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October 26, 2021

West Allis City Clerk
7525 W Greenfield Avenue- Room 108
West Allis, WI 53214

Re: Notice of Claim by Peter Peckarsky – Announced Candidate for U.S. Senate.

Dear City Clerk:

We represent Peter Peckarsky who is an announced candidate for U.S. Senate. This letter accompanies a Notice of Claim regarding the manner in which your municipality processes and counts absentee ballots. Your municipality has provided by ordinance that all absentee ballots will be canvassed by the municipal board of absentee ballot canvassers at a Central Count Absentee Ballot site according to the Wisconsin Elections Commission website. <http://elections.wi.gov/index.php/clerks/guidance/central-count-absentee> (accessed October 25, 2021).

As part of the Central Count procedure, Wis. Stat., §7.52(3)(a) requires the canvassers to mark each ballot with the poll list number and to record either the elector's name or number on the poll list. Both the ballot and poll list are public records. Anyone may access the ballots and poll lists to determine how the individual voted. This violates the Wisconsin Constitution's guarantee of a secret ballot in all elections. Art. III, §3.

We are prepared to file a legal action challenging the constitutionality of the portion of Wis.Stat., §7.52(3)(a) that requires identifying information on centrally counted absentee ballots. We trust that your elected officials and election staff will consider modifying your procedures to eliminate the unconstitutional practice of placing identifying information on centrally counted absentee ballots. Please let us know us if there is any change in status. That will determine whether your municipality will be involved in any future litigation.

Thank you for your attention to this matter.

Very truly yours,


Robert Theine Pledl

CITY OF WEST ALLIS
29 NOV '21 PM 12:00

NOTICE OF CLAIM

To: West Allis City Clerk
7525 W Greenfield Avenue- Room 108
West Allis, WI 53214

Re: Claim of Peter Peckarsky – Announced Candidate for U.S. Senate

Circumstances of Claim

1. The purpose of this Notice of Claim submitted pursuant to Wis. Stat., §893.80 is to challenge the unconstitutional practice of marking absentee ballots with identifying information when absentee ballots are counted at a central location pursuant to Wis. Stat., §7.52(3)(a).

2. Article III, §3 of the Wisconsin Constitution states: "All votes shall be by secret ballot."

3. Ballots canvassed at polling places, including absentee ballots, are processed and counted without placing upon the actual ballot any number or other information that identifies the person who cast that ballot.

4. Wis.Stat., §7.52(1)(a) authorizes municipalities to adopt an ordinance providing that all absentee ballots will be canvassed at a Central Count Absentee Ballot site.

5. Wis.Stat., §7.52(3)(a) requires municipalities that choose the central count procedure to mark each absentee ballot with information which reveals the true identity of each voter who submits an absentee ballot. It states:

The board of absentee ballot canvassers shall mark the poll list number of each elector who casts an absentee ballot on the back of the elector's ballot. The board of absentee ballot canvassers shall then deposit the ballot into the proper ballot box and enter the absent elector's name or poll list number after his or her name on the poll list.

6. Absentee ballots marked with the voter's poll list number are public records, and poll lists that contain the voter's name are public records. Wis. Stat., §19.35. Anyone can access those records to determine how someone voted.

7. The requirement in Wis.Stat., §7.52(3)(a) that information identifying each absentee voter be marked on each ballot as part of the Central Count procedure is unconstitutional because it denies voters the right to cast a secret ballot that is guaranteed by Article III, §3 of the Wisconsin Constitution.

Relief Sought

8. Central Count municipalities should modify their procedures to insure that no identifying information is marked on absentee ballots.

9. Claimant intends to file a legal action seeking a declaratory judgment that the portion of Wis.Stat., §7.52(3)(a) which requires identifying information on absentee ballots is unconstitutional.

10. Claimant also intends to seek both a preliminary injunction and a permanent injunction prohibiting Wisconsin municipalities from utilizing at any future elections a Central Count procedure for absentee ballots that violates the secret ballot requirement in the Wisconsin Constitution.

Date: October 26, 2021

DAVIS & PLEDL, SC
Attorneys for Claimant Peter Peckarsky



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