	21,406	10,851	10,169	38	271	27	0	1	0	10	0
GREEN LAKE	10,671	3,344	7,168	15	110	11	0	0	0	1	0
IOWA	13,992	7,828	5,909	25	161	44	0	0	0	4	0
IRON	4,010	1,533	2,438	6	26	1	0	0	0	1	0
JACKSON	10,184	4,256	5,791	17	111	8	0	0	0	1	0
JEFFERSON	47,979	19,904	27,208	69	634	44	0	1	0	9	0

**WEC Canvass Reporting System
County by County Report
2020 General Election**

County	IND	IND	SCATTERING
	Kanye West Michelle Tidball (write-in)	Mark Charles Adrian Wallace (write-in)	
ADAMS	1	0	10
ASHLAND	1	0	16
BARRON	3	0	11
BAYFIELD	0	1	4
BROWN	19	2	328
BUFFALO	0	1	11
BURNETT	0	1	0
CALUMET	3	0	13
CHIPPEWA	2	0	24
CLARK	0	0	21
COLUMBIA	2	0	0
CRAWFORD	0	0	0
DANE	67	12	816
DODGE	6	1	0
DOOR	0	0	31
DOUGLAS	0	0	73
DUNN	2	0	0
EAU CLAIRE	10	0	166
FLORENCE	0	0	0
FOND DU LAC	7	1	29
FOREST	0	0	4
GRANT	0	0	40
GREEN	2	3	34
GREEN LAKE	0	0	22
IOWA	5	0	16
IRON	0	0	5
JACKSON	0	0	0
JEFFERSON	3	0	107

WEC Canvass Reporting System
County by County Report
2020 General Election

County	Total Votes Cast	DEM	REP	CON	IND	IND	IND	IND	IND	IND	IND
		Joseph R. Biden Kamala D. Harris	Donald J. Trump Michael R. Pence	Don Blankenship William Mohr	Jeremy Spike Cohen	Brian Carroll Amar Patel	Kasey Wells (write-in)	Jade Simmons Claudellah J. Roze (write-in)	President R19 Boddie (write-in)	Howie Hawkins Angela Walker (write-in)	Sunil Freeman (write-in)
JUNEAU	13,709	4,746	8,749	21	146	21	0	0	0	2	0
KENOSHA	88,738	42,193	44,972	147	1,037	120	0	0	0	35	0
KEWAUNEE	12,095	3,976	7,927	26	127	12	0	1	0	5	0
LA CROSSE	67,884	37,846	28,684	135	877	121	0	1	0	20	3
LAFAYETTE	8,555	3,647	4,821	15	57	9	0	0	0	4	0
LANGLADE	11,165	3,704	7,330	20	94	13	0	1	0	3	0
LINCOLN	16,497	6,261	10,017	31	175	13	0	0	0	0	0
MANITOWOC	44,829	16,818	27,218	75	553	87	0	1	0	10	0
MARATHON	76,751	30,808	44,624	151	929	93	0	2	0	13	2
MARINETTE	22,979	7,366	15,304	33	237	32	0	0	0	5	0
MARQUETTE	9,065	3,239	5,719	10	78	4	0	0	0	2	1
MENOMINEE	1,590	1,303	278	3	6	0	0	0	0	0	0
MILWAUKEE	459,723	317,527	134,482	624	4,342	752	3	6	1	214	37
MONROE	22,611	8,433	13,775	66	263	30	0	0	0	3	0
OCONTO	23,215	6,715	16,226	40	210	20	0	0	0	2	0
ONEIDA	24,159	10,105	13,671	43	283	17	5	1	4	3	0
OUTAGAMIE	108,022	47,667	58,385	172	1,569	177	0	0	0	34	0
OZAUKEE	61,486	26,517	33,912	82	647	89	0	0	0	19	1
PEPIN	4,144	1,489	2,584	13	51	4	0	0	0	2	0
PIERCE	23,317	9,796	12,815	57	383	218	0	0	0	5	0
POLK	26,371	9,370	16,611	53	289	36	0	0	0	11	0
PORTAGE	40,603	20,428	19,299	67	640	67	0	1	0	31	2
PRICE	8,546	3,032	5,394	14	98	5	0	0	0	1	1
RACINE	106,451	50,159	54,479	169	1,200	150	0	2	0	43	2
RICHLAND	9,014	3,995	4,871	20	102	14	0	0	0	0	0
ROCK	85,360	46,658	37,138	152	1,094	122	0	0	0	14	2
RUSK	7,886	2,517	5,257	12	85	8	0	0	0	0	0
SAUK	36,203	18,108	17,493	50	441	89	0	0	0	15	0
SAWYER	10,510	4,498	5,909	15	62	8	0	0	0	1	1
SHAWANO	22,615	7,131	15,173	33	253	17	0	0	0	3	0

**WEC Canvass Reporting System
County by County Report
2020 General Election**

County	IND	IND	SCATTERING
	Kanye West Michelle Tidball (write-in)	Mark Charles Adrian Wallace (write-in)	
JUNEAU	0	0	24
KENOSHA	10	0	224
KEWAUNEE	2	1	18
LA CROSSE	12	1	184
LAFAYETTE	0	0	2
LANGLADE	0	0	0
LINCOLN	0	0	0
MANITOWOC	5	1	61
MARATHON	5	0	124
MARINETTE	2	0	0
MARQUETTE	0	0	12
MENOMINEE	0	0	0
MILWAUKEE	107	11	1,617
MONROE	1	0	40
OCONTO	2	0	0
ONEIDA	0	0	27
OUTAGAMIE	15	3	0
OZAUKEE	6	4	209
PEPIN	1	0	0
PIERCE	4	0	39
POLK	1	0	0
PORTAGE	0	1	67
PRICE	1	0	0
RACINE	12	2	233
RICHLAND	0	0	12
ROCK	3	0	177
RUSK	2	0	5
SAUK	7	0	0
SAWYER	0	1	15
SHAWANO	4	1	0

**WEC Canvass Reporting System
County by County Report
2020 General Election**

	DEM	REP	CON	IND	IND	IND	IND	IND	IND	IND	
County	Joseph R. Biden Kamala D. Harris	Donald J. Trump Michael R. Pence	Don Blankenship William Mohr	Jo Jorgensen Jeremy Spike Cohen	Brian Carroll Amar Patel	Kasey Wells (write- in)	Jade Simmons Claudellah J. Roze (write-in)	President R19 Boddie (write-in)	Howie Hawkins Angela Walker (write-in)	Gloria La Riva Sunil Freeman (write- in)	
Total Votes Cast											
SHEBOYGAN	66,011	27,101	37,609	133	896	90	8	0	0	2	0
ST. CROIX	56,707	23,190	32,199	115	878	169	0	0	0	13	4
TAYLOR	10,686	2,693	7,657	31	113	185	2	0	0	1	0
TREMPEALEAU	15,380	6,285	8,833	38	177	21	0	0	0	3	0
VERNON	15,923	7,457	8,218	29	182	24	0	0	0	6	0
VILAS	15,369	5,903	9,261	22	138	14	0	0	0	0	0
WALWORTH	57,600	22,789	33,851	98	641	75	0	0	0	15	0
WASHBURN	10,378	3,867	6,334	19	123	13	0	0	0	4	0
WASHINGTON	88,070	26,650	60,237	125	941	78	1	0	0	28	0
WAUKESHA	267,996	103,906	159,649	305	3,023	331	0	6	0	54	5
WAUPACA	29,130	9,703	18,952	48	357	29	0	0	0	4	0
WAUSHARA	13,568	4,388	9,016	30	115	19	0	0	0	0	0
WINNEBAGO	94,032	44,060	47,796	168	1,629	138	0	0	0	38	1
WOOD	41,298	16,365	24,308	79	403	49	0	0	0	9	0
Office Totals:	3,298,041	1,630,866	1,610,184	5,146	38,491	5,259	25	36	5	1,089	110

**WEC Canvass Reporting System
County by County Report
2020 General Election**

County	IND	IND	SCATTERING
	Kanye West Michelle Tidball (write-in)	Mark Charles Adrian Wallace (write-in)	
SHEBOYGAN	5	0	167
ST. CROIX	5	1	133
TAYLOR	1	0	3
TREMPEALEAU	2	0	21
VERNON	1	2	4
VILAS	0	0	31
WALWORTH	8	0	123
WASHBURN	0	0	18
WASHINGTON	10	0	0
WAUKESHA	26	1	690
WAUPACA	2	0	35
WAUSHARA	0	0	0
WINNEBAGO	12	0	190
WOOD	4	0	81
Office Totals:	411	52	6,367

EXHIBIT E



Tony Evers

Office of the Governor | State of Wisconsin

CERTIFICATE OF ASCERTAINMENT

FOR

PRESIDENT, VICE PRESIDENT AND PRESIDENTIAL ELECTORS

GENERAL ELECTION - NOVEMBER 3, 2020

I, TONY EVERS, Governor of the State of Wisconsin, DO HEREBY CERTIFY that the following is a true listing of the votes cast for the election of Presidential Electors, at a General Election held in the several towns, villages, cities, wards and election districts within the State of Wisconsin, on the Tuesday next succeeding the first Monday in November 2020, being the THIRD day of said month.

That from the certified returns, the total number of votes cast for the election of Electors for President and Vice President of the United States was 3,298,041, of which number:

JOSEPH R. BIDEN and KAMALA D. HARRIS, candidates of the Democratic Party for President and Vice President, and each of their electors, Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachtner, Shannon Holsey, Tony Evers, and Benjamin Wikler received 1,630,866 votes;

DONALD J. TRUMP and MICHAEL R. PENCE, candidates of the Republican Party for President and Vice President, and each of their electors, Carol Brunner, Edward Scott Grabins, Bill Feehan, Robert F. Spindell, Jr., Tom Schreiber, Darryl Carlson, Pam Travis, Kelly Ruh, Andrew Hitt, and Mary Buestrin received 1,610,184 votes;

DON BLANKENSHIP and WILLIAM MOHR, candidates of the Constitution Party for President and Vice President, and each of their electors, Nigel Brown, Dan Herro, Matthew Kloskowski, Colin Hudson, Thomas Harland, Andrew Zuelke, Elizabeth Lindee, Josh Young, Glenn Petroski, and Lorraine Decker received 5,146 votes;

JO JORGENSEN and JEREMY SPIKE COHEN, candidates of the Libertarian Party for President and Vice President, and each of their electors, Darek Raese, Patrick Baird, Stephen Ecker, Kristin Walker, Jeff Kortsch, Brian Defferding, Nathan Gall, Mike Hammond, Kevin Litten, David Grover received 38,491 votes;

BRIAN CARROLL and AMAR PATEL, candidates of the American Solidarity Party for President and Vice President, and each of their electors, Christopher E. Hansen, Thuy Quyen Tran, Steven L. Carlson, Stephen M. Beall, Patrick William Malone, Charles Adams, Fergus E. McKiernan, Riley Martin Drew, David S. Bovee, and Marianne F. Bovee received 5,259 votes;

REGISTERED WRITE-IN CANDIDATES and other individuals received a combined total of 8,095 write-in votes.

CERTIFICATE OF ASCERTAINMENT

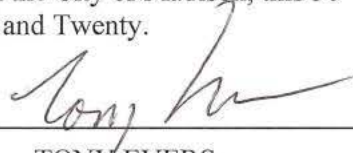
November 30, 2020

Page 2

I DO, THEREFORE, HEREBY DETERMINE AND CERTIFY that all the candidates for Presidential Elector on the Democratic Ticket, having received the greatest number of votes, are duly appointed Presidential Electors for the State of Wisconsin:

Meg Andrietsch
Shelia Stubbs
Ronald Martin
Mandela Barnes
Khary Penebaker
Mary Arnold
Patty Schachtner
Shannon Holsey
Tony Evers
Benjamin Wikler

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol, in the City of Madison, this 30th day of November Two Thousand and Twenty.

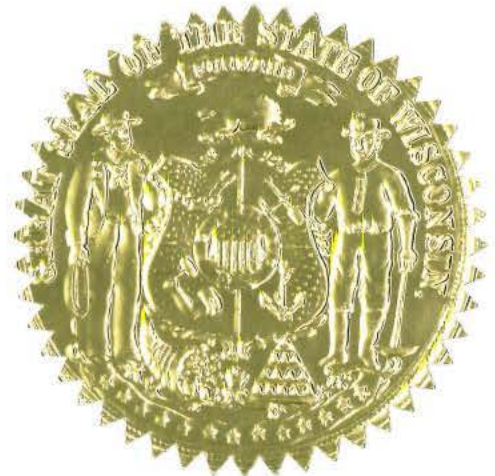


TONY EVERS
Governor

By the Governor:



DOUGLAS LA FOLLETTE
Secretary of State





Tony Evers

Office of the Governor | State of Wisconsin

**CERTIFICATE OF FINAL DETERMINATION CONCERNING
PRESIDENTIAL ELECTORS
GENERAL ELECTION - NOVEMBER 3, 2020**

I, TONY EVERS, Governor of the State of Wisconsin, DO HEREBY CERTIFY, pursuant to 3 U.S.C. § 6, that on December 14, 2020, the Supreme Court of Wisconsin made a final determination in *Donald J. Trump v. Joseph R. Biden*, Case No. 2020AP2038, resolving a contest or controversy concerning the appointment of Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachtner, Shannon Holsey, Tony Evers, and Benjamin Wikler, the electors for Joe Biden and Kamala Harris, as presidential electors of the State of Wisconsin. I certify that a true and correct copy of the Supreme Court of Wisconsin's decision and final determination is attached hereto.

That final determination confirms that, in the general election of Wisconsin on the third day of November, Two Thousand and Twenty, Meg Andrietsch, Shelia Stubbs, Ronald Martin, Mandela Barnes, Khary Penebaker, Mary Arnold, Patty Schachtner, Shannon Holsey, Tony Evers, and Benjamin Wikler received the highest number of votes cast for presidential electors.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Executive Residence, in the Village of Maple Bluff, this 21st day of December, Two Thousand and Twenty.

Handwritten signature of Tony Evers in black ink.

TONY EVERS
Governor

By the Governor:

Handwritten signature of Douglas La Follette in blue ink.

DOUGLAS LA FOLLETTE
Secretary of State

EXHIBIT F

UNITED STATES OF AMERICA

STATE OF WISCONSIN

CERTIFICATE OF VOTES CAST

FOR

PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

BY

PRESIDENTIAL ELECTORS OF WISCONSIN

WE, THE UNDERSIGNED, ELECTORS OF PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES OF AMERICA, being duly elected, qualified and acting Presidential Electors of the State of Wisconsin, having met and convened at the State Capitol, in the City of Madison, in the State of Wisconsin, at 12:00 noon on Monday, December 14, 2020, pursuant to Section 7, Title 3 of the United States Code, and Section 7.75 of the Wisconsin Statutes, for the purpose of casting our votes for President and Vice President of the United States, and the transmitting of the results of our determination, in accordance with Sections 9 and 11, Title 3 of the United States Code, DO HEREBY CERTIFY:

That all of such Presidential Electors, so elected and so certified to this meeting of the Electoral College answered present and were present in person.

WE FURTHER CERTIFY that the following distinct lists contain a correct abstract of the votes cast for the election of President and Vice President of the United States, respectively:

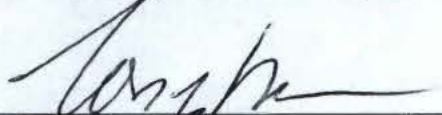
FOR PRESIDENT

<u>Names of Persons Voted For</u>	<u>Number of Votes</u>
JOSEPH R. BIDEN, JR. of the State of Delaware	Ten(10)

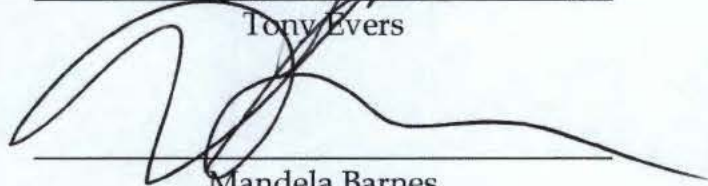
FOR VICE PRESIDENT

<u>Names of Persons Voted For</u>	<u>Number of Votes</u>
KAMALA D. HARRIS of the State of California	Ten (10)

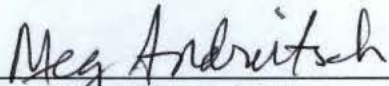
IN TESTIMONY WHEREOF, We have hereunto set our hands. Done at the Capitol, in the City of Madison, in the State of Wisconsin, on the First Monday after the Second Wednesday in December, being the 14th day of December, 2020.



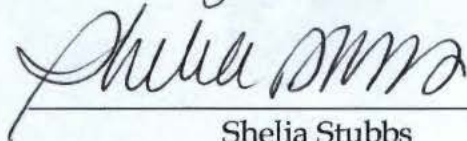
Tony Evers



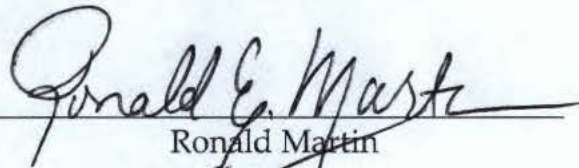
Mandela Barnes



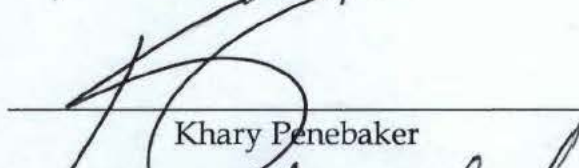
Meg Andrietsch



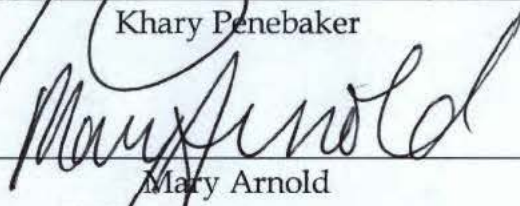
Shelia Stubbs



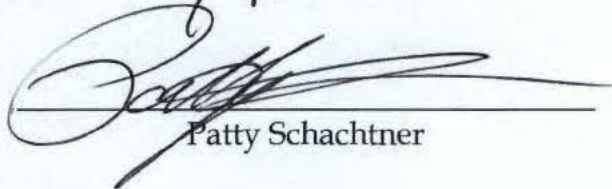
Ronald Martin



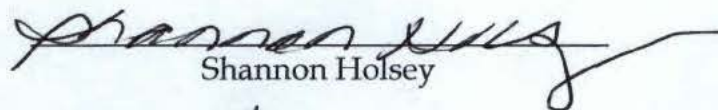
Khary Penebaker



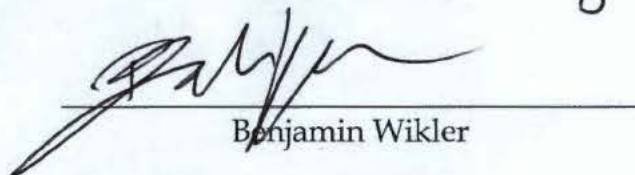
Mary Arnold



Patty Schachtner



Shannon Holsey



Benjamin Wikler

EXHIBIT G



MEMORANDUM

TO: President of the Senate (By Registered Mail)
United States Senate
Washington, D.C. 20510

Archivist of the United States (By Registered Mail)
700 Pennsylvania Avenue, NW
Washington, DC 20408

Secretary of State (By Certified Mail)
State of Wisconsin
P.O. Box 7848
Madison, WI 53707

Chief Judge, U.S. District Court (By Certified Mail)
Western District of Wisconsin
120 N. Henry Street
Madison, WI 53703

FROM: Andrew Hitt, Chairperson, Electoral College of Wisconsin

DATE: December 14, 2020

RE: Wisconsin's Electoral Votes for President and Vice President

Pursuant to 3 U.S.C. § 11, enclosed please find duplicate originals of Wisconsin's electoral votes for President and Vice President, as follows: two (2) duplicate originals for the President of the Senate and the Archivist, and one (1) duplicate original for the Secretary of State and Chief Judge.

A handwritten signature in black ink, appearing to read "Andrew Hitt".

**CERTIFICATE OF FILLING VACANCY
OF THE 2020 ELECTORS FROM WISCONSIN**

Upon the call of the roll, a vacancy became known due to the absence of
Elector

Tom Schreibel

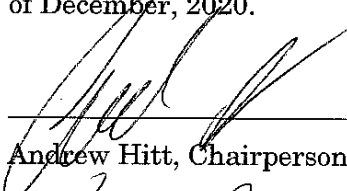
Representing the Fifth Congressional District of Wisconsin

Thereupon, by nomination duly made and seconded,

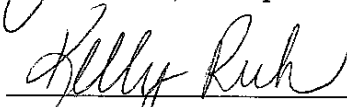
Kathy Kiernen

Was elected by the Electors present, as an Elector of President and Vice President of the United States of America for the State of Wisconsin to fill the vacancy in the manner provided by law. This Elector participated in the proceedings as set forth in the record of the Electoral College.

IN WITNESS WHEREOF, the undersigned
Chairperson and Secretary of the
Electoral College of Wisconsin hereunto
Subscribe their names this 14th day
of December, 2020.



Andrew Hitt, Chairperson



Kelly Ruh, Secretary

**CERTIFICATE OF THE VOTES OF THE
2020 ELECTORS FROM WISCONSIN**

WE, THE UNDERSIGNED, being the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Wisconsin, do hereby certify the following:

- (A) That we convened and organized at the State Capitol, in the City of Madison, Wisconsin, at 12:00 noon on the 14th day of December, 2020, to perform the duties enjoined upon us;
- (B) That being so assembled and duly organized, we proceeded to vote by ballot, and balloted first for President and then for Vice President, by distinct ballots; and
- (C) That the following are two distinct lists, one, of all the votes for President; and the other, of all the votes for Vice President, so cast as aforesaid:

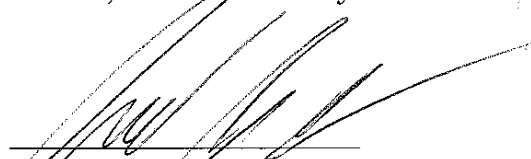
FOR PRESIDENT

Names of the Persons Voted For	Number of Votes
DONALD J. TRUMP of the State of Florida	10


FOR VICE PRESIDENT

Names of the Persons Voted For	Number of Votes
MICHAEL R. PENCE of the State of Indiana	10


IN WITNESS WHEREOF, we, the undersigned, have hereunto, at the Capitol, in the City of Madison, in the State of Wisconsin, on this 14th day of December, 2020, subscribed our respective names.



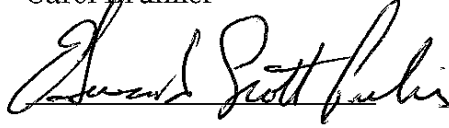
Andrew Hitt, Chairperson




Kelly Ruh, Secretary



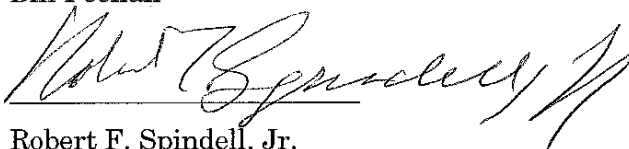
Carol Brunner




Edward Scott Grabins



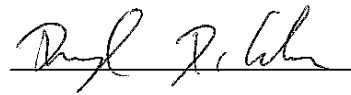
Bill Feehan



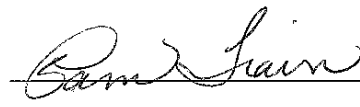
Robert F. Spindell, Jr.



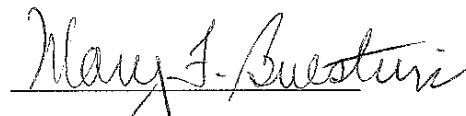
Kathy Kiernen



Darryl Carlson



Pam Travis



Mary Buestrin

EXHIBIT H



Law Forward Inc.
P.O. Box 326
Madison, WI 53703-0326

April 22, 2022

VIA EMAIL

Attorney General Josh Kaul
Wisconsin Department of Justice
17 West Main St.
Madison, WI 53703
kauljl@doj.state.wi.us

Re: Request for Quo Warranto Action, Wis. Stat. § 784.04(1)(a), Against the Fraudulent Electors

Attorney General Kaul,

Wisconsin law protects the citizens of our state from those who falsely assume a public office, not having been elected by the people. Our statutes authorize a quo warranto action “[w]hen any person shall usurp, intrude into or unlawfully hold or exercise any public office” within the state of Wisconsin. Wis. Stat. § 784.04(1)(a). Such a lawsuit may be brought by the Attorney General, in the name of the state, or, when the Attorney General declines to act, by a private person on personal complaint. Wis. Stat. § 784.04(1) – (2).

As you are aware, in December of 2020, 10 individuals in our state wrongfully and illegally usurped a public office. These 10 individuals—Wisconsin’s “fraudulent electors,” as described below—sought to subvert the statewide election results and seize public office contrary to the will of nearly 3.3 million Wisconsin voters. We write today to ask that you promptly initiate a quo warranto action against the fraudulent electors.

Background

The U.S. Constitution directs each state to determine how that state’s Electoral College votes will be assigned. Since statehood, Wisconsin has chosen electors through popular statewide election. This unbroken practice is currently reflected in Wisconsin Stat. § 5.10, which specifies that Wisconsin’s presidential electors are chosen by the statewide vote for the offices of President and Vice President. In accord with and reliance upon this longstanding tradition, Wisconsin voters cast their ballots in the November 3, 2020 election. The winning margin was close—within 1 percent—but not historically so.¹

Wisconsin [certified](#) its election results on November 30, 2020, confirming that those results compelled designating the state’s 10 electoral votes for now-President Joseph R. Biden, Jr., and now-Vice President Kamala D. Harris. This certification came after votes were counted, double-checked, and canvassed—first at

¹ For example, Wisconsin’s 2000 and 2004 presidential elections, the 2011 and 2019 elections for Justices on the Wisconsin Supreme Court, and the 2018 election for Attorney General of Wisconsin were all statewide elections decided by fewer votes than separated the winner and runner-up of Wisconsin’s 2020 presidential election.



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P.O. Box 326
Madison, WI 53703-0326

the ward level, then at the municipal level, then at the county level, and finally statewide. All counts confirmed Biden and Harris as the winners of Wisconsin's statewide popular vote and therefore, under state law, the recipient of its ten votes in the Electoral College.

Notwithstanding the repeated confirmation of Wisconsin's results, the losing candidate and his allies continued to protest the validity of the election and finality of the result (both through a variety of increasingly attenuated legal filings and in the public eye). Wisconsin law makes clear that the statutory recount process is the exclusive vehicle for challenging the results of a presidential election. *See* Wis. Stat. § 9.01(11). In 2020, the losing candidate petitioned for such a recount (limited to Milwaukee and Dane Counties, per the candidate's decision). The recount was [completed](#), slightly expanding the margin of victory for Biden and Harris in late November, 2020. The losing candidate sought judicial review of the recount results, and obtained expedited review both in a consolidated circuit court proceeding (as envisioned by Wis. Stat. § 9.01(6)-(8)) and in an expedited appeal to the Wisconsin Supreme Court. On the morning of December 14, the Supreme Court affirmed the circuit court's wholesale rejection of the losing candidate's recount challenge to certain ballots in Wisconsin. *Trump v. Biden*, 2020 WI 91, 394 Wis. 2d 629, 951 N.W.2d 568.

The 2020 Electoral College & Presidential Electors

Later that day, at noon, Wisconsin's Governor welcomed a group of people to the State Capitol. Governor Evers and the nine other duly elected presidential electors pledged to then-President-Elect Joseph R. Biden, Jr., and then-Vice President-Elect Kamala D. Harris convened under the authority, and the obligation, conferred by Wis. Stat. § 7.75(1) and 3 U.S.C. § 7 after they won Wisconsin's statewide November 2020 election. During an open meeting [livestreamed](#) by Wisconsin Eye, the electors conducted the business prescribed by state and federal law: cast and counted the necessary ballots, signed the necessary papers, and sent valid, [official documents](#) reflecting the lawful disposition of Wisconsin's 10 electoral votes to the President of the United States Senate, the Wisconsin Secretary of State, the Archivist of the United States, and the Chief Judge of the United States District Court for the Western District of Wisconsin. By these actions, the Governor and his fellow presidential electors vindicated the requirements of Wisconsin law, carried out the wishes of Wisconsin's electorate, and advanced American democracy through the lawful, peaceful transition of power that is the hallmark of our country.

However, while the Governor and his counterparts were convening, a separate group of individuals surreptitiously gathered elsewhere in the Wisconsin State Capitol. They executed a [competing set](#) of documents purporting to cast Wisconsin's 10 electoral votes for candidates who lost Wisconsin's statewide popular election and therefore had no legal entitlement to those electoral votes. They did so without advance notice, public access, or media attention. After their meeting, these individuals transmitted the fraudulent documents they had created to the President of the United States Senate, the Wisconsin Secretary of State, the Archivist of the United States, and the Chief Judge of the United States District Court for the Western District of Wisconsin.

These fraudulent electors acted without any legal mandate whatsoever, improperly seizing the public office of presidential elector for the state of Wisconsin despite not being elected. They acted with the intention that the



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false documents they produced be received as valid documentation for the purpose of inducing the United States Congress to credit the wrong candidates with having earned Wisconsin's 10 electoral votes. The fraudulent electors seized office and met in a concerted effort to ensure that they would be accepted, as a result of their deliberate forgery and fraud, as Wisconsin's legitimate presidential electors chosen by the mechanism prescribed under the United States Constitution and Wisconsin law. Through these actions, the fraudulent electors sought to undermine the November 2020 presidential election, and achieve through fraud a result that their chosen candidates had been unable to secure through a fair, free election or a bevy of meritless post-election lawsuits challenging the results of the vote.

By the time the Electoral College—both the proper meeting and the fraudulent gathering of the fraudulent electors—convened on December 14, 2020, the outcome of the election, and the identity of Wisconsin's 10 electors, had been fully adjudicated and was no longer subject to doubt. No action by any court left the result of Wisconsin's election in question, and no legal authority suggested the fraudulent electors might properly convene and act as they did, purporting to cast Wisconsin's 10 Electoral College votes for candidates who were not chosen by Wisconsin voters and not entitled to the state's electoral votes under law.

In light of the finality of Wisconsin's election results, there was no reasonable question at noon on December 14, 2020, about who, under Wisconsin law, were the state's duly elected presidential electors.

Nevertheless, the fraudulent electors met, improperly presuming to act as public officers and purporting to cast the state of Wisconsin's electoral votes for candidates the people had not chosen. They purported to have the power to fill a purported vacancy in the Electoral College that they deemed to have arisen when one of the fraudulent electors failed to attend their sham meeting. They falsely claimed to be "the duly elected and qualified Electors for President and Vice President of the United States of America from the State of Wisconsin." They declared that they had met "to perform the duties enjoined upon us," even though the only obligation they had under the Wisconsin Statutes was *not to meet* given that the candidates to whom they were pledged had not won Wisconsin's election. They each signed their names to "certify" that Wisconsin's 10 electoral votes were cast for Donald J. Trump and Michael R. Pence, even though they knew that was not true. And they conveyed these fraudulent documents, based on false pretenses, to several federal and state officials as "Wisconsin's Electoral Votes for President and Vice President."

Upon information and belief, each of the fraudulent electors signed six duplicate original documents they would later hold out as genuine certificates of the vote from the state of Wisconsin, recording the results of their votes and bearing each fraudulent elector's signature. Upon information and belief, they then mailed copies of these fraudulent documents to the President of the United States Senate, Wisconsin's Secretary of State, the Archivist of the United States, and the Chief Judge of the United States District Court for the Western District of Wisconsin. In short, upon information and belief, the fraudulent electors took every possible action to pantomime the procedures prescribed in 3 U.S.C. §§ 7–11, and thereby to create the illusion that they were acting under color of law as Wisconsin's true presidential electors, even as they cast votes contrary to the will of the voters and the designated votes required by law to reflect the election results.



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Madison, WI 53703-0326

The only way to ensure these attempts do not recur—and even become a routine part of our presidential election cycle—is to hold the fraudulent electors accountable. We therefore request that your office promptly initiate a quo warranto action against these 10 individuals.

Thank you in advance for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Mandell".

Jeffrey A. Mandell

A handwritten signature in black ink, appearing to read "Mel Barnes".

Mel Barnes

EXHIBIT I



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

Josh Kaul
Attorney General

Room 114 East, State Capitol
PO Box 7857
Madison WI 53707-7857
(608) 266-1221
TTY 1-800-947-3529

May 6, 2022

SENT VIA EMAIL

Jeffrey A. Mandell
Mel Barnes
Law Forward Inc.
P.O. Box 326
Madison, WI 53703-0326

Re: Request for *Quo Warranto* Action

Dear Jeff and Mel:

We received your letter dated April 22, 2022, requesting that the Wisconsin Department of Justice (DOJ) initiate a *quo warranto* action pursuant to Wis. Stat. § 784.04. As Joe Biden and Kamala Harris were correctly certified as the winners of the 2020 election for President and Vice President in Wisconsin, the electors assigned for those candidates fulfilled their duties, and Congress properly certified Wisconsin's electoral votes, DOJ will not be initiating a *quo warranto* action regarding this matter.

Sincerely,

A handwritten signature in black ink that reads 'Eric J. Wilson'.

Eric J. Wilson
Deputy Attorney General