

STATE OF WISCONSIN

CIRCUIT COURT

OZAUKEE COUNTY

Timothy Zignego et al vs. Wisconsin
Election Commission et al

TRANSMITTAL OF NOTICE OF APPEAL

Circuit Ct. Case No. 2019CV000449

For Official Use
Filed
Ozaukee County
Circuit Court
December 19, 2019
Mary Lou Mueller
Clerk of Circuit Court
Register in Probate

TO: Clerk of Court of Appeals
Wisconsin Court of Appeal
P.O. Box 1688
Madison, WI 53701-1688

I hereby transmit a copy of the Notice of Appeal filed herein on December 17th, 2019 and a copy of the trial court record of the above entitled case as maintained pursuant to Wisconsin Statutes §59.39(2) or (3).

Dated: December 19, 2019

Mary Lou Mueller
Clerk of Circuit Court



By: Electronically signed by Aaron Boyd
Aaron Boyd
Deputy Clerk

FILED
12-17-2019
Ozaukee County, WI
Mary Lou Mueller CoCC
2019CV000449

STATE OF WISCONSIN CIRCUIT COURT OZAUKEE COUNTY
BRANCH 1

TIMOTHY ZIGNEGO, et al.,

Plaintiffs,

v.

Case No. 19-CV-0449

WISCONSIN ELECTIONS
COMMISSION, et al.,

Defendants.

DEFENDANTS' NOTICE OF APPEAL

PLEASE TAKE NOTICE that Defendants Wisconsin Elections Commission, Marge Bostelmann, Julie Glancey, Ann Jacobs, Dean Knudsen, and Mark Thomsen, in their official capacities as commissioners, appeal to the Court of Appeals, District IV, from a final order in *Zignego v. Wisconsin Elections Commission*, No. 19-CV-0449 (Wis. Cir. Ct. Ozaukee Cty.), entered December 17, 2019, the Honorable Paul V. Malloy, presiding, in favor of Plaintiffs Timothy Zignego, David W. Optiz, and Frederick G. Luehrs, III, wherein the Court granted a writ of mandamus.

This is not an appeal under Wis. Stat. § 752.31(2). This is not an appeal to be given preference by statute.

Defendants designate venue in the Court of Appeals, District IV, pursuant to Wis. Stat. § 752.21(2). District IV is not a Court of Appeals district containing Ozaukee County Circuit Court and, thus, is a proper appellate venue under section 752.21(2).

Dated this 17th day of December, 2019.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

s/ Steven C. Kilpatrick
STEVEN C. KILPATRICK
Assistant Attorney General
State Bar #1025452

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Attorneys for Defendants

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CERTIFICATE OF SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed this *Notice of Appeal* with the clerk of court using the Wisconsin Circuit Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 17th day of December, 2019.

Electronically signed by:

s/ Steven C. Kilpatrick

STEVEN C. KILPATRICK
Assistant Attorney General

Caption Timothy Zignego et al vs. Wisconsin Election Commission et al
Responsible C.O. Paul V. Malloy
Case Number 2019CV000449

WCIS Code: 30701 - Declaratory Judgment

Filing Date/C.O.	Disposition Date/C.O.	Disposition	Next Action
11-13-2019 Paul V. Malloy			12-20-2019 07:30 am Clerks review - no appearance required
Party Type	Name	Address	City St Zip Attorney Status
Plaintiff	Timothy Zignego	3824 Wood Court	Hubertus WI 53033 Richard Michael Esenberg Brian William Mcgrath Lucas Thomas Vebber Anthony Francis LoCoco AC
Plaintiff	David W. Opitz	5132 Country club Beach Rd.	Port Washington WI 53074 Richard Michael Esenberg Brian William Mcgrath Lucas Thomas Vebber Anthony Francis LoCoco AC
Plaintiff	Frederick G. Luehrs III	N64W21545 Mill Rd.	Menomonee Falls WI 53051 Richard Michael Esenberg Brian William Mcgrath Lucas Thomas Vebber Anthony Francis LoCoco AC
Defendant	Wisconsin Election Commission	212 E. Washington Ave, Third Floor	Madison WI 53703 Steven Carl Kilpatrick Karla Zahorik Keckhaver AC
Defendant	Marge Bostelmann	212 E. Washington Ave, Third Floor	Madison WI 53703 Steven Carl Kilpatrick Karla Zahorik Keckhaver AC
Defendant	Julie Glancey	212 E. Washington Ave, Third Floor	Madison WI 53703 Steven Carl Kilpatrick Karla Zahorik Keckhaver AC
Defendant	Ann Jacobs	212 E. Washington Ave, Third Floor	Madison WI 53703 Steven Carl Kilpatrick Karla Zahorik Keckhaver AC
Defendant	Dean Knudsen	212 E. Washington Ave., Third Floor	Madison WI 53703 Steven Carl Kilpatrick Karla Zahorik Keckhaver AC
Defendant	Mark Thomsen	212 E. Washington Ave, Third Floor	Madison WI 53703 Steven Carl Kilpatrick Karla Zahorik Keckhaver AC

Caption	Responsible C.O.	Case Number
Timothy Zignego et al vs. Wisconsin Election Commission et al	Paul V. Malloy	2019CV000449

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Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
11-13-2019	Summons and complaint		
11-13-2019	Case initiated by electronic filing		
11-13-2019	Filing fee paid Adjustment Number: 19A 171666, Payable Number: 122220, Receipt Number: 19R 015163, Amount: \$184.50	184.50	
11-14-2019	Notice of motion, motion PL's motion for temporary injunction w/affidavit and exhibits filed by Atty Esenberg - doc for review to clerk DK		
11-14-2019	Brief		
11-14-2019	Affidavit of Brian McGrath		
11-18-2019	Electronic Notice Update		
11-18-2019	Notice of retainer		
11-18-2019	Electronic Notice Update		
11-18-2019	Notice of retainer		
11-20-2019	Admission of service Wisconsin Election Commission		
11-20-2019	Admission of service Robin Vos		
11-20-2019	Admission of service Roger Roth		
11-20-2019	Admission of service Stephen Nass		
11-20-2019	Admission of service Scott Fitzgerald		
11-20-2019	Admission of service Joan Ballweg		
11-20-2019	Affidavit of Lucas Vebber		
11-22-2019	Notes Clerk contacted counsel by email to arrange a telephone conference call next week. Telephone conference arranged for 11/26 at 8:45 am.		
11-22-2019	Notice of retainer		
11-22-2019	Notice of motion, motion to intervene filed by Atty Poland with court date of 12/5 at 9 am - case for review to clerk DK		
11-22-2019	Brief		
11-22-2019	Affidavit of Erin Grunze		

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Timothy Zignego et al vs. Wisconsin Election Commission et al	Paul V. Malloy	2019CV000449

WCIS Code: 30701 - Declaratory Judgment

Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
11-22-2019	Affidavit of Douglas Poland with Attached Exhibits A & B		
11-25-2019	Other papers Non-Wisconsin Authorities filed by Atty Poland - doc for review to clerk DK		
11-26-2019	Electronic Notice Update		
11-26-2019	Telephone conference 08:48 AM Attorney Brian William Mcgrath in court by telephone for Plaintiff Timothy Zignego, Plaintiff David W. Opitz, and Plaintiff Frederick G. Luehrs. Attorney Steven Carl Kilpatrick in court by telephone for Defendant Wisconsin Election Commission, Defendant Mark Thomsen, Defendant Dean Knudsen, Defendant Ann Jacobs, Defendant Julie Glancey, and Defendant Marge Bostelmann. Attorney Douglas Poland and Cecilia Aguilera in court by telephone for movant to intervene, League of Woman Voters. Court notifies counsel as to his familiarity with some parties in this case. Court asks counsel to submit letter as to their position, if they have any objection to the Court hearing this case. Letters to be submitted by 12/3/19. At this time, Court will keep the 12/5 motion hearing on the Court's calendar. Atty. McGrath states he would oppose the M/Intervene filed by Atty. Poland. Atty. Kilpatrick statement.		Paul V. Malloy Nicole Claudon
11-27-2019	Brief Defendants' Response Brief Opposing Plaintiffs' Motion for a Temporary Injunction or in the Alternative for a Writ of Mandamus		
11-27-2019	Affidavit of Meagan Wolfe		
11-27-2019	Affidavit in support of motion of Douglas M. Poland in Support of League of Women Voters of Wisconsin's Motion for Leave to File Brief in Opposition to Plaintiffs' Motion for Temporary Injunction		
11-27-2019	Notice of motion, motion of Proposed Intervenor-Defendant League of Women Voters of Wisconsin for Leave to File Brief in Opposition to Plaintiffs' Motion for Temporary Injunction. Forwarded as document for review to Branch 1 clerk .		
11-27-2019	Affidavit of Douglas M. Poland in Support of Moton for Admission Pro Hac Vice of Attorney Aguilera		
11-27-2019	Notice of motion, motion for Admission Pro Hac Vice of Attorney Aguilera. Forwarded as document for review to Branch 1 clerk .		
11-27-2019	Affidavit of Douglas M. Poland in Support of Motion for Admission Pro Hac Vice of Attorney Sherman		
11-27-2019	Notice of motion, motion for Admission Pro Hac Vice of Attorney Sherman. Forwarded as document for review to Branch 1 clerk .		

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Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
11-27-2019	Proposed Order Proposed order admitting Cecilia Aguilera filed by Atty Poland - order sent to B1 Jdash for 12/5 hearing.		Paul V. Malloy
11-27-2019	Proposed Order Proposed order admitting Atty Sherman filed by Atty Poland - order sent to B1 Jdash for 12/5 hearing		Paul V. Malloy
12-02-2019	Letters/correspondence Atty McGrath not requesting court recuse self on this case - doc for review to clerk DK		
12-02-2019	Response/reply PL's response to M/intervene Filed by Atty Esenberg - doc for review to clerk DK		
12-02-2019	Response/reply Filed by Atty Esenberg - doc for review to clerk DK		
12-02-2019	Letters/correspondence Atty Poland not requesting Court recuse self - doc for review to clerk DK		
12-02-2019	Brief in support of motion Plaintiffs' Reply Brief in Support of Motion for Temp Injunction. Forwarded as document for review to Branch 1 clerk .		
12-02-2019	Notes Clerk emailed counsel to advise them Court will need additional time to review briefs/cases cited. Case to be rescheduled from 12/5 to 12/13 at 2:00 pm. Clerk received call from Atty. Poland that all counsel have no objection to Proposed Order Admitting Counsel Pro Hac Vice. He will confirm with letter so the Court can approve Orders.		
12-02-2019	Letters/correspondence Atty Keckhaver re: Court Recusal. Forwarded as document for review to Branch 1 clerk .		
12-02-2019	Response/reply Defendants' Statement of Position on LWVW's Motion to Intervene. Forwarded as document for review to Branch 1 clerk .		
12-02-2019	Letters/correspondence Atty Poland advising the Court that there is no objection by any of the parties for the pro hac vice motion - doc for review to clerk DK.		
12-03-2019	Notice of hearing Motion hearing on December 13, 2019 at 02:00 pm.		
12-04-2019	Notes Clerk confirmed with Court the M/Temporary Injunction & M/Intervene will both be heard on 12/13 at 2:00 pm.		
12-04-2019	Order Admitting Nonresident Attorney Cecilia Aguilera Pro Hac Vice		Paul V. Malloy
12-04-2019	Order Admitting Nonresident Attorney Jon Sherman Pro Hac Vice		Paul V. Malloy

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Timothy Zignego et al vs. Wisconsin Election Commission et al	Paul V. Malloy	2019CV000449

WCIS Code: 30701 - Declaratory Judgment

Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
12-05-2019	Letters/correspondence Letter, Affidavit with attached exhibit B filed by Atty Kilpatrick Re: Updates for Temporary Injunction Hearing - docs for review to Clerk DK		
12-05-2019	Affidavit		
12-05-2019	Amended Notice of Motion to Intervene w/brief, affidavit and 2 attached exhibits filed by Atty Poland - case for review to clerk DK		
12-05-2019	Response/reply		
12-05-2019	Affidavit		
12-06-2019	Other papers Non-Wisconsin Authorities Cited in Proposed Intervenor-Defendant League of Women Voters of Wisconsin's Reply Brief in Support of its Motion to Intervene. Forwarded as document for review to clerk DK.		
12-09-2019	Response/reply Plaintiffs' Response to Supplemental Wolfe Affidavit. Forwarded as document for review to Branch 1 clerk .		
12-11-2019	Letters/correspondence Atty Poland re: Corrected Affidavit of Bonnie Moyse. Forwarded as document for review to Branch 1 clerk .		
12-11-2019	Notice of motion, motion for leave to file affidavit of Patricia A Villarreal filed by Atty Poland (Rec'vd by e-filing 12/11 at 10:59 pm) - Doc for review to clerk DK		
12-12-2019	Affidavit Affidavit of Douglas M. Poland in Supp of Proposed Intervenor-Defendant League of Women Voters of Wisconsin's Supp to its Brief in Opp'n to Plaintiff's s' Motion for Temp Injunction or Writ of Mandamus. (E-filed at 4:05 pm on 12/12/19 by Douglas M. Poland)		
12-12-2019	Brief Proposed Intervenor-Defendant League of Women Voters of Wisconsin's Support to its Brief in Opp'n to Plaintiff's Motion for Temp Injunction or Writ of Mandamus. (E-filed by Douglas M. Poland at 4:05 pm on 12/12/19).		
12-13-2019	Notes Clerk advised Clerk D.K. of 12/12/19 filings.		

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Date	Court Record Entries	Amount	C.O. Court Reporter Tape/Counter Location
12-13-2019	Motion hearing 02:08 PM Attorney Richard Esenberg and Attorney Anthony LoCoco in court for Plaintiff Timothy Zignego, Plaintiff David W. Opitz, and Plaintiff Frederick G. Luehrs. Attorney Steven Carl Kilpatrick and Attorney Karla Keckhaver in court for Defendant Wisconsin Election Commission, Defendant Mark Thomsen, Defendant Dean Knudsen, Defendant Ann Jacobs, Defendant Julie Glancey, and Defendant Marge Bostelmann. Attorney Douglas Poland appears on behalf of the Intervenor - League of Women Voters of Wisconsin along with Attorney John Sherman appearing pro hac vice and Erin Grunze, executive director of the League of Women Voters. Atty. Sherman statement moving to Intervene. Response by Atty. Esenberg. Court denies the motion to intervene. Atty. Sherman stated he will be seeking an interlocutory appeal, requests stay of proceeding until the time the Court of Appeals can review the appeal. Court recess at 2:55 pm. Case recalled at 3:05 pm. Atty. Esenberg motion for temporary injunction. Response by Atty. Keckhaver. Further statement by Atty. Esenberg. Court renders decision, Court orders a Writ of Mandamus. Atty. Esenberg to prepare an Order for the Court's signature. Atty. Keckhaver motion for stay pending appeal. Opposition by Atty. Esenberg. Court denies motion for stay pending appeal.		Paul V. Malloy Michelle Yaklovich
12-13-2019	Proposed Order Proposed Writ of Mandamus, filed by Atty Esenberg		
12-16-2019	Transcript Motion Hearing 12-13-19 / M Yaklovich, Reporter		
12-16-2019	Notes Telephone conference removed from the Court's calendar, to be rescheduled by Atty. Frank. His office will contact clerk later in the week.		
12-16-2019	Letters/correspondence Atty Esenberg re: Updated proposed Mandamus order. Forwarded as document for review to Branch 1 clerk .		
12-16-2019	Notes Clerk rejects proposed writ and intervention orders submitted as PDF per local rule.		
12-16-2019	Proposed Order Submitted by Atty Esenberg. Forwarded to B1 JDash under hold.		Paul V. Malloy
12-16-2019	Proposed Order Submitted by Atty Esenberg. Forwarded to B1 JDash under hold with linked letter.		Paul V. Malloy
12-16-2019	Letters/correspondence Atty Kilpatrick re: Defendants' Objections to Proposed Order. Forwarded as document for review to Branch 1 clerk .		
12-16-2019	Notes Atty. Esenberg will file a revised Proposed Order including additional language proposed by Atty. Kilpatrick.		

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12-16-2019	Letters/correspondence Atty Esenberg re: 2nd Amended Prop Mandamus Order		
12-16-2019	Proposed Order Submitted by Atty Esenberg. Forwarded to B1 JDash under hold with linked letter.		Paul V. Malloy
12-17-2019	Notes Clerk confirmed Atty. Keckhaver has no objection the the 2nd Proposed Order submitted by Atty. Esenberg. Clerk notified Atty. Esenberg the Proposed Order with regard to the League of Women Voters of Wisconsin should also include the language that it is a final order for purposes of appeal. He will submit an Amended Order with regard to League of Women Voters of Wisconsin.		
12-17-2019	Letters/correspondence Atty Esenberg filing amended proposed order - order sent to B1 Jdash under the five day rule.		
12-17-2019	Proposed Order		Paul V. Malloy
12-17-2019	Writ of Mandamus		Paul V. Malloy
12-17-2019	Letters/correspondence Atty Poland re: Proposed orders. Forwarded as document for review to Branch 1 clerk .		
12-17-2019	Notice of appeal		
12-17-2019	eFiled Document Fee Paid Adjustment Number: 19A 187687, Payable Number: 123041, Receipt Number: 19R 016687, Amount: \$15.00	15.00	
12-17-2019	Order		Paul V. Malloy
12-18-2019	Letters/correspondence Court of Appeals re: fax cover sheet		
12-18-2019	Order of Court of Appeals forwarded to DK document review.		