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Clerk of Circuit Court
Waukesha County
2024CV001353

STATE OF WISCONSIN CIRCUIT COURT WAUKESHA COUNTY
BRANCH 10

ARDIS CERNY,

Petitioner,

v.

Case No. 24-CV-1353

WISCONSIN ELECTIONS COMMISSION, et al.,

Respondents.

**ANSWER AND DEFENSES OF RESPONDENTS WISCONSIN
DEPARTMENT OF TRANSPORTATION AND CRAIG THOMPSON
TO PETITION FOR WRIT OF MANDAMUS AND
DECLARATION CONSTRUING STATUTES**

Respondents Wisconsin Department of Transportation and Craig Thompson, in his official capacity as Secretary of the Wisconsin Department of Transportation (collectively, "DOT Respondents"), by their undersigned legal counsel, respond to the petition for writ of mandamus and declaration construing statutes, (Doc. 10), as follows:

Response to unnumbered paragraph on page 1 of the petition:

DOT Respondents admit that Petitioner, by her attorneys, petitions this Court for a writ of mandamus and declaratory judgment. DOT Respondents deny that Petitioner is entitled to any of the relief she requests.

I. PARTIES

1. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 1.

2. DOT Respondents admit that the Wisconsin Elections Commission (WEC) is a state agency. The remaining allegations in paragraph 2 are legal conclusions to which no response is required. To the extent that the remaining allegations in paragraph 2 misstate the law or contain factual allegations, they are denied.

3. DOT Respondents admit the allegations in the first sentence of paragraph 3. The allegations in the second sentence of paragraph 3 are legal conclusions to which no response is required. To the extent that the second sentence of paragraph 3 misstates the law or contains factual allegations, it is denied.

4. DOT Respondents admit the allegations in paragraph 4.

5. DOT Respondents admit that the Wisconsin Department of Transportation (DOT) is a Wisconsin state agency and that the Division of Motor Vehicles (DMV) in DOT is a division of a state agency. The remaining allegations in paragraph 5 are legal conclusions to which no response is required. To the extent that the remaining allegations in paragraph 5 misstate the law or contain factual allegations, they are denied.

6. DOT Respondents admit the allegations in paragraph 6.

II. INTRODUCTION

A. Requirements for writ of mandamus and declaratory judgment.

7. DOT Respondents admit that Petitioner seeks a writ of mandamus and deny that Petitioner is entitled to the relief requested. The remaining allegations in paragraph 7 are legal conclusions to which no response is required. To the extent that the remaining allegations in paragraph 7 misstate the law or contain factual allegations, they are denied.

8. DOT Respondents admit that section III of the petition attempts to address the first, third, and fourth elements for a writ of mandamus and deny that Petitioner is entitled to any of the requested relief. The remaining allegations in paragraph 8 are legal conclusions to which no response is required. To the extent that the remaining allegations in paragraph 8 misstate the law or contain factual allegations, they are denied.

9. DOT Respondents deny the allegations in paragraph 9.

10. DOT Respondents admit that sections IV and V of the petition attempt to address the second element for a writ of mandamus and deny that Petitioner is entitled to any of the requested relief. DOT denies the remaining allegations in paragraph 10.

11. DOT Respondents deny the allegations in paragraph 11.

12. DOT Respondents deny the allegations in paragraph 12.

B. Respondents' duties to verify accuracy of citizenship information provided by applicants for the purpose of voter registration.

13. DOT Respondents admit that DMV has established an ID Petition Process "IDPP" for qualifying petitioners to obtain a state ID card for voting purposes. The remaining allegations in paragraph 13 are legal conclusions to which no response is required. To the extent that the allegations in paragraph 13 misstate the law or contain factual allegations other than the one assertion expressly admitted, they are denied.

14. The allegations in paragraph 14 are legal conclusions to which no response is required. To the extent that the allegations in paragraph 14 misstate the law or contain factual allegations, they are denied.

15. The allegations in paragraph 15 are legal conclusions to which no response is required. To the extent that paragraph 15 misstates the law or contains factual allegations, it is denied.

16. The allegations in paragraph 16 are legal conclusions to which no response is required. To the extent that paragraph 16 misstates the law or contains factual allegations, it is denied.

17. The allegations in paragraph 17 are legal conclusions to which no response is required. To the extent that paragraph 17 misstates the law or contains factual allegations, it is denied.

18. The allegations in paragraph 18 are legal conclusions to which no response is required. To the extent that paragraph 18 misstates the law or contains factual allegations, it is denied.

19. The allegations in paragraph 19 are legal conclusions to which no response is required. To the extent that paragraph 19 misstates the law or contains factual allegations, it is denied.

20. The allegations in paragraph 20 are legal conclusions to which no response is required. To the extent that paragraph 20 misstates the law or contains factual allegations, it is denied.

C. Respondents' failures to verify accuracy of citizenship information provided by registration applicants and to perform other duties.

21. DOT Respondents deny the allegations in paragraph 21.

22. DOT Respondents admit that the Assembly Committee on Campaigns and Elections and the Senate Committee on Shared Revenue, Elections and Consumer Protection held a joint hearing at which DOT Deputy Secretary Kristina Boardman testified regarding the IDPP, a process through which qualified individuals may obtain a free ID card issued by the DMV for voting purposes. DOT Respondents affirmatively allege that Deputy Secretary Boardman's testimony speaks for itself and denies any factual assertions in paragraph 22 that are inconsistent with that testimony.

23. DOT Respondents affirmatively allege that Exhibit C speaks for itself and deny the allegations in paragraph 23 to the extent, if at all, they are inconsistent with that document.

24. DOT Respondents affirmatively allege that Exhibit D speaks for itself and deny the allegations in paragraph 24 to the extent, if at all, they are inconsistent with that document.

25. DOT Respondents affirmatively allege that Exhibit E speaks for itself and deny the allegations in paragraph 25 to the extent, if at all, they are inconsistent with that document.

26. DOT Respondents affirmatively allege that Exhibit F speaks for itself and deny the allegations in paragraph 26 to the extent, if at all, they are inconsistent with that document.

27. DOT Respondents affirmatively allege that Exhibit G speaks for itself and deny the allegations in paragraph 27 to the extent, if at all, they are inconsistent with that document.

28. DOT Respondents affirmatively allege that Exhibit H speaks for itself and deny the allegations in paragraph 28 to the extent, if at all, they are inconsistent with that document.

29. DOT Respondents admit that Petitioner seeks the relief requested in the petition and denies that Petitioner is entitled to any of the requested relief.

III. A WRIT IS ESSENTIAL TO PREVENT IRREPARABLE HARM CAUSED BY RESPONDENTS' FAILURE TO PERFORM THEIR DUTIES TO PREVENT ILLEGAL REGISTRATION AND VOTING BY NON-CITIZENS THAT VIOLATE AND CANCEL THE RIGHTS AND VOTES OF PETITIONER AND OTHER LEGALLY QUALIFIED AND REGISTERED ELECTORS WHO VOTE.

30. The allegations in paragraph 30 are legal conclusions to which no response is required. To the extent that paragraph 30 misstates the law or contains factual allegations, it is denied.

31. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 31.

32. The allegations in paragraph 32 are legal conclusions to which no response is required. To the extent that paragraph 32 misstates the law or contains factual allegations, it is denied.

33. The allegations in paragraph 33 are legal conclusions to which no response is required. To the extent that paragraph 33 misstates the law or contains factual allegations, it is denied.

34. The allegations in paragraph 34 are legal conclusions to which no response is required. To the extent that paragraph 34 misstates the law or contains factual allegations, it is denied.

35. The allegations in paragraph 35 are legal conclusions to which no response is required. To the extent that paragraph 35 misstates the law or contains factual allegations, it is denied.

36. The allegations in paragraph 36 are legal conclusions to which no response is required. To the extent that paragraph 36 misstates the law or contains factual allegations, it is denied.

37. The allegations in paragraph 37 are legal conclusions to which no response is required. To the extent that paragraph 37 misstates the law or contains factual allegations, it is denied.

38. The allegations in paragraph 38 are legal conclusions to which no response is required. To the extent that paragraph 38 misstates the law or contains factual allegations, it is denied.

39. The allegations in paragraph 39 are legal conclusions to which no response is required. To the extent that paragraph 39 misstates the law or contains factual allegations, it is denied.

40. DOT Respondents deny the allegations in paragraph 40.

IV. RESPONDENT DOT IS PERFORMING ITS DUTY TO PROTECT CITIZENS' SUFFRAGE RIGHTS BY VERIFYING CITIZENSHIP OF APPLICANTS FOR IDENTIFICATION CARDS USED FOR VOTING.

41. DOT Respondents deny that the DMV is responsible for *issuing* statutes governing driver's licenses and state ID cards. DOT Respondents admit that DMV is responsible for *administering* statutes and regulations governing driver's licenses and state ID cards. The remaining allegations are legal conclusions to which no response is required. To the extent that the

remaining allegations in paragraph 41 misstate the law or contain assertions of fact, they are denied.

42. DOT Respondents deny the allegations in paragraph 42.

43. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 43.

44. DOT Respondents affirmatively allege that the term “verify” and the term “voter *identification* applicants” in paragraph 44 are unclear and therefore deny the allegation in paragraph 44. DOT Respondents lack knowledge or information sufficient to form a belief as to actions of WEC Respondents and therefore deny the allegation in paragraph 44 on that additional basis. DOT Respondents affirmatively allege that, pursuant to the IDPP process, DOT may issue an applicant a state ID for voting purposes if it determines, “on the basis of secondary documentation or other corroborating information, that it is more likely than not that the name, date of birth, and U.S. citizenship provided in the application is correct.” See Wis. Stat. § 343.165(8)(h).

45. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 45.

46. The allegations in paragraph 46 are legal conclusions to which no response is required. To the extent that paragraph 46 misstates the law or contains factual allegations, it is denied.

47. DOT Respondents affirmatively allege that Deputy Secretary Boardman's testimony speaks for itself, admit the allegations in paragraph 47 to the extent they are consistent with that testimony, and deny the allegations in paragraph 47 to the extent, if at all, they are inconsistent with that testimony.

48. The allegations in paragraph 48 are legal conclusions to which no response is required. To the extent that paragraph 48 misstates the law or contains factual allegations, it is denied. DOT Respondents affirmatively allege that paragraph 48 uses an acronym, "DPOC", without identifying what the acronym stands for, and therefore deny paragraph 48 on that additional basis.

49. DOT Respondents admit that DOT created the IDPP by administrative rule in 2014, and that the rule was codified by the Legislature at Wis. Stat. §§ 343.165(8)(a) and 343.50(1), (3), (5)(a)3. DOT Respondents deny that they can "ensure" that no eligible elector is deprived of the right to vote, through creation of the IDPP or otherwise, and therefore deny that allegation.

50. The allegations in paragraph 50 are legal conclusions to which no response is required. To the extent that paragraph 50 misstates the law or contains factual allegations, it is denied. DOT Respondents affirmatively allege that paragraph 50 uses an acronym, "DPOC", without identifying what

the acronym stands for, and therefore deny the allegations in paragraph 50 on that additional basis.

51. The allegations in paragraph 51 are legal conclusions to which no response is required. To the extent that paragraph 51 misstates the law or contains factual allegations, it is denied.

52. DOT Respondents clarify that the allegations in paragraph 52 provide only an overview of DMV's general process relating to the issuance of ID cards through the IDPP process and do not cover every possible scenario and consideration when processing applications. Subject to this clarification, DOT Respondents admit the allegations in paragraph 52.

53. DOT Respondents clarify that the allegations in paragraph 53 provide only an overview of DMV's general process relating to the issuance of ID cards through the IDPP process and do not cover every possible scenario and consideration when processing applications. Subject to this clarification, DOT Respondents admit the allegations in paragraph 53.

54. DOT Respondents deny the allegations in paragraph 54.

55. DOT Respondents clarify that the allegations in paragraph 55 provide only an overview of DMV's general process relating to the issuance of ID cards through the IDPP process and do not cover every possible scenario and consideration when processing applications. Subject to this clarification, DOT Respondents admit the allegations in paragraph 55.

56. DOT Respondents can neither affirm nor deny the allegation in paragraph 56 that the IDPP process “has been effective preventing non-citizens from obtaining voter ID cards” because the assertion is inherently subjective. DOT Respondents admit the remaining allegations in paragraph 56.

V. RESPONDENTS ARE FAILING THEIR CLEAR AND POSITIVE DUTIES TO PROTECT PETITIONER’S AND CITIZENS’ SUFFRAGE RIGHTS.

A. “Positive and Plain” duties subject to mandamus.

57. The allegations in paragraph 57 are legal conclusions to which no response is required. To the extent that paragraph 57 misstates the law or contains factual allegations, it is denied.

58. The allegations in paragraph 58 state legal conclusions to which no response is required. To the extent paragraph 58 misstates the law or contains factual allegations, it is denied.

59. The allegations in paragraph 59 state legal conclusions to which no response is required. To the extent paragraph 59 misstates the law or contains factual allegations, it is denied.

60. The allegations in paragraph 60 state legal conclusions to which no response is required. To the extent paragraph 60 misstates the law or contains factual allegations, it is denied.

B. WEC is failing its duty to verify the citizenship certification of each voter registration applicant before adding her to the WisVote list as a legally qualified elector.

1. The number of non-qualified registrants illegally included in the WisVote list is substantial.

61. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 61. DOT Respondents affirmatively allege that Exhibit G and the Eastman Affidavit speak for themselves and deny the allegations in paragraph 61 to the extent, if at all, they are inconsistent with those documents.

62. DOT Respondents admit that Deputy Secretary Boardman testified that DOT commenced IDPP in September 2014. DOT Respondents affirmatively allege that Exhibit G and the Eastman Affidavit speak for themselves and deny the remaining allegations in paragraph 61 to the extent, if at all, they are inconsistent with those documents.

63. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 63.

64. DOT Respondents deny the allegations in paragraph 64.

65. DOT Respondents deny the allegations in paragraph 65.

66. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 66.

2. **WEC has the ministerial duty to verify citizenship information provided in voter registration applications, reject non-citizen applications, and de-activate the WisVote record of any non-citizen or remove it altogether.**

67. The allegations in paragraph 67 state legal conclusions to which no response is required. To the extent paragraph 67 misstates the law or contains factual allegations, it is denied.

68. The allegations in paragraph 68 state legal conclusions to which no response is required. To the extent paragraph 68 misstates the law or contains factual allegations, it is denied.

69. The allegations in paragraph 69 state legal conclusions to which no response is required. To the extent paragraph 69 misstates the law or contains factual allegations, it is denied.

70. The allegations in paragraph 70 state legal conclusions to which no response is required. To the extent paragraph 70 misstates the law or contains factual allegations, it is denied.

3. **WEC takes no steps to verify citizenship of applicants, even though a system is available and utilized by the Department of Motor Vehicles that can do so.**

71. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 71.

72. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 72.

73. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 73.

74. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 74.

75. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 75.

76. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 76.

77. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 77.

78. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 78.

C. WEC and DOT are failing their duty to match information “to verify the accuracy of the information provided for the purpose of voter registration.”

- 1. Wis. Stat. § 85.61(1) requires Respondents Wolfe and Thompson to match “personally identifiable information” in their databases “to verify the accuracy of the information provided for the purpose of voter registration.”**

79. The allegations in paragraph 79 state legal conclusions to which no response is required. To the extent paragraph 79 misstates the law or contains factual allegations, it is denied.

80. The allegations in paragraph 80 state legal conclusions to which no response is required. To the extent paragraph 80 misstates the law or contains factual allegations, it is denied.

81. The allegations in paragraph 81 state legal conclusions to which no response is required. To the extent paragraph 81 misstates the law or contains factual allegations, it is denied.

82. The allegations in paragraph 82 state legal conclusions to which no response is required. To the extent paragraph 82 misstates the law or contains factual allegations, it is denied.

83. The allegations in paragraph 83 state legal conclusions to which no response is required. To the extent paragraph 83 misstates the law or contains factual allegations, it is denied.

2. Citizenship is “personally identifiable information” contained in DOT operating record files.

84. The allegations in paragraph 84 state legal conclusions to which no response is required. To the extent paragraph 84 misstates the law or contains factual allegations, it is denied.

85. The allegations in paragraph 85 state legal conclusions to which no response is required. To the extent paragraph 85 misstates the law or contains factual allegations, it is denied.

86. The allegations in paragraph 86 state legal conclusions to which no response is required. To the extent paragraph 86 misstates the law or contains factual allegations, it is denied.

87. The allegations in paragraph 87 state legal conclusions to which no response is required. To the extent paragraph 87 misstates the law or contains factual allegations, it is denied.

88. The allegations in paragraph 88 state legal conclusions to which no response is required. To the extent paragraph 88 misstates the law or contains factual allegations, it is denied.

3. Respondents have failed to require proof of citizenship and match information verifying.

89. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 89.

90. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 90.

91. The allegations in paragraph 91 state legal conclusions to which no response is required. To the extent paragraph 91 misstates the law or contains factual allegations, it is denied.

92. The allegations in paragraph 92 state legal conclusions to which no response is required. To the extent paragraph 92 misstates the law or contains factual allegations, it is denied.

93. The allegations in paragraph 93 state legal conclusions to which no response is required. To the extent paragraph 93 misstates the law or contains factual allegations, it is denied.

94. The allegations in paragraph 94 state legal conclusions to which no response is required. To the extent paragraph 94 misstates the law or contains factual allegations, it is denied.

95. The allegations in paragraph 95 state legal conclusions to which no response is required. To the extent paragraph 95 misstates the law or contains factual allegations, it is denied.

96. The allegations in paragraph 96 state legal conclusions to which no response is required. To the extent paragraph 96 misstates the law or contains factual allegations, it is denied.

97. DOT Respondents affirmatively allege that Exhibit I speaks for itself and deny the allegations in paragraph 97 to the extent, if at all, they are inconsistent with that document.

98. DOT Respondents affirmatively allege that Exhibit I speaks for itself and deny the allegations in paragraph 98 to the extent, if at all, they are inconsistent with that document.

99. DOT Respondents affirmatively allege that Exhibit I speaks for itself and deny the allegations in paragraph 99 to the extent, if at all, they are inconsistent with that document.

100. DOT Respondents affirmatively allege that Exhibit I speaks for itself and deny the allegations in paragraph 100 to the extent, if at all, they are inconsistent with that document.

D. WEC is failing its duty to investigate violations of and enforce “laws administered by the commission” that prohibit non-U.S. citizens or other unqualified persons from registering to vote and being included in the state voter WisVote list.

101. The allegations in paragraph 101 state legal conclusions to which no response is required. To the extent paragraph 101 misstates the law or contains factual allegations, it is denied.

102. The allegations in paragraph 102 state legal conclusions to which no response is required. To the extent paragraph 102 misstates the law or contains factual allegations, it is denied.

103. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 103.

104. The allegations in paragraph 104 state legal conclusions to which no response is required. To the extent paragraph 104 misstates the law or contains factual allegations, it is denied.

105. The allegations in paragraph 105 state legal conclusions to which no response is required. To the extent paragraph 105 misstates the law or contains factual allegations, it is denied.

106. The allegations in paragraph 106 state legal conclusions to which no response is required. To the extent paragraph 106 misstates the law or contains factual allegations, it is denied.

107. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 107.

E. WEC is failing its duty to bring suit to remedy violations of statutes requiring U.S. citizenship and prevent such violations in the future.

108. The allegations in paragraph 108 state legal conclusions to which no response is required. To the extent paragraph 108 misstates the law or contains factual allegations, it is denied.

109. The allegations in paragraph 109 state legal conclusions to which no response is required. To the extent paragraph 109 misstates the law or contains factual allegations, it is denied.

110. The allegations in paragraph 110 state legal conclusions to which no response is required. To the extent paragraph 110 misstates the law or contains factual allegations, it is denied.

F. WEC is failing its duty to promulgate rules ensuring that only citizen are included in the state voter registration list.

111. The allegations in paragraph 111 state legal conclusions to which no response is required. To the extent paragraph 111 misstates the law or contains factual allegations, it is denied.

112. The allegations in paragraph 112 state legal conclusions to which no response is required. To the extent paragraph 112 misstates the law or contains factual allegations, it is denied.

113. The allegations in paragraph 113 state legal conclusions to which no response is required. To the extent paragraph 113 misstates the law or contains factual allegations, it is denied.

114. The allegations in paragraph 114 state legal conclusions to which no response is required. To the extent paragraph 114 misstates the law or contains factual allegations, it is denied.

115. The allegations in paragraph 115 state legal conclusions to which no response is required. To the extent paragraph 115 misstates the law or contains factual allegations, it is denied.

116. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 116.

G. WEC is failing its duty to issue procedures and provide resources enabling municipal clerks to include only U.S. citizens in the WisVote list.

117. The allegations in paragraph 117 state legal conclusions to which no response is required. To the extent paragraph 117 misstates the law or contains factual allegations, it is denied.

118. The allegations in paragraph 118 state legal conclusions to which no response is required. To the extent paragraph 118 misstates the law or contains factual allegations, it is denied.

119. The allegations in paragraph 119 state legal conclusions to which no response is required. To the extent paragraph 119 misstates the law or contains factual allegations, it is denied.

120. The allegations in paragraph 120 state legal conclusions to which no response is required. To the extent paragraph 120 misstates the law or contains factual allegations, it is denied.

121. The allegations in paragraph 121 state legal conclusions to which no response is required. To the extent paragraph 121 misstates the law or contains factual allegations, it is denied.

122. The allegations in paragraph 122 state legal conclusions to which no response is required. To the extent paragraph 122 misstates the law or contains factual allegations, it is denied.

123. The allegations in paragraph 123 state legal conclusions to which no response is required. To the extent paragraph 123 misstates the law or contains factual allegations, it is denied.

124. The allegations in paragraph 124 state legal conclusions to which no response is required. To the extent paragraph 124 misstates the law or contains factual allegations, it is denied.

125. DOT Respondents affirmatively allege that WEC's Election Administration Manual speaks for itself and deny the allegations in paragraph 125 to the extent, if at all, they are inconsistent with that document. DOT Respondents affirmatively allege that footnote 9 in paragraph 125 states legal conclusions to which no response is required. To the extent that footnote 9 misstates the law or contains factual allegations, it is denied.

126. DOT Respondents affirmatively allege that WEC's Election Administration Manual speaks for itself and deny the allegations in paragraph 126 to the extent, if at all, they are inconsistent with that document.

127. The allegations in paragraph 127 state legal conclusions to which no response is required. To the extent paragraph 127 misstates the law or contains factual allegations, it is denied.

128. DOT Respondents lack knowledge or information sufficient to form a belief as to the allegations in paragraph 128.

129. The allegations in paragraph 129 state legal conclusions to which no response is required. To the extent paragraph 129 misstates the law or contains factual allegations, it is denied.

130. The allegations in paragraph 130 state legal conclusions to which no response is required. To the extent paragraph 130 misstates the law or contains factual allegations, it is denied.

131. The allegations in paragraph 131 state legal conclusions to which no response is required. To the extent paragraph 131 misstates the law or contains factual allegations, it is denied.

132. The allegations in paragraph 132 state legal conclusions to which no response is required. To the extent paragraph 132 misstates the law or contains factual allegations, it is denied.

H. Respondents are failing their duty to expend public funds in compliance with the laws they administer.

133. DOT Respondents deny the allegations in paragraph 133.

VI. CAUSES OF ACTION

**FIRST CAUSE OF ACTION:
REQUEST FOR WRIT OF MANDAMUS**

134. DOT Respondents incorporate by this reference their responses to all prior paragraphs in the petition.

135. The allegations in paragraph 135 state legal conclusions to which no response is required. To the extent paragraph 135 misstates the law or contains factual allegations, it is denied.

136. DOT Respondents admit that Petitioners requested the relief stated in paragraph 136 and that this Court signed an “Order Regarding Writ of Mandamus” on August 22, 2024, (Doc. 24). DOT Respondents deny the remaining allegations in paragraph 136.

**SECOND CAUSE OF ACTION:
DECLARATION CONSTRUING
52 U.S.C. § 21083(a)(5)(B)(i) AND WIS. STAT. § 85.61(1)**

137. DOT Respondents incorporate by this reference their responses to all prior paragraphs in the petition.

138. The allegations in paragraph 138 state legal conclusions to which no response is required. To the extent paragraph 138 misstates the law or contains factual allegations, it is denied.

139. DOT Respondents deny the allegations in paragraph 139.

140. The allegations in paragraph 140 state legal conclusions to which no response is required. To the extent paragraph 140 misstates the law or contains factual allegations, it is denied.

141. The allegations in paragraph 141 state legal conclusions to which no response is required. To the extent paragraph 141 misstates the law or contains factual allegations, it is denied.

142. The allegations in paragraph 142 state legal conclusions to which no response is required. To the extent paragraph 142 misstates the law or contains factual allegations, it is denied.

143. DOT Respondents admit that Petitioner requested the relief stated in paragraph 143 but deny that Petitioner is entitled to this relief. DOT Respondents deny the remaining allegations in paragraph 143.

Response to headings in petition: DOT Respondents deny the factual allegations in the headings in the petition and declaration construing statutes. To the extent that the allegations in the headings contain legal conclusions, no response is required. To the extent that the headings misstate the law, they are denied. DOT Respondents deny that Petitioner is entitled to any relief whatsoever.

Response to the “Prayer for Relief” on pages 28 through 30 of the petition: DOT Respondents deny that Petitioner is entitled to the relief she requests or any relief whatsoever.

Further response: DOT Respondents deny any factual allegations in the petition and declaration construing statutes that are not expressly admitted herein.

DEFENSES

1. Petitioner fails to state a claim upon which relief can be granted.
2. Petitioner lacks standing to assert her claims.
3. Petitioner’s claims are barred by laches.
4. DOT Respondents reserve the right to name additional defenses as they become known.

DOT Respondents demand judgment as follows:

1. Denying a writ of mandamus and declaratory relief;

2. Dismissing the petition for writ of mandamus and declaration construing statutes on the merits and with prejudice as to all other causes of action; and

3. Awarding DOT Respondents any other relief the Court deems just.

Dated this 3rd day of September 2024.

Respectfully submitted,

JOSHUA L. KAUL
Attorney General of Wisconsin

Electronically signed by:

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CERTIFICATE OF SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed an Answer and Defenses of Respondents Wisconsin Department of Transportation and Craig Thompson to Petition for Writ of Mandamus and Declaration Construing Statutes 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 3rd day of September 2024.

Electronically signed by:

Lynn K. Lodahl

LYNN K. LODAHL

Assistant Attorney General

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