APPENDIX A

In the
United States Court of Appeals
For the Seventh Circuit

No. 25-1279

WISCONSIN VOTER ALLIANCE, *et al.*,

Plaintiffs-Appellants,

v.

DON M. MILLIS, *et al.*,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Wisconsin.
No. 1:23-cv-01416-WCG
William C. Griesbach, *Judge*.

ARGUED SEPTEMBER 11, 2025 —
DECIDED FEBRUARY 10, 2026

Before BRENNAN, *Chief Judge*, and KIRSCH and JACKSON-AKIWUMI, *Circuit Judges*.

PER CURIAM. As with every plaintiff who sues in federal court, an issue-advocacy group must show it has Article III standing. That can arise from concrete injuries to its members or because the defendant

"directly affected and interfered" with the group's "core business activities." *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 395 (2024). And just like an individual plaintiff, an organization must prove its claimed injuries amount to more than a "bare procedural violation" of federal law. *Spokeo, Inc. v. Robins*, 578 U.S. 330, 342 (2016).

The Wisconsin Voter Alliance, an organization dedicated to advancing election integrity, wants Wisconsin to better ad-minister federal election law. In the Alliance's view, the Commissioners of the Wisconsin Elections Commission need to enforce certain voter-ID laws more strictly and alter the way they manage voter registration lists. So the Alliance filed a complaint with the Commission, asserting that the Commissioners themselves failed to uphold Congress's commands. When the Commissioners declined to review the complaint, the Alliance and two of its members sued in federal court to compel a response.

Before reaching the merits, the district court dismissed this case for lack of subject matter jurisdiction, concluding that neither the Alliance nor its members had Article III standing. Because the district court properly applied the tests for identifying intangible "injuries in fact" and organizational standing, we affirm.

I

In 2002, Congress passed the Help America Vote Act (HAVA or the Act) to "establish minimum election administration standards for federal elections." *United States v. Town of Thornapple*, 143 F.4th 793, 796 (7th Cir. 2025) (quoting Pub. L. No. 107-252, 116 Stat. 1666) (citation modified). The Act required states

to standardize voting systems, maintain computerized voter registration lists, and more—all to minimize the risk of repeating the controversies of the 2000 presidential election. *Id. See also* 52 U.S.C. §§ 21081–21085.

HAVA includes two enforcement mechanisms. First, the Attorney General can institute a civil action against noncom-pliant states. 52 U.S.C. § 21111. Second, each State that accepts federal funding under the Act must "establish and maintain State-based administrative complaint procedures." 52 U.S.C. § 21112(a)(1). "Any person who believes that there is a violation" of HAVA "may file a complaint" with an authorized state agency. 52 U.S.C. § 21112(a)(2)(B) (citation modified).

Wisconsin chose to take federal funds, so it designated the Wisconsin Elections Commission to hear HAVA complaints. Wis. Stat. § 5.05(1) (2025). The Commission must abide by federal procedural requirements. For example, the Act outlines a timeline for resolving complaints and an option for holding hearings on the record. 52 U.S.C. §§ 21112(a)(2)(E), (H)–(I). It also explains how States should adjudicate complaints on the merits. If "there is a violation" of HAVA, the State "shall pro-vide the appropriate remedy." § 21112(a)(2)(F). But if "there is no violation, the State shall dismiss the complaint." § 21112(a)(2)(G). Wisconsin adopted many of these provisions into its election code. Wis. Stat. §§ 5.061(1)–(4).

The Wisconsin Voter Alliance knows these procedures well. Since 2020, the Alliance has filed more than ten HAVA complaints with the Commission, several of which turned into state-court lawsuits. When the Alliance's President, Ron Heuer,

describes the group's "core organizational and advocacy activities," he highlights the importance of HAVA complaints to their strategy. Without these "governmental tools," he contends the Alliance would struggle to educate both its members and the public on threats to their rights. The Alliance would also lack the information needed to recommend new laws or agency procedures to ensure election integrity. Whenever "government officials, agencies, or departments fail to cooperate in disclosing facts" under laws like HAVA, Heuer declares, the Alliance's mission "is impeded," which "require[s] the organization to take action by available means."

This case concerns two complaints the Alliance filed against the Wisconsin Elections Commission. In 2022 and 2023, the Alliance, Heuer, and member Kenneth Brown alleged that the Commissioners themselves violated HAVA. In one complaint, they faulted the Commissioners for sharing Wisconsin's statewide voter registration database with other state actors; in another, they objected to a practice of overseas voters bypassing voter-ID requirements.

Rather than answering these complaints, however, the Commissioners announced their "ethical recusal." Following the Wisconsin Supreme Court's lead, they concluded "it would be nonsensical to have [the Commission] adjudicate a claim against itself." *Teigen v. Wis. Elections Comm'n*, 976 N.W.2d 519, 533 (Wis. 2022) (plurality opinion). Still, the Commissioners did "not wish to leave" the Alliance "without a path forward," so they offered three alternatives. First, the Commissioners authorized the Alliance to refer the matter to a district attorney. *See* Wis. Stat. § 5.05(2m)(c)11. Next, the Alliance could "appeal the decision of the commission" to a state trial court. Wis.

Stat. § 5.06(8). Finally, the Commissioners noted that ordinary administrative review may also be available. *See* Wis. Stat. § 227.52.

The Alliance chose another path. Shortly after the Commissioners denied their second complaint, the Alliance, Heuer, and Brown sued the Commissioners in federal court. In their view, HAVA's procedural requirements create private rights enforceable via 42 U.S.C. § 1983. Because the Alliance, Heuer, and Brown offered only minimal allegations of harm, though, the Commissioners moved to dismiss the claim for lack of Article III standing. The district court agreed and dismissed the case, but it gave the plaintiffs leave to refile "be-cause of the strong public interests in the integrity of elections." After they amended their complaint, the district court denied their motion for summary judgment and dismissed the case for lack of subject matter jurisdiction. FED. R. CIV. P. 12(h)(3) & 56(f)(1). Again, neither the Alliance nor the individual plaintiffs offered enough evidence of harm to establish standing. They timely appeal.

II

This case hinges on whether the Alliance, Heuer, and Brown have suffered an "injury in fact" sufficient to confer Article III standing. They do not, however, allege anything resembling a traditional tangible injury, financial or physical. Instead, they claim to have been injured by the Commissioners' decision to return their complaint without a decision on the merits.

To allege injury in fact, the plaintiffs invoke two distinct, evolving strands of the Supreme Court's standing jurisprudence: intangible injuries and

organizational standing. Over the last five years, the Supreme Court has revisited the tests for both subjects. *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 424–30 (2021) (intangible injury); *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 393–96 (2024) (organizational standing). Though the federal courts of appeals have debated the meaning of these cases, the Supreme Court has yet to resolve any resulting disputes.[1] Accordingly, we first address the intangible injury theories before turning to organizational standing.

"We review a decision to dismiss for lack of standing de novo." *In re Recalled Abbott Infant Formula Prods. Liab. Litig.*, 97 F.4th 525, 528 (7th Cir. 2024). A plaintiff's "burden to demonstrate standing changes as the procedural posture of the litigation changes." *Persinger v. Sw. Credit Sys., L.P.*, 20 F.4th 1184, 1189 (7th Cir. 2021) (citation omitted). "Where, as here, the procedural posture is summary judgment," the plaintiff must provide "specific facts" supporting standing—a higher burden than at the pleading stage. *Id.* at 1189–90 (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 561 (1992)).

III

All three plaintiffs assert intangible injuries. They argue that any time a state agency does not follow 52 U.S.C. § 21112(a) to the letter, they have an injury in fact—without showing additional harm. In the alternative, they characterize failures to abide by these procedures as violations of the Petition Clause

[1] *See, e.g.*, *Acheson Hotels, LLC v. Laufer*, 601 U.S. 1, 3–5 (2023) (dismissing a case that would have addressed a circuit split on certain forms of intangible injuries as moot).

of the First Amendment.

A. Intangible Injury Framework

Article III standing is a "bedrock constitutional requirement," and we cannot reach the merits of a case without it. *Hippocratic Med.*, 602 U.S. at 378 (quoting *United States v. Texas*, 599 U.S. 670, 675 (2023)). To establish Article III standing, plaintiffs must show they suffered an "injury in fact" that was "caused by the defendant and redressable by the court." *TransUnion*, 594 U.S. at 423. When seeking prospective relief, like a declaratory judgment or an injunction, plaintiffs also "must establish a sufficient likelihood of future injury" to secure standing. *Hippocratic Med.*, 602 U.S. at 381; *Simic v. City of Chicago*, 851 F.3d 734, 738–39 (7th Cir. 2017).

An injury in fact must be "concrete, particularized, and actual or imminent." *TransUnion*, 594 U.S. at 423. A "concrete" injury has a "close relationship to a harm traditionally recognized as providing a basis for a lawsuit in American courts." *Pierre v. Midland Credit Mgmt., Inc.*, 29 F.4th 934, 938 (7th Cir. 2022) (quoting *TransUnion*, 594 U.S. at 425) (citation modified). Without such an injury, "there is no case or controversy for the federal court to resolve." *Wood v. Sec. Credit Servs., LLC*, 126 F.4th 1303, 1308 (7th Cir. 2025) (quoting *Casillas v. Madison Ave. Assocs., Inc.*, 926 F.3d 329, 333 (7th Cir. 2019)).

Concrete injuries come in two varieties: tangible and in-tangible. Tangible injuries, like monetary and physical harms, "readily qualify as concrete injuries." *Freeman v. Ocwen Loan Servicing, LLC*, 113 F.4th 701, 708 (7th Cir. 2024) (citation omit-ted). Intangible harms can also be concrete if they have a "historical

or common-law analog" that is "tortious." *Baysal v. Midvale Indem. Co.*, 78 F.4th 976, 979 (7th Cir. 2023). Examples include harms resembling defamation, false light, disclosure of private information, intrusion upon seclusion, and abuse of process. *Freeman*, 113 F.4th at 708; *TransUnion*, 594 U.S. at 425. Violations of some constitutional rights also qualify as intangible injuries. *Spokeo*, 578 U.S. at 340.

A "bare procedural violation" of a federal statute, however, does not count as an intangible injury. *Id.* at 342. That means Congress cannot "enact an injury into existence" simply by creating a private right of action. *TransUnion*, 594 U.S. at 426. "[D]eprivation of a procedural right," without showing "some concrete interest that is affected by the deprivation," does not establish Article III standing. *Summers v. Earth Island Inst.*, 555 U.S. 488, 496 (2009).

At the same time, "both history and the judgment of Congress play important roles" for the standing inquiry because "Congress is well positioned to identify intangible harms that meet minimum Article III requirements." *Spokeo*, 578 U.S. at 340. The Supreme Court has long recognized that Congress can "elevat[e] … concrete, *de facto* injuries that were previously inadequate in law" to "the status of legally cognizable injuries" by creating a private right of action. *Lujan*, 504 U.S. at 578. Intangible injury cases based on violations of federal law, then, direct us to examine the text of the underlying statute—even though standing is a "threshold question that must be resolved … before proceeding to the merits." *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 88–89 (1998).

B. Injuries for Procedural Violations under HAVA

The Alliance, Heuer, and Brown cannot satisfy *TransUnion*'s intangible injury test. If an asserted injury has no common-law analog, raises no constitutional concerns, and cannot be enforced through an express right of action, a plaintiff does not have standing. Neither of their theories clears this bar.

1. Implied Rights Theory

To start, the plaintiffs have not shown that violations of HAVA's procedural requirements are injuries per se. They do not point to any historic form of action, in tort or otherwise, permitting citizens to sue the government for failing to follow statutory procedures without some additional concrete injury. Indeed, they cannot: *Spokeo* and *TransUnion* identify private injuries, like defamation or invasion of privacy, as characteristic intangible injuries—not public-oriented grievances about government policies. *TransUnion*, 594 U.S. at 425.

To the extent the plaintiffs think the Commissioners denied access to something tangible (a "response" on the merits of their specific complaint), they merely redefine procedural concerns as substantive. The Supreme Court narrowly constrains the tangible injury category to "physical or monetary" harms. *Id.* Without proof of financial losses or bodily harm, plaintiffs must allege intangible injuries that pass muster un-der the Supreme Court's historical analog test.[2]

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[2] At best, this argument characterizes the relevant harm as an "informational injury." *See FEC v. Akins*, 524 U.S. 11, 20–21 (1998). But there is no informational injury here, because there

The plaintiffs believe, however, that they can bypass the normal standing inquiry in this case. So long as a federal statute creates a private right, they contend, a plaintiff can establish standing just by pointing to that statutory violation (if the relevant agency action impacts them directly). This argument follows from their merits theory: HAVA's procedural provisions create a private right to receive an adjudication on the merits of their complaint, enforceable via 42 U.S.C. § 1983. At oral argument before us, they asserted, "Congress deter-mined the harm was the state officials … violating HAVA," and that "harm" could establish standing without showing anything more. Oral Arg. at 27:19–27:31.

TransUnion forecloses this argument. Congress cannot use "its lawmaking power to transform something that is not re-motely harmful into something that is." *TransUnion*, 594 U.S. at 426 (quoting *Hagy v. Demers & Adams*, 882 F.3d 616, 622 (6th Cir. 2018)). Of course, the judgment of Congress matters for standing. But it cannot make a state official's failure to abide by the law "harmful" unless that action maps onto a historical tort analog. The Alliance, Heuer, and Brown, then, make an argument that looks more like the *TransUnion* dissent than its majority opinion.

Even if we adopted this theory, the Alliance, Heuer, and Brown would lack standing. Congress has not created a private right of action for individuals to enforce HAVA in federal court. *Bellitto v. Snipes*, 935

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has been no "*denial of information subject to public disclosure*" under a sunshine law, like the Freedom of Information Act. *Casillas*, 926 F.3d at 338 (emphasis original). The Alliance, Heuer, and Brown do not seek information at all; they want legal remedies to resolve the concerns raised in their complaints.

F.3d 1192, 1199 (11th Cir. 2019) ("HAVA creates no private cause of action."). "By its text, the HAVA only allows enforcement via attorney general suits or administrative complaint." *Am. C. R. Union v. Phila. City Comm'rs*, 872 F.3d 175, 184–85 (3d Cir. 2017). The judgment of Congress, therefore, is not relevant to analyzing standing in this case because Congress has not weighed in on the matter.

Plaintiffs cannot escape these difficulties by claiming HAVA creates implied rights enforceable through § 1983. In almost every Supreme Court case on intangible injuries arising under federal law (not involving a constitutional violation), there has been an express private right of action in the statute. *See, e.g.*, *Lujan*, 504 U.S. at 571–72 ("citizen-suit provision" of the Endangered Species Act of 1973); *Spokeo*, 578 U.S. at 335 (identifying an explicit cause of action to sue for violations of the Fair Credit Reporting Act); *TransUnion*, 594 U.S. at 419 (same); *Summers*, 555 U.S. at 500 (Administrative Procedure Act); *Akins*, 524 U.S. at 19 (federal district court review of FEC decisions under the Federal Election Campaign Act of 1971). Against such guidance, we should not leap to include § 1983 implied rights cases.

More to the point, these HAVA procedural provisions fail the Supreme Court's test for determining whether a Spending Clause statute creates private rights. "To prove that a statute secures an enforceable right, privilege, or immunity" under § 1983, "a plaintiff must show that the law in question 'clear[ly] and unambiguous[ly]' uses 'rights-creating terms.'" *Medina v. Planned Parenthood S. Atl.*, 606 U.S. 357, 368 (2025)(quoting *Gonzaga v. Doe*, 536 U.S. 273, 290 (2002)). The "rare statute" with rights-creating language can be enforced through private

suits only if "Congress has [not] displaced § 1983's general cause of action with a more specific remedy." *Id.*; *see also St. Anthony Hosp. v. Whitehorn*, 132 F.4th 962, 971–72 (7th Cir. 2025) (en banc), *cert. denied*, 2025 WL 2949556.

This statute, by contrast, does not include rights-creating language. *See* 52 U.S.C. § 21112(a). It neither describes these procedures as "rights" nor speaks about a discrete class of protected individuals. *See Health & Hosp. Corp. of Marion Cnty. v. Talevski*, 599 U.S. 166, 183–86 (2023). And HAVA lays out a comprehensive, two-pronged remedial scheme directing individuals to air their grievances with state agencies, not federal courts. *See id.* at 186–91. It is no wonder that the Supreme Court, even before it restricted the implied rights doctrine in *Medina v. Planned Parenthood*, disfavored § 1983 claims de-signed to enforce HAVA. *See Brunner v. Ohio Republican Party*, 555 U.S. 5, 6 (2008) (petitioners were unlikely to succeed on the merits of their implied rights claim under 52 U.S.C. § 21083(a)(1)(A)). And pre-*Medina* cases finding private rights for certain HAVA provisions never did so for § 21112. *See, e.g., Colon-Marrero v. Velez*, 813 F.3d 1, 9–22 (1st Cir. 2016) (finding a private right in § 21083(a)(4)(A)); *Sandusky Cnty. Democratic Party v. Blackwell*, 387 F.3d 565, 572–73 (6th Cir. 2004) (same for § 21082(a)). When a plaintiff alleges an intangible injury and implied rights at the same time, a weak merits theory will counsel against finding standing. Procedural injuries cannot survive Article III scrutiny when Congress has not granted a procedural right. *Cf. Lujan*, 504 U.S. at 572 n.7.[3]

[3] The Supreme Court's cases about implied rights under § 1983 do not normally discuss standing. At first, the claims in these cases may resemble procedural violations. Yet many involve tangible

Whether or not this "'history-and-judgment-of-Congress' standard for assessing Article III 'injury in fact' … has raised more questions than it answered" is a question for the Supreme Court, not us. *Laufer v. Arpan LLC*, 29 F.4th 1268, 1284 (11th Cir. 2022) (Newsom, J., concurring) (citation omitted). But this case is straightforward, even under *TransUnion*. Both "history and the judgment of Congress" tell us not to treat this alleged violation of HAVA as an intangible harm. *Spokeo*, 578 U.S. at 340. Without further evidence of concrete injury, the plaintiffs' claim is not cognizable in federal court.

2. Petition Clause Theory

The Alliance, Heuer, and Brown fare no better on their claim of constitutional harm. They believe the Commissioners violated their First Amendment rights under the Petition Clause, which states, "Congress shall make no law … abridging … the right of the people … to petition the Government for a redress of grievances." U.S. CONST. amend. I. Refusing to adjudicate their dispute on the merits, they argue, counts as a deprivation of their right to petition the Government.

The Supreme Court has not analyzed whether plaintiffs can show standing based on a violation of the Petition Clause. But "traditional [intangible] harms may also include harms specified by the Constitution

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injuries in fact. *See, e.g.*, *Maine v. Thiboutot*, 488 U.S. 1, 3 (1980) (recovering welfare benefits promised by statute, a financial harm); *Pennhurst State Sch. & Hosp. v. Hal-derman*, 451 U.S. 1, 15 (1981) (remedying deprivations of medical care, a physical harm). And other cases involve intangible harms analogous to common-law actions. *See Gonzaga*, 536 U.S. at 277 (disclosure of false sexual assault allegation in violation of FERPA, analogous to defamation).

itself." *TransUnion*, 594 U.S. at 425. First Amendment violations are quintessential examples of constitutional harms giving rise to intangible injuries. *Spokeo*, 578 U.S. at 340. Moreover, both the Supreme Court and this court have suggested that the Petition Clause should be treated the same as the Speech Clause. *See McDonald v. Smith*, 472 U.S. 479, 482 (1985) ("The right to petition is cut from the same cloth as the other guarantees of [the First] Amendment."); *Gray v. Lacke*, 885 F.2d 399, 412 (7th Cir. 1989) (we "analyze an alleged violation of the [P]etition [C]lause in the same manner as any other alleged violation of the right to engage in free speech."). So this court does not treat the Petition Clause differently for standing purposes. *Int'l Union of Operating Eng'rs v. Daley*, 983 F.3d 287, 297 (7th Cir. 2020) (upholding a dismissal for lack of standing when plaintiffs "suffered no invasion" of "First Amendment petition clause rights").

Nevertheless, the Supreme Court has foreclosed this argument. As then-Judge Kavanaugh summarized, "the Petition Clause does not provide a right to a response or official consideration" when people submit "petitions to state agencies." *We the People Found., Inc. v. United States*, 485 F.3d 140, 143 (D.C. Cir. 2007). He drew that conclusion from two cases confirming that "the First Amendment does not impose any affirmative obligation on the government to listen, [or] to respond." *Smith v. Ark. State Highway Emps.*, 441 U.S. 465 (1979); *see also Minn. State Bd. for Cmty. Colls. v. Knight*, 465 U.S. 271, 285 (1984). We recently reaffirmed that holding. *See Int'l Union of Operating Eng'rs*, 983 F.3d at 298 (quoting *Smith* and *Knight*). The Petition Clause protects the "right of access" to courts and government forums. *Borough of Duryea v. Guarnieri*, 564 U.S. 379, 387 (2011) (quoting *Sure-Tan, Inc. v. NLRB*, 467 U.S. 883, 896 (1984)). It

does not go further.

The plaintiffs have not alleged a colorable Petition Clause injury. The Commissioners responded to the complaint and offered several pathways to petition the government for redress of grievances.[4] And even if they had not suggested these alternatives, there would still be no Petition Clause problem. The Commissioners did not owe a response, so they could not create a constitutional injury.

IV

Organizations, not just individuals, can establish standing to sue in federal court. Sometimes, organizations invoke "associational standing," or the ability to sue on behalf of their members. *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). But organizations can also "sue on their own behalf for injuries they have sustained." *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 n.19 (1982). To establish "organizational standing," a plaintiff "must satisfy the usual standards for injury in fact,

[4] The plaintiffs understood Wisconsin state law to foreclose these remedies. They argue Wis. Stat. § 5.05(2m)(c)11 covers only criminal prosecutions, not civil actions, while Wis. Stat. § 5.06(8) and Wis. Stat. § 227.52(6) both preclude judicial review of an agency "non-decision."

But the plaintiffs do not point to any judicial opinions interpreting those state laws, instead citing only federal administrative law cases. We could find no state appellate cases interpreting § 227.52(6), and just one considering § 5.05(2m)(c)11 in passing. *See State v. Jensen*, 782 N.W.2d 415, 425 (Wis. 2010). The scope of judicial review under § 5.06(8) also appears to be contested. *See Brown v. Wis. Elections Comm'n*, 16 N.W.3d 619, 623–27 (Wis. 2025) (Kenneth Brown, from this case, was not "aggrieved" by a merits order; no mention of non-decisions). Plaintiffs cannot allege an injury under the Petition Clause if these paths are viable.

causation, and redressability that apply to individuals." *Hippocratic Med.*, 602 U.S. at 393–94. An advocacy group cannot conjure up standing because of the "intensity of the litigant's interest." *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State*, 454 U.S. 464, 486 (1982). It must have an actual injury.

The Alliance argues it has organizational and associational standing. Both standing theories fail, though, because any claim of such harm cannot survive at the summary judgment stage.

A. Organizational Standing

The Alliance draws its organizational standing theory from the Supreme Court's recent decision in *Hippocratic Medicine*. There, the Court stated that organizations can establish standing when a defendant's actions "directly affected and interfered with [the organization's] core business activities." *Hippocratic Med.*, 602 U.S. at 395. Echoing this language, the Alliance argues that the Commissioners interfered with their "core political activities" by declining to adjudicate their HAVA complaints. In declarations submitted at the summary judgment stage, it affirmed that all its core activities revolve around using governmental processes "to investigate or complain[] about governmental misdoings" and educate its "membership" and "governmental officials" on its findings. The Alliance believes these declarations are enough to secure standing under the Supreme Court's test.

This approach misses the point of *Hippocratic Medicine*. An organization does not have standing when a government entity frustrates its "abstract social interests" without a cognizable Article III

injury. *Hippocratic Med.*, 602 U.S. at 394 (citation omitted). The Commissioners' decision to decline reviewing this complaint was not an injury, and it does not become one just because an advocacy group asserts that HAVA complaints are important to its mission. That approach would make organizational standing more lenient than the bar for individuals. *Cf. id.* at 393–94 ("[O]rganizations must satisfy the usual standards for injury in fact, causation, and redressability that apply to individuals."). And it would turn organizational standing into "nothing more than a game of semantics," in which advocacy organizations can simply declare that disfavored government conduct impedes their "core business activities" without further evidence of harm. *Tenn. Conf. of the NAACP v. Lee*, 139 F.4th 557, 566 (6th Cir. 2025). Organizations must point to more evidence of concrete disruptions to mission-critical business operations.

Even if it is assumed that filing HAVA complaints counts as a "core" activity, moreover, this case does not involve a "direct[] … interfere[nce]." *Hippocratic Med.*, 602 U.S. at 395. As the Alliance argued in its summary judgment motion, it still can (and does) file HAVA complaints against other parties. The Commissioners declined to respond to two complaints out of many, and they offered several alternative channels for redressing the Alliance's concerns.[5]

[5] If the Alliance had incurred (or planned to incur) costs pursuing the alternative remedies the Commissioners identified, it might prove organizational standing. But such costs do not amount to imminent injuries in this case. First, the Alliance has averred it will not be pursuing any of these remedies, in part because it does not believe they are available under Wisconsin state law. *Supra* n.4. Second, assuming these pathways are viable, there is still one option that does not incur additional costs—referring the matter

Nothing prevents the Alliance from educating voters, raising public concern about the Commission's tactics, or putting pressure on the legislature to reform the law governing election disputes. There is no evidence that the Commissioners' actions threaten the integrity of this group's "advocacy business[]," so the Alliance cannot establish organizational standing. *Id.*

B. Associational Standing

Just as the Alliance cannot establish standing for its own injuries, it cannot do so in its representative capacity either. For associational standing, an organization must show "at least one of its members would 'have standing to sue in their own right,'" the lawsuit protects interests "germane to the organization's purpose," and the "participation of individual members" is not necessary. *Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 2 F.4th 1002, 1008 (7th Cir. 2021) (quoting *Hunt*, 432 U.S. at 343) (citation modified).

This claim fails at step one. Heuer and Brown do not "have standing to sue in their own right" because they have not suffered an injury in fact. As discussed in Part III.B, they cannot claim an intangible injury because the Commission's decision not to adjudicate the HAVA complaint on the merits fails the *TransUnion* standing test. And they have not provided enough information to show an actual or imminent financial injury cognizable under Article III.

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to a district attorney under Wis. Stat. § 5.05(2m)(c)11. So long as this cost-free alternative exists, any other potential costs are just "allegations of possible future injury," and not so pressing as to be "certainly impending." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 158 (1990)) (citation modified).

V

Cases involving advocacy groups and intangible injuries are particularly prone to "manufacture[d]" theories of Article III standing. *Hippocratic Med.*, 602 U.S. at 395. The Supreme Court has cautioned us to guard the courthouse gates against procedural injuries masquerading as direct harm. *TransUnion*, 594 U.S. at 440. Permitting standing for these plaintiffs would ignore this instruction.

The district court, then, correctly dismissed this case for lack of standing. The Alliance, Heuer, and Brown have not suffered an intangible injury based on a violation of HAVA's procedural requirements. And the Alliance cannot establish organizational or associational standing based on the record it has developed in this case.[6]

AFFIRMED

BRENNAN, *Chief Judge*, concurring. I join the per curiam opinion in full. I write separately to note that this court's organizational standing precedent has been rendered largely obsolete. In *FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024), the Supreme Court supplied a new reading of its organizational standing holding from *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982). Our court's caselaw expressly re-lies on a now-incorrect understanding of *Havens*, seen most clearly in

[6] Because the Alliance, Heuer, and Brown moved for summary judgment, they had the burden of providing facts sufficient for finding Article III standing at a post-discovery stage. *Persinger*, 20 F.4th 1189. They failed to do so here, even after the district court had dismissed for lack of standing. Accordingly, we decline to return this case to the district court for further factfinding. *See* 28 U.S.C. § 2106.

Common Cause Indiana v. Lawson, 937 F.3d 944 (7th Cir. 2019). Our precedent should be conformed to the Supreme Court's latest guidance.

The per curiam opinion correctly applies the "core business activities" test outlined in *Hippocratic Medicine*. Given the confusion these parties and district courts have evinced about the governing standard, though, we should clarify the law of Article III standing for this circuit. To do this, I briefly outline the evolution of the Supreme Court's organizational standing caselaw. Then, I examine how *Common Cause* contradicts the new standard. Some questions remain as to the scope of *Hippocratic Medicine's* holding on organizational standing, but *Common Cause* and its progeny no longer control.

I

A. The Supreme Court Modifies the Test

For years, *Havens Realty* was the primary Supreme Court precedent for organizational standing claims. The Court concluded in *Havens* that a group dedicated to housing advocacy activities (HOME) had standing to sue a property management company that engaged in racially discriminatory practices. 455 U.S. at 378–79. HOME adequately alleged an injury in fact to its own interests because it "devote[d] significant resources to identify and counteract the defendant's" discrimination. *Id.* at 379. The Court found this combination to be "far more than simply a setback to the organization's abstract social interests." *Id.* (citing *Sierra Club v. Morton*, 405 U.S. 727, 739 (1972)). "Such concrete and demonstrable injury to the organization's activities—with the consequent drain on the organization's resources—constitutes" an injury in fact. *Id.*

Recently, though, the Supreme Court tightened the organizational standing test for public interest groups. In *Hippocratic Medicine*, the Supreme Court cabined *Havens* to its unique facts. 602 U.S. at 394–96. When a group of advocacy organizations challenged the FDA's new rules on mifepristone (an abortifacient pill), they claimed to have standing because they were "incurring costs to oppose FDA's actions." *Id.* at 394. Specifically, they spent money to "conduct their own studies on mifepristone" so they could "better inform their members and the public about mifepristone's risks." *Id.* They also "expend[ed] considerable time, energy, and resources drafting citizen petitions to FDA, as well as engaging in public advocacy and public education." *Id.* (citation modified).

The Court rejected these arguments. An organization "cannot spend its way into standing simply by expending money to gather information and advocate against the defendant's action." *Hippocratic Med.*, 602 U.S. at 394. Rather, it must show how a defendant "directly affected and interfered with [its] core business activities." *Id.* at 395.

To distance itself from the "drain on resources" language in *Havens*, the Court redefined the injury in that case as an in-formational, rather than a financial, harm. It first emphasized that HOME engaged in more than just issue advocacy—it "operated a housing counseling service." *Id.*[7] The relevant harm arose when "Havens gave HOME's employees false in-

[7] In fact, *Havens* does not describe HOME as a traditional issue-advocacy organization at all: "Its activities included the operation of a housing counseling service, and the investigation and referral of complaints concerning housing discrimination." 455 U.S. at 368.

formation about apartment availability." *Id.* Just like a "re-tailer who sues a manufacturer for selling defective goods to the retailer," Havens Realty "sold" the housing counseling organization defective information, which incidentally incurred costs. *Id.* Ultimately, HOME could not carry out its core business activities under these conditions.

The Court, then, altered the *Havens* organizational standing test in two ways. First, two kinds of spending now qualify as "manufacture[d]" standing after *Hippocratic Medicine*. 602 U.S. at 394. Costs incurred through an organization's "public advocacy" against government action, like "drafting citizen petitions" to an agency, cannot confer standing. *Id.* Nor does standing exist when costs are incurred as part of "public education" efforts, including collecting and distributing in-formation "so that the associations can better inform their members and the public about … risks" of a challenged government action. *Id.* Second, the paradigmatic *Havens* injury is now a direct, non-financial injury to the organization's "core business activities" (like lying to a plaintiff)—not a self-inflicted harm caused by redirecting resources. *Id.* at 395.

Left unanswered in the Supreme Court's opinion is how to tell when a defendant "directly affect[s] and interfere[s]" with an organization's "core business activities." *Hippocratic Med.*, 602 U.S. at 395. As appellate courts face this question, they should heed the Supreme Court's warning that "*Havens* was an unusual case, and this Court has been careful not to extend the *Havens* holding beyond its context." *Id.* at 396.

B. This Court's Precedent

Hippocratic Medicine does not fit with our

precedent, so the law of this circuit should be clarified. We have noted that this court's decision in *Common Cause* is "arguably in tension" with *Hippocratic Medicine*. *See Reporters Comm. for Freedom of the Press v. Rokita*, 147 F.4th 720, 729 n.3 (7th Cir. 2025). *Common Cause* explicitly relies on *Havens*, applying it because "[n]othing in the Supreme Court's … standing jurisprudence … undermined" its organizational standing holding at the time. 937 F.3d at 950. Now that the Supreme Court has revised the test from *Havens*, that conclusion should be reconsidered.

1. The Common Cause *Approach*

Taken as a whole, *Common Cause* promotes the "expansive theory of standing" that *Hippocratic Medicine* curtailed. 602 U.S. at 395. In *Common Cause*, this court concluded that several voting rights organizations had standing to challenge an Indiana law revamping that State's procedures for cleaning up its voter rolls. 937 F.3d at 948. In reaching that conclusion, though, it accepted allegations of financial "injuries" that *Hippocratic Medicine* now forecloses.

Most notably, the court credited claims of financial injuries based on "public education" expenses. Each organization said that it "expended resources educating voters and community activists" about the challenged law, including by "chang[ing] [their] curriculum" and reaching out to voters directly. *Id.* at 951–52. One group "created a poster" that informed members of the risk of de-registration. *Id.* at 952. Even at the time, these alleged costs were "rather thin gruel" for standing purposes. *Id.* at 964 (Brennan, J., concurring). The Supreme Court has now declared them insufficient.

Common Cause also relied on diversion of resources language that no longer fits with *Hippocratic Medicine*. The organizations in *Common Cause* believed the Act would force them "to expend … limited financial resources on rolling back the effects of the bill." 937 F.3d at 951. Sometimes, the "effects of the bill" are presented as "concrete work" supporting voters and poll workers; at other points, the opinion shades over into public advocacy more broadly. *But see id.* at 956 ("ruling out standing for lobbying efforts in Indiana's legislature"). Either way, more than once the opinion entangles direct advocacy with voter education. *See id.* at 952 (Common Cause Indiana "devoted additional time and resources to ameliorating the … effects of this law, including conducting … training sessions aimed at educating voters and community activists").

Finally, *Common Cause* did not consider the organizations' "core business activities." *Hippocratic Med.*, 602 U.S. at 395. In-stead, this court used a far more elastic concept, "core mission," which more easily justified standing. *Common Cause*, 937 F.3d at 956. The "specific mission[s]" of the organizations were described as multifaceted, including "educating potential voters, helping them to fulfill whatever legal requirements their state has legitimately imposed as a condition of voting, and opposing any improper voter-suppression measures that may exist." *Id.* at 954. Moreover, *Common Cause* calls voter registration "core" to the organizations, but it sup-plied no evidence of how central these activities were to their day-to-day operations. For example, this court states that Common Cause Indiana's "advocacy agenda … extends far beyond voter registration." *Id.* at 952. Yet it conflates "voter registration," "voter education," "voter programs," and "voter advocacy," calling them

all part of the "core mission" of the organizations at various points. *Id.* at 954. *Hippocratic Medicine* requires more specificity than *Common Cause* provided. *Cf. Fair Hous. Ctr. of Metro. Detroit v. Singh Senior Living, LLC*, 124 F.4th 990, 992–93 (6th Cir. 2025) (remanding for more evidence showing "that the conduct challenged in the suit interfered with the organization's 'core business activities.'").

Reading *Common Cause* on its own terms, nearly every large, well-funded advocacy organization could establish standing in its own right. It would just have to point to a portion of its operations and call them "core." That fully recognizes the fears in *Hippocratic Medicine* of granting "all the organizations in America … standing to challenge almost every … policy that they dislike, provided they spend a single dollar opposing those policies." 602 U.S. at 395. As noted in the per curiam, this approach would turn organizational standing into "nothing more than a game of semantics," where organizations redefine their "missions" at higher levels of generality to secure standing. *Tenn. Conf. of the NAACP v. Lee*, 139 F.4th 557, 566 (6th Cir. 2025).

Hippocratic Medicine encourages courts to avoid these games. Instead, they should employ a more objective inquiry, looking to both the organization's actual "activities" and the way the defendant's actions impact them. Courts in this circuit, therefore, should no longer follow *Common Cause*'s approach to organizational standing in light of the Supreme Court's latest guidance.

2. Applying Hippocratic Medicine

The Supreme Court has not explicitly overruled *Havens*. Nor did the Court explain what to do with the

discussion of financial injury in that case. It may be that all "diversion of resources" theories of organizational standing are on their way out after *Hippocratic Medicine*, but that is not yet clear. How, then, should organizational standing disputes be handled under this modified precedent?

After *Hippocratic Medicine*, it seems that courts are to first look for instances in which the defendant directly injured the plaintiff organization. Consonant with Article III, these harms could be either tangible or intangible. In *Havens*, the primary injury HOME alleged was an intangible injury. The housing corporation "provided … black employees false information about apartment availability." *Hippocratic Medicine*, 602 U.S. at 395 (citing *Havens*, 455 U.S. at 366 and n.1, 368). Under the *TransUnion* test, this kind of racial discrimination resembles actions for fraud and tortious interference at common law, both harmful to HOME's "housing counseling" business. *Id.* at 395. This falsehood, not any financial harm, constitutes the paradigmatic *Havens* injury. Accordingly, an organization would have standing to sue for an intangible injury if an agency defrauded the organization, violated its constitutional rights, or committed something resembling a privacy tort directly against the organization.

This inquiry may be more difficult when a plaintiff asserts that the government caused financial harms. Almost inevitably, a plaintiffs' concerns will look more like a taxpayer suit or "generalized grievance." *Carney v. Adams*, 592 U.S. 53, 58–59 (2020). But if a government entity issued a fine or withheld grant funding, the organization would likely have a direct tangible financial injury. *TransUnion*, 594 U.S. at

424–25.[8]

If the organization cannot show that a defendant's actions constitute direct concrete harm, whether tangible or intangible, the "core business activities" test takes center stage. Although not crystal clear, *Hippocratic Medicine* does not expressly forbid all financial organizational injury claims. *Cf. Lee*, 139 F.4th at 564–65 (highlighting conflict with normal standing rules if financial harms were not injuries in fact). So, courts would then have to ask whether a defendant "directly affected and interfered with [the plaintiff's] core business activities," causing the plaintiff to incur a financial injury. *Hippocratic Med.*, 602 U.S. at 395. Of course, an advocacy organization still "cannot spend its way into standing simply by expending money to gather information and advocate against the defendant's action." *Id.* at 394. Thus, issue-advocacy groups would only satisfy Article III scrutiny when they allege genuine financial harms caused by the defendant, as the Supreme Court ruled in *Havens*. *Hippocratic Medicine* tells us that these situations will be exceedingly rare. 602 U.S. at 396.[9]

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[8] It is unclear whether the "core business activities" test should be ap-plied to instances of direct, cognizable harm. Doing so would risk violating the maxim that "organizations must satisfy the usual standards" for standing because it may require organizations to provide more proof of harm than individuals. *Hippocratic Med.*, 602 U.S. at 393–94.

[9] The language about financial injuries cannot be read out of *Havens* so easily, even if that case is limited to "its context." *Hippocratic Med.*, 602 U.S. at 396. *Havens* involved a claim for damages, not injunctive relief. 455 U.S. at 378. The Court made clear that these tangible financial injuries ("the consequent drain on the organization's resources") justified Article III standing. *Id.* at 379. After all, the measure of HOME's recovery would be based on its administrative costs, not the falsity of the defendant's statements. This meant that there was a fit between the asserted

Until the Supreme Court clarifies whether *Havens* is still good law, though, this court must raise the bar for alleging standing in these cases. Organizations must provide more evidence of harm in their pleadings and through discovery. They must point to facts allowing a reasonable factfinder to conclude that the defendant interfered with a core business activity, not just a vaguely defined core mission. And they cannot rely on any costs pertaining to educating the public or issue advocacy. Without meaningful evidence of how an organization spends its time and money, organizations could redefine their purpose to plead standing. And without showing that the financial injuries are not advocacy costs, organizations could spend their way into court as they wished.

II

As the per curiam opinion notes, the Wisconsin Voter Alliance provided little evidence in support of its "core business activities" argument. This is because the Alliance changed its standing theory halfway through the litigation. At first, the Alliance argued it had standing because the Commissioners' "non-decision" forced it "to divert resources to education and other non-litigation methods to enjoin the HAVA violations." It also had to "pursue judicial remedies," which "diverts monetary resources away from its core mission and objectives." After *Hippocratic Medicine*,

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injury and the claimed remedy—in other words, the harm was redressable. But reading *Hippocratic Medicine* literally, we might conclude that organizations have standing under *Havens* only when they have an *intangible* injury, not a *tangible* financial injury. That would invert the Supreme Court's normal presumptions about standing. *Cf. Spokeo, Inc. v. Robins*, 578 U.S. 330, 340 (2016) (tangible harms are presumed "synonymous" with concreteness).

though, the Alliance tried to re-frame its standing argument in terms of its "core political activities." On appeal, it reiterates only the new arguments.

Federal appellate courts have an independent obligation to assure themselves that standing exists. *Prairie Rivers Net-work v. Dynegy Midwest Generation, LLC*, 2 F.4th 1002, 1010 (7th Cir. 2021). We should therefore carefully consider any arguments for standing supported by the record—even those the plaintiffs downplay before this court.

In its reply brief, the Alliance correctly recognized that its reliance on a diversion of resources theory was a "bad fact" in the record pointing against standing. It saw that the old way of establishing standing—pointing to de minimis costs incurred in response to the defendant's disfavored actions, as this court permitted in *Common Cause*—no longer fit with the Supreme Court's modified approach. Rightly so. The bare recitals of public education expenses offered in the Alliance's amended complaint run afoul of *Hippocratic Medicine*'s prohibition on "manufacture[d]" standing. 602 U.S. at 394.

Other litigants have not picked up on this change so quickly. In several recent district court opinions from this circuit, the litigants expressly relied on a diversion of resources theory to establish organizational standing. Many of these courts have applied *Common Cause*, even after *Hippocratic Medicine*, because "[t]he Seventh Circuit has not yet considered what effect *Hippocratic Medicine* has on *Havens* and its precedents." *Kidd v. Pappas*, No. 1:22-cv-07061, 2025 WL 3507374, at *5–6 (N.D. Ill. Dec. 8, 2025).[10] Other cases have conflated the diversion of

[10] *See, e.g.*, *Nat'l Fair Housing All. v. Deutsche Bank Nat'l Tr.*, No. 1:18-cv-00839, 2025 WL 975967, at *6–7 (N.D. Ill. Mar. 31, 2025);

resources test with the "core business activities" standard in ways that are not faithful to either approach.[11] This uncertainty about our circuit precedent, not-withstanding the ruling in *Hippocratic Medicine*, shows the need for clarity.

Though the Alliance tried to disregard its erroneous "diversion of resources" theory on appeal, it also misunderstood the "core business activities" test. It thought the best way to satisfy *Hippocratic Medicine* would be to strip out all references to financial injuries from the record and its briefing. By doing so, it assumed the new standard could be satisfied without pointing to any injury at all, whether direct harms cognizable under Article III or downstream monetary consequences.

That is not correct. When an organization's intangible injury arguments fail, it does not escape the strictures of Article III. Instead, *Hippocratic Medicine* shows that these organizations must allege a direct injury in fact or else risk dismissal for lack of

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Jud. Watch, Inc. v. Ill. State Bd. of Elections, No. 1:24-cv-01867, 2025 WL 2712209, at *7 n.5 (N.D. Ill. Sept. 23, 2025). *See also Fair Hous. Ctr. of Cent. Ind., Inc. v. M&J Mgmt. Co., LLC*, No. 1:11-cv-00612-TAB-JPH, 2024 WL 3859997, at *2–3 (S.D. Ind. Aug. 19, 2024); *Reporters Comm. for Freedom of the Press v. Rokita*, 751 F. Supp. 3d 931, 940–42 (S.D. Ind. Sept. 27, 2024); *Access Living of Metro. Chi., Inc. v. City of Chicago*, 752 F. Supp. 3d 922, 928 (N.D. Ill. Sept. 30, 2024); *Ill. Nurses Ass'n v. Rosenblatt*, No. 1:24-cv-12379, 2025 WL 2430571, at *3 (N.D. Ill. Aug. 22, 2025).

One district court applied *Common Cause* with trepidation, recognizing that *Hippocratic Medicine* may unsettle this court's precedent. *See Legal Aid Chi. v. Hunter Props.*, No. 1:23-cv-04809, 2024 WL 4346615, at *5–14 (N.D. Ill. Sept. 30, 2024) (Seeger, J.).

[11] *See Chi. Headline Club v. Noem*, No. 1:25-cv-12173, 2025 WL 3240782, at *74–75 (N.D. Ill. Nov. 20, 2025).

standing. *Hippocratic Med.*, 602 U.S. at 393–94. The "core business activities" test does not stand apart from the "usual standards for injury in fact, causation, and redressability that apply to individuals." *Id.* at 394. Rather, the test fits into the framework by delineating the circumstances in which a defendant does (and does not) cause a tangible financial in-jury to an organization. *Cf. Lee*, 139 F.4th at 564–65 (discussing causation). Of course, the Alliance must show a real injury to establish this kind of harm—not just self-inflicted financial in-convenience. Without an intangible injury, it must identify a financial harm to even enter Article III's ambit.

Because the district court dealt with the Alliance's diversion of resources theory and the defendant litigated it before this court, this topic—including resetting the applicable law—was properly presented for our review and clarification of the law of this circuit.

III

The Supreme Court has warned to be "careful not to ex-tend the *Havens* holding" on organizational standing "beyond its context." *Hippocratic Med.*, 602 U.S. at 395. The per curiam opinion correctly replaces the old test with the new when it applies the "core business activities" standard. Before *Hippocratic Medicine*, parties and courts were not required to ask about core activities, so the per curiam opinion takes a step in the right direction. At some point the Supreme Court may give further guidance about how the "core business activities" standard fits with the ordinary Article III analysis for tangible and intangible injuries. Until then, parties and district courts should acknowledge this change in the law and adjust their approach to organizational standing.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

FINAL JUDGMENT

February 10, 2026

Before

MICHAEL B. BRENNAN, *Chief Judge*
THOMAS L. KIRSCH II, *Circuit Judge*
CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 25-1279

WISCONSIN VOTER ALLIANCE, et al.,

Plaintiffs - Appellants

v.

DON M. MILLIS, et al.,

Defendants - Appellees

Originating Case Information:

District Court No.: 1:23-cv-01416-WCG

Eastern District of Wisconsin

District Judge William C. Griesbach

The judgment of the District Court is **AFFIRMED**, with costs, in accordance with the decision of this court entered on this date.

s/_____

Clerk of Court

APPENDIX C

UNITED STATES COURT OF APPEALS
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NOTICE OF ISSUANCE OF MANDATE

March 4, 2026

To: Linda M. Klemm
UNITED STATES DISTRICT COURT
Eastern District of Wisconsin
125 S. Jefferson Street
Green Bay, WI 54301-4541

No. 25-1279

WISCONSIN VOTER ALLIANCE, et al.,

Plaintiffs - Appellants

v.

DON M. MILLIS, et al.,

Defendants - Appellees

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS: No record to be returned

APPENDIX D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

WISCONSIN VOTER ALLIANCE, et al.,

Plaintiffs,

v. Case No. 23-C-1416

DON M. MILLIS, et al.,

Defendants.

DECISION AND ORDER DENYING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

On October 25, 2023, Plaintiffs Wisconsin Voter Alliance (WVA), Ron Heuer, and Kenneth Brown brought this action under 42 U.S.C. § 1983 against the members of the Wisconsin Elections Commission (WEC), alleging violations of the Help America Vote Act of 2002 (HAVA), 52 U.S.C. § 20901, *et seq.*, and seeking declaratory and injunctive relief. On March 13, 2024, the court granted Defendants' motion to dismiss, finding Plaintiffs failed to allege sufficient facts to show standing. But because there is a strong public interest in election integrity, the court allowed Plaintiffs to file an amended complaint. On April 12, 2024, Plaintiffs filed an amended complaint.

The matter is now before the court on Plaintiffs' motion for summary judgment. Defendants oppose

and ask the court to instead grant summary judgment in their favor under Federal Rule of Civil Procedure 56(f)(1). Plaintiffs did not reply and the time to do so has passed. So, Plaintiffs' motion is ripe for the court's adjudication. While the parties devote most of their briefing to merits issues, this case ends where the court must begin—jurisdiction. For the following reasons, Plaintiffs' motion will be denied, and the case will be dismissed.

BACKGROUND

A. Statutory Scheme

HAVA was enacted in 2002 to "establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of federal elections," and for other purposes. Pub. L. No. 107-252, 116 Stat. 1666 (2002). HAVA provides two enforcement mechanisms. *See* 52 U.S.C. §§ 21111–12. First, the "Attorney General may bring a civil action against any State or jurisdiction in an appropriate United States District Court" for declaratory and injunctive relief "as may be necessary to carry out the uniform and nondiscriminatory election technology and administration requirements" under various HAVA provisions. § 21111. Second, "any person who believes that there is a violation of" HAVA's uniform and nondiscriminatory election technology and administration requirements subchapter "may file a complaint" under the "State-based administrative complaint procedures." § 21112(a). States that receive

payment pursuant to a HAVA program must establish and maintain State-based administrative complaint procedures. § 21112(a)(1). HAVA's requirements for such complaint procedures include:

> (A) The procedures shall be uniform and nondiscriminatory.
>
> (B) Under the procedures, any person who believes that there is a violation of any provision of subchapter III (including a violation which has occurred, is occurring, or is about to occur) may file a complaint.
>
> (C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint.
>
> (D) The State may consolidate complaints filed under subparagraph (B).
>
> (E) At the request of the complainant, there shall be a hearing on the record.
>
> (F) If, under the procedures, the State determines that there is a violation of any provision of subchapter III, the State shall provide the appropriate remedy.
>
> (G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures.
>
> (H) The State shall make a final

> determination with respect to a complaint prior to the expiration of the 90-day period which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.
>
> (I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.

§ 21112(a)(2)(A)–(I).

Wisconsin's HAVA administrative complaint procedure is set forth in Wis. Stat. § 5.061, entitled "Compliance with federal Help America Vote Act." That section provides:

> (1) Whenever any person believes that a violation of Title III of [HAVA] has occurred, is occurring, or is proposed to occur with respect to an election for national office in this state, that person may file a written, verified complaint with the [WEC].

(2) If the [WEC] receives more than one complaint under sub. (1) relating to the same subject matter, the [WEC] may consolidate the complaints for purposes of this action.

(3) A complainant under sub. (1) or any of the complainants in a consolidated complaint under sub. (2) may request a hearing and the matter shall then be treated as a contested case under ch. 227, except that the [WEC] shall make a final determination with respect to the merits of the complaint and issue a decision within 89 days of the time that the complaint or the earliest of any complaints was filed, unless the complainant, or each of any complainants whose complaints are consolidated, consents to a specified longer period.

(4) If the [WEC] finds the complaint to be without merit, it shall issue a decision dismissing the complaint. If the [WEC] finds that the violation alleged in the complaint has occurred, is occurring, or is proposed to occur, the [WEC] shall order appropriate relief, except that the [WEC] shall not issue any order under this subsection affecting the right of any person to hold an elective office or affecting the canvass of an election on or after the date of that election.

Wis. Stat. § 5.061.

B. Factual Background

The material facts in this case are not copious, nor are they in dispute. The WVA is an issue-advocacy organization. Defs.' Resp. to Pls.' Statement of Material Facts (SOF) ¶ 2, Dkt. No. 41. Ron Heuer is the president of the WVA, and Kenneth Brown is one of its members. *Id.* ¶¶ 17, 24. The WVA's core activities include "working and serving in ways that protect the rights of the organization, where applicable, and its members, and those associated with the WVA, whenever laws, statutes, rules, regulations, or government actions (at whatever level, federal, state, county, city or actions of their respective officials) threaten or impede implied or expressed rights or privileges afforded to them under the federal or state constitutions, laws, or regulations." *Id.* ¶ 2. More specifically, the WVA and its members file "administrative complaints with or against the [WEC] for alleged [HAVA] violations." *Id.* ¶ 6; *see also id.* ¶¶ 7–10.

This case centers on two HAVA complaints that Plaintiffs filed. On September 8, 2022, the WVA and Heuer filed an administrative complaint under Wis. Stat. § 5.061 against the WEC, alleging that the WEC violated HAVA's requirements to maintain its statewide voter registration database through the state's participation in the Electronic Registration Information Center (ERIC) and requesting an evidentiary hearing on the matter. *Id.* ¶¶ 27–29; *see also* 2022 WEC Complaint, Dkt. No. 1-1. On October 19, 2022, the WEC sent the WVA a letter explaining that the verified complaint was "being returned without consideration or dismissal" by the WEC because a complaint brought against the WEC itself warranted "ethical recusal" by the WEC. Defs.' Resp.

to Pls.' SOF ¶ 30; *see also* WEC Return Letter, Dkt. No. 1-2.

On October 2, 2023, Plaintiffs collectively filed another complaint under Wis. Stat. § 5.061 against the WEC, alleging that the WEC violated HAVA by issuing unlawful guidance that allows overseas absentee votes to be received through the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301, *et seq.*, without HAVA-required voter identity and eligibility verification and requesting an evidentiary hearing on the matter. Defs.' Resp. to Pls.' SOF ¶ 34; *see also* 2023 WEC Complaint, Dkt. No. 1-3. On October 4, 2023, the WEC sent Plaintiffs a letter functionally identical to that the WEC sent Plaintiffs on October 19, 2022. Defs.' Resp. to Pls.' SOF ¶ 36. The letter explained that the verified complaint was "being returned without consideration or dismissal" by the WEC because a complaint brought against the WEC itself warranted "ethical recusal" by the WEC. *Id.* ¶¶ 36–37; *see also* WEC Return Letter, Dkt. No. 1-4.

Plaintiffs generally contend that they are entitled to declaratory and injunctive relief because the WEC's 2022 and 2023 "non-decision" response letters violated their federally protected rights. Defendants counter that they are entitled to summary judgment because, undisputed facts aside, neither HAVA nor § 1983 provide a private cause of action on which Plaintiffs can assert their claims in federal court. The court will not reach the cause of action question as this case is resolved at the antecedent question of standing.

ANALYSIS

Summary judgment is appropriate when the movant shows there is no genuine issue of material fact, and the movant is entitled to judgment as a

matter of law. Fed. R. Civ. P. 56(a); *see generally Celotex Corp. v. Catrett*, 477 U.S. 317, 322–23 (1986). The court may grant summary judgment to the nonmovant under Federal Rule of Civil Procedure 56(f). *Haley v. Kolbe & Kolbe Millwork Co.*, 863 F.3d 600, 613 (7th Cir. 2017) (citing other sources).

As this court has already said, federal courts do not have jurisdiction to decide every legal question that may arise. Instead, Article III of the United States Constitution limits the jurisdiction of federal courts to actual "cases" or "controversies" brought by litigants who demonstrate standing. U.S. Const. art. III, § 2, cl. 1. The doctrine of standing is not an esoteric doctrine that courts use to avoid difficult decisions; it "serves to prevent the judicial process from being used to usurp the powers of the political branches." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 408 (2013); *see also Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94–95 (1998) ("The requirement that jurisdiction be established as a threshold matter 'springs from the nature and limits of the judicial power of the United States' and is 'inflexible and without exception.'" (alterations omitted) (quoting *Mansfield, C. & L.M.R. Co. v. Swan*, 111 U.S. 379, 382 (1884))). It is because of "this overriding and time-honored concern about keeping the Judiciary's power within its proper constitutional sphere" that the court "must put aside the natural urge to proceed directly to the merits of an important dispute and to settle it for the sake of convenience and efficiency." *Hollingsworth v. Perry*, 570 U.S. 693, 704–05 (2013) (alterations and internal quotation marks omitted) (quoting *Raines v. Byrd*, 521 U.S. 811, 820 (1997)). So, "[t]he court is bound to ask and answer for itself" the standing question, "even when not otherwise suggested, and without respect to the relation of the parties to it." *Steel Co.*, 523 U.S. at

94 (quoting *Great Southern Fire Proof Hotel Co. v. Jones*, 177 U.S. 449, 453 (1900)).

"The familiar 'triad of injury in fact, causation, and redressability constitutes the core of Article III's case-or-controversy requirement.'" *Gracia v. SigmaTron Int'l Inc.*, 986 F.3d 1058, 1064 (7th Cir. 2021) (quoting *Steel Co.*, 523 U.S. at 103–04). "The party invoking federal jurisdiction bears the burden of establishing these elements" and must prove them "in the same way as any other matter on which [the party] bears the burden of proof." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992). Injury in fact is at issue here. "To establish injury in fact, a plaintiff must show that he or she suffered 'an invasion of a legally protected interest' that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.'" *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 (2016) (quoting *Lujan*, 504 U.S. at 560). Plaintiffs have shown their claimed injury is particularized and actual—each was privy to a WEC proceeding that resulted in the WEC issuing a "no decision" response letter. But Plaintiffs have not shown that their claimed injury is concrete.

"A concrete injury is a *real* injury—that is, one that actually exists, though intangible harms as well as tangible harms may qualify." *Nettles v. Midland Funding LLC*, 983 F.3d 896, 899 (7th Cir. 2020) (citation omitted). Where a purported harm is intangible, "both history and the judgment of Congress play important roles." *Spokeo*, 578 U.S. at 340. As to the former, "it is instructive to consider whether an alleged intangible harm has a close relationship to a harm that has traditionally been regarded as providing a basis for a lawsuit in English or American courts." *Id.* (citing another source). As to the latter, "Congress may 'elevate to the status of

legally cognizable injuries concrete, *de facto* injuries that were previously inadequate in law.'" *Id.* at 341 (alterations omitted) (quoting *Lujan*, 504 U.S. at 578). But the Court went on to caution that

> Congress' role in identifying and elevating intangible harms does not mean that a plaintiff automatically satisfies the injury-in-fact requirement whenever a statute grants a person a statutory right and purports to authorize that person to sue to vindicate that right. Article III standing requires a concrete injury even in the context of a statutory violation. For that reason, [a plaintiff] could not, for example, allege a bare procedural violation, divorced from any concrete harm, and satisfy the injury-in-fact requirement of Article III.

Id.; *see also Summers v. Earth Island Inst.*, 555 U.S. 488, 497 (2009) ("Unlike redressability, however, the requirement of injury in fact is a hard floor of Article III jurisdiction that cannot be removed by statute."). More specifically and as relevant here, "[a] citizen may not sue based only on an 'asserted right to have the Government act in accordance with law.'" *Food & Drug Admin. v. All. for Hippocratic Med.*, 602 U.S. 367, 381 (2024) (quoting *Allen v. Wright*, 468 U.S. 737, 754 (1984)). And yet, that is the thrust of Plaintiffs' argument.

As to Heuer and Brown, Plaintiffs argue that the two have not had their HAVA complaints against the WEC adjudicated and intend to file HAVA complaints in the future; therefore, they have suffered a harm that is "real" and "immediate." Pls.' Br. in

Supp. at 38, Dkt. No. 32 (citing Pls.' SOF ¶ 25, Dkt. No. 35 ("[Brown] had expectations, as understood under the law, rules, or regulations, that the Commission would render an adjudication—a decision. It was [Brown]'s understanding the Commission had to make a decision, but he did not get a decision, which concerns him because he will file HAVA complaints in the future.")); *see also* Defs.' Resp. to Pls.' SOF ¶ 22. In essence, Heuer and Brown argue they were harmed because the WEC has not followed 52 U.S.C. § 21112(a). That is not enough.

Plaintiffs also contend that the WVA has organizational standing. Organizations can establish standing "to sue on their own behalf for injuries they have sustained." *All. for Hippocratic Med.*, 602 U.S. at 393 (quoting *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 n.19 (1982)). To do so, an organization "must satisfy the usual standards for injury in fact, causation, and redressability." *Id.* at 394. But as with an individual, "an organization may not establish standing simply based on the 'intensity of the litigant's interest' or because of strong opposition to the government's conduct, 'no matter how longstanding the interest and no matter how qualified the organization.'" *Id.* (internal citation omitted) (first quoting *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 454 U.S. 464, 486 (1982); and then quoting *Sierra Club v. Morton*, 405 U.S. 727, 739 (1972)).

Plaintiffs have not shown that the WVA has suffered an injury in fact. In an attempt to do so, they reassert that the WVA has been harmed by the WEC's failure to adjudicate its HAVA complaints. Plaintiffs further argue that "the WEC's actions have directly affected and interfered with the WVA's core political activities" because the WVA has been forced to divert

resources from other initiatives to litigating in federal court. Pls.' Br. in Supp. at 36; Defs.' Resp. to Pls.' SOF ¶ 12. But the Supreme Court has shut the door on that argument:

> [A]n organization that has not suffered a concrete injury caused by a defendant's action cannot spend its way into standing simply by expending money to gather information and advocate against the defendant's action. An organization cannot manufacture its own standing in that way. Indeed, that theory would mean that all the organizations in America would have standing to challenge almost every federal policy that they dislike, provided they spend a single dollar opposing those policies.

All. for Hippocratic Med., 602 U.S. at 394–95. Thus, the WVA comes up short like Heuer and Brown; it does not have organizational standing.

One final point. There may be concern that if Heuer, Brown, and the WVA do not have standing, then who does? The Court also answered this question in *Alliance for Hippocratic Medicine*. There, the Court observed that it "has long rejected that kind of 'if not us, who?' argument as a basis for standing." 602 U.S. at 396 (citing other sources). For "[t]he Framers of the Constitution did not 'set up something in the nature of an Athenian democracy or a New England town meeting to oversee the conduct of the . . . Government by means of lawsuits in federal courts.'" *Id.* (quoting *United States v. Richardson*, 418 U.S. 166, 179 (1974)). Thus, it may be that some issues are necessarily "left to the political and democratic

processes." *Id.* In this case, Defendants note that HAVA contains a remedy for allegedly deficient administrative complaint procedures—a federal audit. Plaintiffs may wish to consider pursuing that remedy for the relief they seek.

In sum, Plaintiffs have not shown that Heuer, Brown, or the WVA have suffered an injury in fact. Accordingly, they do not have standing to proceed in federal court, so the court must deny their motion for summary judgment and dismiss this action.

IT IS THEREFORE ORDERED that Plaintiffs' motion for summary judgment (Dkt. No. 31) is **DENIED**.

IT IS FURTHER ORDERED that this case is dismissed for lack of standing. The Clerk is directed to enter judgment accordingly.

Dated at Green Bay, Wisconsin this 31st day of January, 2025.

s/
William C. Griesbach
United States District Judge

APPENDIX E

MOHRMAN, KAARDAL & ERICKSON, P.A.

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January 19, 2026

Via ECF

Office of the Clerk
United States Court of Appeals
for the Seventh Circuit
Everett McKinley Dirksen United States Courthouse
219 S. Dearborn Street, Room 2722
Chicago, IL 60604

Re: *Wisconsin Voter Alliance, et al. v. Don M. Mills, et al.*
Case No. 25-1279

Dear Clerk of Court:

The Appellants Wisconsin Voter Alliance, Ronald Heuer, and Kenneth Brown (WVA) submit this letter under Federal Rule of Appellate Procedure 28(j). The U.S. Supreme Court recently issued a decision in *Bost v. Illinois State Bd. of Elections*, No. 24-568, 2026 WL 96707 (U.S. Jan. 14, 2026) that

sheds additional light upon Article III standing issues before this Court.

The *Bost* Court held that candidates have a personal interest in rules governing counting of votes to support Article III standing to challenge vote-counting statutes. *Id.* at *3. Candidates, unlike a common competitor in the economic marketplace, have an interest in a "fair process" as they "seek to represent the people." *Id.* This parallels WVA's argument that the state agency's rules only affect complainants who filed a HAVA complaint, here, the WVA, not the general public. WVA Princ. Br. at 9, 27, 36. WVA's interest is in a "fair process" seeking administrative adjudicative relief as statutory law requires. *Id.*

Bost also found candidates not only "have a concrete and particularized interest in the rules that govern the counting of votes in their elections" regardless of cost to their campaigns but, "[t]heir interest extends to the integrity of the election…." *Bost,* 2026 WL 96707, at *5. This too parallels WVA's arguments regarding the purpose of HAVA state processes to adjudicate complaints *about* irregularities in the election process; it relates to the integrity of elections and outcomes. *E.g.,* WVA Princ. Br. at 23. Irregularities in the election process undermines the confidence of the election results for which a HAVA complaint's purpose. HAVA and state statutory processes invite complaint to identify alleged election process issue or issues. And, a decision represents WVA's resolution of *its* complaint, a *prize* that cannot be severed from WVA's interest in the HAVA adjudicative process. *Bost,* 2026 WL 96707, at *3. (Candidates interest in "prize" to represent the people cannot be severed

from interest in electoral process).

WVA filed in federal court because of the WEC's non-decision violating state statutory law expending moneys to mitigate or avoid substantial risk of this harm" sufficient standing under *Bost*. *Id.,* at 5.

Sincerely,

/s/Erick G. Kaardal

EGK/mg
cc: Counsel of Record (via ECF)

CERTIFICATE OF COMPLIANCE WITH FED. R. APP. P. 32 (g)

The undersigned certifies that the Supplemental Authority Letter submitted herein contains 349 words and complies with the type/volume limitations of the Federal Rules of Appellate Procedure 32(g). This Supplemental Authority Letter was prepared using a proportionally spaced typeface of 14-point. The word count is stated in reliance on Microsoft 365, the word processing system used to prepare this Supplemental Authority Letter.

/s/Erick G. Kaardal
Erick G. Kaardal

CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the

Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/Erick G. Kaardal
Erick G. Kaardal

APPENDIX F
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Wisconsin Voter Alliance, Ron Heuer, and Kenneth Brown,

Plaintiffs, Case No. 23-cv-1416 WCG

v.

Don M. Millis, in his official capacity as a member of the Wisconsin Elections Commission, or his successor, Robert F. Spindell, Jr., in his official capacity as a member of the Wisconsin Elections Commission, or his successor, Marge Bostelmann, in her official capacity as a member of the Wisconsin Elections Commission, or her successor, Ann S. Jacobs, in her official capacity as a member of the Wisconsin Elections Commission, or her successor, Mark L. Thomsen, in his official capacity as a member of the Wisconsin Elections Commission, or his successor, Megan Wolfe, in her official capacity as Administrator of the Wisconsin Elections Commission, or her successor,

Defendants.

DECLARATION II OF RON HEUER

I, Ron Heuer, declare as follows:

I am President of Wisconsin Voter Alliance and make this declaration in support of Plaintiffs' Motion for Summary Judgment for the organization

and for myself. In addition, this declaration also represents my personal knowledge as a plaintiff before this Court regarding the underlying allegations of the Amended Complaint. I have personal knowledge of the attached documents and the present status of the proceedings before this Court. In addition, the references to the record is a result of consultation with counsel. His office prepared the appendix, the index, and gathering of documents. Finally, counsel assisted me with any reference to the record that is included in this declaration.

The Wisconsin Voter Alliance is an issue-advocacy organization with core missions that includes providing services to others through multiple ways.

1. I am President of Wisconsin Voter Alliance and make this declaration in support for the organization and for myself. This declaration also reflects my personal knowledge of the facts stated to the best of my recollection. Plaintiff Wisconsin Voter Alliance is a Wisconsin non-profit corporation located in Kewaunee County, E3530 Townline Road, Kewaunee, Wisconsin, 54216. The Wisconsin Voter Alliance is a statewide issue-advocacy organization with members who seek to ensure, as part of their association objectives, public confidence in the integrity of Wisconsin's elections, in election results and election systems, processes, procedures, and enforcement, and that public officials act in accordance with the law in exercising their obligations to the people of the State of Wisconsin. The WVA further seeks to educate and report to its members and the public about available methods to

meet the stated objectives.

2. Moreover, the Wisconsin Voter Alliance core organizational and advocacy activities to support objectives that include findings to inform members or others who consider themselves associated with the WVA, whenever laws, statutes, rules, regulations, or government actions (at whatever level, federal, state, county, city or actions of their respective officials) threaten or impede implied or expressed rights or privileges afforded to them under the federal or state constitutions, laws, or regulations or all. Core activities include educating its members and the public to meet the organization's objectives, and public officials of, for example, revealing possible misconduct of public officials (such as when acting contrary to the law or regulations), or the need to correct administratively or recommending new laws or amending laws via legislative action. The methodology used includes drafting of reports, testifying before governmental officials or units of government, legislative committees, public events, or events organized by the Wisconsin Voters Alliance or other parties. See e.g., attached Exhibit 4, APP. 303–306.

3. The Wisconsin Voter Alliance also works and provides services to its members, including the protection of the rights of itself as an organization, to investigate or obtain information, documents, data, or other materials from the government entity, government officials, or others similarly situated. See e.g., *id.*

4. Indeed, whenever government officials, agencies, or departments fail to cooperate in disclosing facts, date, or material for example, abiding by existing law such as the Freedom of Information Act or Public Records Act or other laws,

under such circumstances, when a violation of a rule, law, or other illegality occurs, the organization is impeded to service or inform its members, the public, the legislature, or other governmental officials. And the impediments require the organization to take action by available means. *Id.*

5. Usually, using available governmental tools, such as the Freedom of Information Act, the Public Records Act, or other laws that provide procedures to obtain available governmental documents or data, it involves using governmental administrative processes (filing requests, complaints, or other methods of petitioning the governmental unit or body). *Id.*

6. In addition, the Wisconsin Voter Alliance will use the judiciary, both, state or federal, as a tool of last resort, in most cases, to ensure it can meet core advocacy activities to serve its members or public as previously stated. *Id.*

7. The Wisconsin Voter Alliance will use the laws or regulations that provide for the petitioning of the government, its' departments, agencies, or officials, as "tools" to file petitions (complaints) against the government or governmental officials. Notably, while laws or regulations are available to the general public to use, not everyone will do so. Those who do are sometimes referred to as "complainants" such as in administrative proceedings. The term is interchangeable with such other specific type of complainants, such as "plaintiff," "appellant," "respondent," "appellee," "petitioner," and the like. *Id.*

8. The Wisconsin Voter Alliance will file administrative complaints, or other actions, against the Wisconsin Elections Commission or its members or both, when alleged violations of the Help America

Vote Act occur or when the WVA learns of HAVA related violations. In addition, the WVA will assist other WVA members or individuals associated with the WVA in complaints filed administratively with or against the WEC for alleged HAVA violations. The WVA will do so, when such complaints align with the WVA core activities and mission, and assistance would include, but not limited to, educating the public and government officials about the underlying complaint, general assistance in the administrative process, and other related assistance as is called for. *Id.*

9. When the Wisconsin Voter Alliance filed a complaint with the Wisconsin Elections Commission, as petitioning a grievance regarding an alleged Help America Vote Act violation, as a complainant, the WVA had expectations, as it understood the law, rules, or regulations, that the Commission would render an adjudication—a decision. The understanding of the governing law led the WVA to believe the Commission had to make a decision, but it did not get a decision.

10. While the processes and procedures to file a HAVA complaint are made for the ease of the complainant, without cost, the Wisconsin Elections Commission non-decision to the Wisconsin Voter Alliance complaint required the diversion of resources from the relatively simply administrative filing to seeking a remedy in federal court and interfering with the Alliance's core activities in these types of administrative proceedings.

11. Even without the diversion of resources devoted to the core mission of the Wisconsin Voters Alliance, it had an expectation to obtain a Wisconsin Elections Commission decision in the relatively simple an inexpensive administrative HAVA

proceeding.

12. The Wisconsin Voter Alliance is unaware of any prohibition against the filing of a Help America Vote Act complaint against an agency such as the Wisconsin Elections Commission or its members as election officials.

13. If in the future, the Wisconsin Voter Alliance, as an organization and as an organizational decision, believes that the Wisconsin Elections Commission or any of its members violated provisions of the Help America Vote Act, the WVA will file an administrative complaint against the WEC or its members. With the WVA's filing, as an organization, it would also expect the WEC to render a decision or ensure its' matter would be fully adjudicated in a way that the expected right to petition the government for the redress of grievances had been heard, regardless of the final outcome.

14. Based upon the past actions of the Wisconsin Elections Commission, when the Wisconsin Voter Alliance files a Help America Vote Act complaint against the WEC, again, based upon past actions—which have not changed—the WEC will neither consider the WEC's complaint nor make a decision on the HAVA allegations asserted.

15. The Wisconsin Voter Alliance believes it has an institutional stake in the administrative complaints filed with the Wisconsin Elections Commission under HAVA to determine whether or not a violation of the federal law occurred. Without a WEC adjudication of the WVA's HAVA complaint, it is the WVA's belief that the alleged violation is on-going.

16. Without a Wisconsin Elections Commission decision of the Wisconsin Voter Alliance HAVA complaint, corrective action by the agency,

election official or others, cannot be taken. This would interfere with the WVA's core objectives that include, but is not limited to, recommending, reporting, amending or developing legislation, rules, regulations, or guidelines to ensure the violation ceases, or does not occur again in the future in a similar form.

17. The Wisconsin Voter Alliance has an institutional stake in the administrative complaints filed with the Wisconsin Elections Commission under HAVA to determine whether or not a violation of the federal law occurred. Without that adjudication, it is the WVA's belief that the alleged violation is on-going. Without a decision, corrective action by the agency, election official, the WVA, or others, cannot be taken. This would include, but is not limited to, recommending, reporting, or developing legislation, rules, regulations, or guidelines to ensure the violation ceases, or does not occur again in the future.

Ronald Heuer as President of the Wisconsin Voter Alliance and individual complainant.

18. I am the President of the Wisconsin Voter Alliance. As the President of the organization, I provide a number of responsibilities and services to the membership. Not a total explanation of what I do, but my work includes for example, communicating to members and the general public regarding the organization's work, as I also assist in determining the petitioning actions necessary to take, what events to participate, directing investigations, the reporting of the organization findings and work to others, provide testimony to public officials or to governmental bodies (such as legislative or Congressional committees); meeting with public officials and others regarding improving laws,

regulations, or proposed legislative in alignment with the organization's goals or objectives as previously described.

19. I will direct the Wisconsin Voter Alliance to assist or support or both, WVA members or others associated with the WVA or the organization's core activities with the filing of administrative complaints. This includes complaints with or against the Wisconsin Elections Commission for alleged HAVA violations. Recent examples include the WVA's assistance with my own HAVA complaint and that of Kenneth Brown.

20. At times, the Wisconsin Voter Alliance will be directed to assist or support or both, WVA members or others associated with the WVA or its core activities in litigation. Recent examples include the WVA's assistance with the instance federal court action. See also, Exhibit 4, APP. 303–306.

21. Moreover, I know that certain laws, rules, and regulations, allow me, personally, to petition the government for the redress of grievances. In other words, processes or procedures allow me to be a "petitioner," "complainant," "plaintiff," and the like to either obtain information from the government, departments, agencies, or officials, or to file complaints or other similar documents to convey and adjudicate my grievance(s) to the same. In other words, I also have a personal interest in acting as an "activist" to gather information, documents, data, or other materials and the like, to inform others such as legislators or governmental officials (as just two examples), about the need or how to improve our processes and procedures regarding elections and related topics.

22. Personally, I reside in Wisconsin and a Wisconsin registered voter.

23. I have a personal stake in the administrative complaints I filed with the Wisconsin Elections Commission under HAVA to determine whether or not a violation of the federal law occurred. Without that adjudication, it is my belief that the alleged violation is on-going. Without a decision, corrective action by the agency, election official, myself, or others, cannot be taken. This would include, but is not limited to, recommending, reporting, or developing legislation, rules, regulations, or guidelines to ensure the violation ceases, or does not occur again in the future.

24. When I personally filed a complaint with the Wisconsin Elections Commission, as petitioning a grievance regarding an alleged Help America Vote Act violation, as a complainant, I had expectations as I understood the law, rules, or regulations, that the Commission would render an adjudication—a decision. It was my understanding the Commission had to make a decision, but I did not get a decision.

25. If in the future I believed that the Wisconsin Elections Commission or any of its members violated provisions of the Help America Vote Act, I will file an administrative complaint against the WEC or its members or both. With my filing, I would also expect the WEC to render a decision or ensure my matter would be fully adjudicated in a way that I can feel as though my right to petition the government for the redress of my grievances has been heard, as a complainant, regardless of the final outcome.

26. I am unaware of any prohibition against the filing of a Help America Vote Act complaint against an agency such as the Wisconsin Elections Commission or its members as election officials.

27. Based upon the past actions of the

Wisconsin Elections Commission, when I file a Help America Vote Act complaint against the WEC, again, based upon past actions—which have not changed—the WEC will neither consider my complaint nor make a decision on the HAVA allegations asserted.

28. While the processes and procedures to file a HAVA complaint are made for the ease of the complainant, without or with minimal cost, the Wisconsin Elections Commission non-decision to my HAVA complaint required me to seek relief from the federal court and to whatever extent of the outcome, I could be personally liable for costs associated with the federal court action. The Commission's non-decision gave me little choice but to seek a remedy in court.

Details of Filing of HAVA complaints with the WEC and the WEC's responses in September 2022 and October 2023.

29. On September 8, 2022, with the assistance of counsel, the Wisconsin Voters Alliance and I filed a verified HAVA violation complaint against the Wisconsin Elections Commission and the WEC's Commissioners, individually. In addition, a hearing on the complaint was requested. Am. Compl. Ex. A, APP. 29–39.

30. Essentially, the September 2022, WVA-Heuer HAVA complaint alleged that the WEC and its commissioners were transferring voter registration information to a third-party, Electronic Registration Information Center, Inc., alleging the actions as legally unauthorized under HAVA. *Id.*

31. The September 2022 WVA-Heuer HAVA complaint was filed under Wisc. Stat. § 5.06.

32. On October 19, 2022, the Wisconsin

Elections Commission and its commissioners, through the WEC's staff attorney Jim Witecha, sent a letter to the Wisconsin Voters Alliance stating that our complaint was being returned "without consideration or dismissal by the Wisconsin Elections Commission." See, Am. Compl. Ex. B, APP. 40–42.

33. With the Wisconsin Elections Commission's failure to consider and make a decision regarding the Wisconsin Voter Alliance-Heuer HAVA complaint, the non-decision and non-adjudication of the issue directly affected the core activities and objectives of the WVA as previously outlined and our right as complainants to a decision or remedy or both regarding the HAVA issues presented to the WEC.

34. Moreover, the Wisconsin Elections Commission did not refer the Wisconsin Voter Alliance and Heuer September 2022 HAVA complaint to an administrative law judge in its letter of October 19, 2022 to adjudicate the allegations asserted. See, Am. Compl. Ex. B, APP. 40–42.

35. I, personally, and for the Wisconsin Voter Alliance, considered the letter as a non-decision of the underlying September 8, 2022 HAVA complaint because the letter stated the Wisconsin Elections Commission did not consider and did not make a decision regarding the complaint. The WEC said the complaint, against the WEC and its Commissioners warranted an ethical recusal. *Id.*

36. The same October 2022 Wisconsin Elections Commission letter also suggested two "paths" to take as a method to adjudicate the September HAVA complaint.

37. I believe that neither of the two paths the Wisconsin Elections Commission suggested to be applicable. One was to refer the HAVA complaint to the county attorney under Wisc. Stat. §

5.05(2m)(c)(11), and the other under Wisc. Stat. § 5.06(8), suggesting appealing a decision of the commission to the state circuit court.

38. On October 2, 2023, the Wisconsin Voters Alliance, Kenneth Brown, and I filed with the assistance of counsel, filed a verified HAVA violation complaint against the Wisconsin Elections Commission and the WEC's Commissioners, individually. Am. Compl. Ex. C, APP. 42–57. The HAVA complaint had a number of exhibits attached to it to substantiate the allegations. *Id.*, APP. 58–265. In addition, a hearing was requested. *Id.*

39. Two days later, on October 4, 2023, the WEC and its commissioners, through the WEC's staff attorney Angela O'Brien, sent a letter to the Wisconsin Voters Alliance (for Kenneth Brown and myself), stating that our complaint was being returned "without consideration or dismissal by the Commission." Am. Compl. Ex. D, APP. 266–267.

40. With the Wisconsin Elections Commission's failure to consider and make a decision regarding the Wisconsin Voter Alliance-Heuer-Brown HAVA complaint, the non-decision and non-adjudication of the issue directly affected the core activities and objectives of the WVA as previously outlined and our right as complainants to a decision or remedy or both regarding the HAVA issues presented to the WEC.

41. The Wisconsin Elections Commission did not refer the October 2023 HAVA complaint to an administrative law judge in its letter of October 4, 2023 to adjudicate the allegations asserted.

42. I, personally, and for the Wisconsin Voter Alliance, considered the letter as a non-decision of the underlying October 2, 2023 HAVA complaint. The Wisconsin Elections Commission said the

complaint, against the WEC and its Commissioners warranted an ethical recusal.

43. The same October 4, 2023 Wisconsin Elections Commission letter also suggested two "paths" to take as a method to adjudicate the September HAVA complaint. Neither of the paths suggested were believed to be applicable. One was to refer the HAVA complaint to the county attorney under Wisc. Stat. § 5.05(2m)(c)(11), and the other under Wisc. Stat. § 5.06(8), suggesting appealing a decision of the commission to the state circuit court. But, the Wisconsin Voter Alliance and I believe that under Wis. Stat. § 5.06(9), the circuit court's authority is strictly limited and unavailing.

44. The belief is based upon my reading of Wisconsin Statutes § 5.06(9) which is accurately quoted as follows: "The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the commission has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the commission for its consideration. The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the commission, according due weight to the experience, technical competence and specialized knowledge of the commission, pursuant to the applicable standards for review of agency decisions under s. 227.57." This appears limiting and inapplicable, since there is no record—findings of fact or factual matters determined.

45. The Wisconsin Voter Alliance and I have not contended that the provision seeking criminal prosecutions, Wisc. Stat. § 5.05(2m)(c)11, is a "path" available to them for a civil HAVA complaint

adjudication—since the WVA and Heuer recognize that in the end, it is within the discretion of the prosecutor whether to prosecute.

46. In addition, the Wisconsin Voter Alliance and I believe the Wisconsin Election Commission's recommendation as inapplicable because the HAVA complaints allege violations of federal law (Wis. Stat. § 5.05(2m)(c)2.a ("Any person may file a complaint with the commission alleging a violation of chs. 5 to 10 or 12")), and county attorneys are believed not to have the authority to criminally prosecute violations of federal law meaning that the violations sought arise from a federal law (HAVA), not state law, thereby, I believe it is not for the "state" to criminally prosecute, but an U.S. Attorney.

47. I know that neither the Wisconsin Voter Alliance nor I sought suggested the Wisconsin Elections Commission consider their respective HAVA complaints as seeking criminal prosecution.

48. In addition, the Wisconsin Voter Alliance and I found it astounding that the Wisconsin Election Commission, believed its suggested "path" to appeal to the circuit court under Wisc. Stat. § 5.06(8) applied. It gave no basis for its "belief." With a no-decision from the WEC, we believe there is nothing to "appeal." Thus, it appears the WEC expected the WVA to expend its resources to have the courts decide the applicability of § 5.06(8), to the predicament of the WEC's non-decision.

49. I know that neither of the HAVA administrative complaints filed in September 2022 nor October 2023 were referred to the Wisconsin's Division of Hearings and Appeals. But, the Wisconsin Elections Commission has referred HAVA complaints to the administrative law judges, through the Wisconsin Division of Hearings and

Appeals.

50. In December of 2023, with the assistance of counsel, the Wisconsin Voters Alliance and I filed a verified HAVA complaint with the WEC against the University of Wisconsin–Parkside. The allegations asserted that the University violated HAVA by engaging in university sponsored student get-out-the-vote and voter registration drives. Am. Compl., Ex. E, APP. 268–288.

51. In March of 2024, after the filing of the December 2023 HAVA complaint against Wisconsin-Parkside, our legal counsel received an email from the Wisconsin Division of Hearings and Appeals. The email communication stated that the Division of Hearings and Appeals received a referral from the WEC on February 29, 2024, seeking a contested case hearing "to resolve the complaint and a proposed decision." Am. Comp., Ex. F, Doc. No. 15–6; APP. 290. See also, Notice of Prehearing Conference, *Id.*, R. Heuer Decl. Ex. 2, APP. 292–293.

52. For example, on February 29, 2024, the Wisconsin Elections Commission referred the Wisconsin Voter Alliance and my HAVA complaint against Wisconsin-Parkside to Wisconsin's Division of Hearings and Appeals. The administrative process has included discovery between the parties and will include a contested case hearing, if necessary, under applicable Wisconsin administrative law, and ultimately a decision. See, Am. Compl. Exhibit F, APP. 289–291.

53. Neither of the HAVA administrative complaints filed by either the Wisconsin Voter Alliance, Ronald Heuer, or Kenneth Brown were referred to the Wisconsin's Division of Hearings and Appeals.

54. I believe, as does the Wisconsin Voter

Alliance, that because the WEC, by failing to make a decision, offered no administrative relief—neither via a hearing nor an appropriate remedy if a violation were to be found.

55. I believe that the Wisconsin Voter Alliance and I have a right to petition the government for the redress of grievances, and that the HAVA procedures provide for that petitioning process for those individuals or organizations that use the process as complainants or petitioners.

56. I believe the Wisconsin Voter Alliance and I, that, generally, petitioning the government for the redress of grievances is a constitutionally protected under the First Amendment of the U.S. Constitution.

57. I believe the Wisconsin Voter Alliance and I that Wis. Stat. § 5.061 provides for a petitioning process for the redress of grievances regarding alleged HAVA violations for those individuals or organizations or both who use the process as complainants or petitioners.

58. I believe the Wisconsin Voter Alliance and I that petitioning the government for the redress of grievances as a constitutionally protected right is embodied and further embraced under HAVA, 52 U.S.C. § 21112.

The Wisconsin Elections Commission missed deadlines regarding the decision-making process and not providing alternative dispute resolution processes for the complainants in this case.

59. As President of the Wisconsin Voter Alliance, and personally, I am familiar with the process, procedures, and status of the Help America Vote Act complaints filed with the Wisconsin Elections Commission by the WVA, myself, and

Kenneth Brown that are subject to these proceedings. In this regard, I do know that the WEC has not held a hearing, nor made a decision, regarding the 2022 and 2023 HAVA complaints referenced here as Amended Complaint Exhibits A and C within the 89 day requirement from the respective filings as I believe is required under 52 U.S. Code § 21112 (a)(2)(h).

60. In addition, I also know, regarding the 2022 and 2023 HAVA complaints referenced here as Amended Complaint Exhibits A and C, that Wisconsin Elections Commission has not conducted dispute resolution proceedings within 60 days of failing to hold a hearing and make a decision (as I believe, violates 52 U.S. Code § 21112 (a)(2)(H)) and as I believe is required under 52 U.S. Code § 21112 (a)(2)(I).

61. As "complainants," I and the Wisconsin Voter Alliance believe that using the processes and procedures provided to file HAVA complaints or petitions with the Wisconsin Elections Commission is unique from those individuals or organizations or both, who do not participate in that process or procedure.

62. I believe that the Wisconsin Voter Alliance and I as complainants or petitioners, having engaged in the HAVA petitioning process before the Wisconsin Elections Commission and are denied a decision or a hearing or both, that we are denied the right to an adequate remedy, unique and distinct from other individuals or organizations that do not partake in the HAVA complaint petitioning process.

63. The Wisconsin Voter Alliance and I believe that a person or organization who has not filed an actual HAVA complaint with the Wisconsin Elections Commission, in which the WEC has returned the

complaint with no consideration, dismissal, or decision has no harm to complain of.

Wisconsin receives federal HAVA funding.

64. I do know that Wisconsin obtains federal HAVA funding. I did research on HAVA funding for Wisconsin on the internet and found it to be true: https://www.oversight.gov/report/EAC/Audit-HAVA-Grants-Awarded-State-Wisconsin (last visited June 26, 2024).

Documents relevant to the proceedings.

65. I am familiar with documents that have been filed with the district court and believe the documents as relevant to the proceedings before this Court. Attached are copies of the following:

Exhibit 1	Amended Complaint for Declaratory and Injunctive Relief	APP. 1
	Am. Comp. Ex. A – 2022 WEC Complaint (Sept. 8, 2022)	APP. 29
	Am. Comp. Ex. B – 2022 WEC Letter (Oct. 19, 2022)	APP. 40
	Am. Comp. Ex. C – 2023 WEC Complaint (Oct. 2, 2023)	APP. 42
	Am. Comp. Ex. D – 2023 WEC Letter (Oct. 4, 2023)	APP. 266
	Am. Comp. Ex. E – 2023 WEC Complaint v. Parkside	APP. 268
	Am. Comp. Ex. F – Emails Re: Administrative Law Judge and contested case hearings	APP. 289
Exhibit 2	Wisc. Div. of Appeals Or.; Re: WEC referring complaint to Div. of App.	APP. 292

Exhibit 3	WEC letter recusing itself (May 3, 2021)	APP. 294 APP. 296
Exhibit 4	List of Wisconsin Voter Alliance Activities, 2022-2024	APP. 303

66. With the assistance of counsel, the documents are organized in an appendix for the ease of the Court in finding the documents referred to or relied upon in the summary judgment memorandum of law and statement of the facts.

I declare under penalty of perjury under the laws of the United States of America such as 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: August 29, 2024.

Electronically Signed by Ron Heuer

APPENDIX G

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WISCONSIN

Wisconsin Voter Alliance, Ron Heuer, and Kenneth Brown,

Plaintiffs, Case No. 23-cv-1416 WCG

v.

Don M. Millis, in his official capacity as a member of the Wisconsin Elections Commission, or his successor, Robert F. Spindell, Jr., in his official capacity as a member of the Wisconsin Elections Commission, or his successor, Marge Bostelmann, in her official capacity as a member of the Wisconsin Elections Commission, or her successor, Ann S. Jacobs, in her official capacity as a member of the Wisconsin Elections Commission, or her successor, Mark L. Thomsen, in his official capacity as a member of the Wisconsin Elections Commission, or his successor, Megan Wolfe, in her official capacity as Administrator of the Wisconsin Elections Commission, or her successor,

Defendants.

DECLARATION OF KENNETH BROWN

I, Kenneth Brown, declare as follows:

I make this declaration in support of the Plaintiffs' Motion for Summary Judgment. This

declaration represents my personal knowledge, to the best of recollection or beliefs, as a plaintiff before this Court regarding the underlying allegations of the Amended Complaint and its allegations.

1. I reside in Racine County and am a member and associated with the Wisconsin Voter Alliance. I have assisted the organization reach its goals and objectives by actively petitioning the government, such as filing the administrative complaint with the Wisconsin Elections Commission dated, I believe, on October 2, 2023.
2. From time to time I will keep the organization informed about activities in Racine and Racine County, Wisconsin that would be of interest to the organization or its members or both.
3. I am a complainant that petitioned the Wisconsin Elections Commission regarding a Help America Vote Act alleged violation in October of 2023.
4. I joined as a complainant with the Wisconsin Voter Alliance and Ronald Heuer, because I believe that a Help America Vote Act violation occurred in my County. The administrative complaint against the Wisconsin Voter Alliance and its members was filed with the assistance of the Wisconsin Voter Alliance and its President, Ronald Heuer. Ron and I discussed the filing as he explained to me need for the complaint, the rules, regulations, or law allowing for the complaint and possible outcome. I fully supported the filing, understood the allegations, and expected an adjudication from the WEC.
5. I understood the administrative complaint used the laws of Wisconsin. With the help of

the Wisconsin Voter Alliance and Ron Heuer I have come to recognize and aware of certain laws, rules, and regulations, that allow me to personally petition the government for the redress of grievances. In other words, processes or procedures allow me to be a "petitioner," "complainant," "plaintiff," or however the term is used in a complaint or petitioner, to either obtain information from the government, departments, agencies, or officials, or to file complaints or other similar documents to convey and adjudicate my grievance(s) to the same. In addition, I have a personal interest in acting as an "activist" to gather information, documents, data, or other materials and the like, to inform others such as legislators or governmental officials (as just two examples), about the need or how to improve our processes and procedures regarding elections and related topics. I also would share my efforts with Ron as the key representative of the WVA to allow the organization to reach its core goals and activities as I understand them.

6. When I filed the Help America Vote Act complaint with and against the Wisconsin Elections Commission, in October 2023, I had expectations, as I understood the law, rules, or regulations, that the Commission would provide a decision. But, as a complainant, I did not get a decision—the complaint wasn't even considered by the WEC.
7. Ron Heuer explained to me that the Wisconsin Elections Commission returned our complaint without consideration and without a decision. As I recall, Ron explained that the WEC letter

contained so-called "options" which were not true alternatives to obtain a decision regarding the merits of the HAVA complaint.

8. For example, before filing the administrative complaint, neither Ron nor I contemplated, suggested, or even considered the matter as warranting a criminal prosecution. This was an administrative process to petition the government for the redress of grievances, or so I thought. The Wisconsin Elections Commission suggesting criminal prosecution made little sense, especially when, as explained to me, that type of referral under the law or rules was the WEC's.
9. In addition, I know, after speaking with Ron, that none of us as complainants, including the Wisconsin Voter Alliance, received any word from the Wisconsin Elections Commission that it would refer the matter to the Wisconsin's Division of Hearings and Appeals.
10. The Wisconsin Elections Commission's suggestion to file an action, after returning my complaint without consideration or decision, with the Wisconsin circuit court. That made no sense to me. The HAVA complaint process, as I understand it, provided for an administrative means at no cost to me as a complainant to obtain a decision about the alleged violation.
11. The Wisconsin Elections Commission, I believe, returning my complaint without consideration or decision, is a non-decision. I believe that under the law I was entitled to a decision. The alternatives given for the WEC's non-decision were not viable alternatives considering the WEC is obligated to make a decision. The WEC did not even consider nor

provide me an alternative administrative process such as going before an Administrative Law Judge.

12. I believe the Wisconsin Elections Commission denied me of and failed me by not providing for a process regarding my grievance against the government granted to me under the existing law or rules or regulations guiding HAVA complaint processes and procedures.
13. While the processes and procedures to file a HAVA complaint are made for the ease of the complainant, without cost, the Wisconsin Elections Commission non-decision to my complaint required me to seek relief in federal court. I did so in support of the Wisconsin Voter Alliance and Ron Heuer, that together, we would be able to get a decision on the merits of the underlying HAVA allegations. But, more importantly to me is my belief that the WEC denied me the right to petition the government for the redress of grievances as the WEC is obligated to do so under HAVA. However, I do know, that as a party in a court action I could be personally liable for costs associated with the federal court action. I shouldn't have to be exposed to that possibility. Regardless, the Commission's non-decision gave me little choice but to seek a remedy in court.
14. I believe that I have a right to petition the government for the redress of grievances, and that the HAVA procedures provide for that petitioning process for those individuals or organizations that use the process as complainants or petitioners.
15. I believe my right to petition the government

for the redress of grievances is a constitutionally protected under the First Amendment of the U.S. Constitution, and that right is derived from HAVA to and through the Wisconsin Elections Commission obligations, duties, or mandates provided under HAVA. The failure to so, is an injury to me.

16. Finally, as an self-described activist, as associated with the Wisconsin Voter Alliance, and as a person willing and able to help the WVA reach its core activities and objectives, I will in the future file HAVA complaints against the Wisconsin Elections Commission and its members as necessary, or other HAVA complaints with the expectation of the complaint being considered and adjudicated as required under governing laws, rules, or regulations.

I declare under penalty of perjury under the laws of the United States of America such as 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated: August 29, 2024.

Electronically Signed by Kenneth Brown

EXHIBIT H

Exhibit D

Wisconsin Elections Commission
201 West Washington Avenue | Second Floor |
P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

October 4, 2023

Wisconsin Voter Alliance
C/O Ron Heuer & Kenneth Brown
E 3530 Townline Road
Kewaunee, WI 54216

Sent via email to kaardal@mklaw.com
gynild@mklaw.com

Re: Complaint Filed with Wisconsin Elections Commission
Wisconsin Voter Alliance et al v. Wisconsin Elections Commission et al (EL 23-51)

Dear Mr. Heur, Mr. Brown, and Wisconsin Voters Alliance,

This communication is to inform you that the verified complaint submitted against the Wisconsin Elections Commission ("the Commission") is being returned without consideration or dismissal by the Commission. It is the position of the Commission and its staff that a complaint against the Commission, against

Commissioners in their official capacities, or against Commission staff, warrants an ethical recusal by the body. The Commission's position reflects the need to avoid conflicts associated with an adjudicative body deciding a matter brought against itself, similar to the provisions of law and ethics precluding a judge from presiding over a case filed against herself, or someone with personal or professional ties to her. It is my sincere hope that you can appreciate our efforts to maintain the integrity of the Wis. Stats. §§ 5.05, 5.06, and 5.061 complaint processes.

Additionally, the Wisconsin Supreme Court in *Teigen et al v. Wisconsin Elections Commission et al*, stated that "…it would be nonsensical to have WEC a adjudicate a claim against itself under § 5.06(1)." 2022 WI 64, 33, 403 Wis. 2d 607, 976 N.W.2d 519.

Despite this stance, the Commission does not wish to leave you without a path forward. Wisconsin Statutes provide the following:

> **Wisconsin Statute § 5.05(2m)I11:** If the commission finds that there is probable cause to believe that a violation under subd. 2. has occurred or is occurring, the commission may, in lieu of civil prosecution of any matter by the commission, *refer the matter to the district attorney for the county in which the alleged violator resides*, or if the alleged violator is a nonresident, to the district attorney for the county where the matter arises, or if par. (i) applies, to the attorney general or a special prosecutor. For purposes of this subdivision, a person other than a natural person resides within a county if the person's principal place of

operation is located within that county.

> **Wisconsin Statute § 5.06(8):** Any election official or complainant who is aggrieved by an order issued under sub. (6) *may appeal the decision of the commission to circuit court for the county where the official conducts business or the complainant resides* no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders. (*Emphasis Added*)

Though it is your right regardless, the Commission formally gives you leave to submit this complaint to the respective district attorney for the jurisdiction in which the alleged violator resides for alleged criminal violations under Wis. Stat. § 5.05 or appeal this decision directly to the circuit court in accordance with Wis. Stat. § 5.06(8) for alleged administrative violations. It is also the Commission's belief that Wis. Stat. § 5.06(8) appellate rights may be applied to Wis. Stat. § 5.06(1) "HAVA Complaints."

You may also wish to consider any other maintained or available legal rights, including but not limited to, Wis. Stat. Chapter 227 appeal/hearing rights, the filing of a civil complaint in the courts, or similar remedies.

Please feel free to contact me if you have any additional questions regarding this complaint.
Sincerely,

s/_____
Angela O'Brien
Staff Attorney

APPENDIX I

Exhibit B

Wisconsin Elections Commission
201 West Washington Avenue | Second Floor |
P.O. Box 7984 | Madison, WI 53707-7984
(608) 266-8005 | elections@wi.gov | elections.wi.gov

October 19, 2022

Wisconsin Voter Alliance
E 3530 Townline Road
Kewaunee, WI 54216

Sent via email: kaardal@mklaw.com

Re: Complaint Filed with Wisconsin Elections Commission
Wisconsin Voter Alliance et al. v. Wisconsin Elections Commission et al. (EL 22-69)

Dear Mr. Heuer and Wisconsin Voters Alliance,

This communication is to inform you that the verified complaint submitted against the Wisconsin Elections Commission ("Commission") is being returned without consideration or dismissal by the Wisconsin Elections Commission. It is the position of the Commission and its staff that a complaint against the Commission warrants an ethical recusal by the body. The Commission's position reflects the need to avoid the conflicts associated with an adjudicative body deciding a matter brought against itself, similar

to the provisions of law and ethics precluding a judge from presiding over a case filed against herself, or someone with personal or professional ties to her. It is my sincere hope that you can appreciate our efforts to maintain the integrity of the Wis. Stats. §§ 5.05, 5.06, and 5.061 complaint processes.

Additionally, the Wisconsin Supreme Court in *Teigen et al. v. Wisconsin Elections Commission et al.*, 403 Wis.2d 607, 633, stated that "…it would be nonsensical to have WEC adjudicate a claim against itself…"

Despite this stance, the Commission does not wish to leave you without a path forward. Wisconsin Statutes provide the following:

> **Wisconsin Statute § 5.05(2m)(c)11:** If the commission finds that there is probable cause to believe that a violation under subd. 2. has occurred or is occurring, the commission may, in lieu of civil prosecution of any matter by the commission, *refer the matter to the district attorney for the county in which the alleged violator resides*, or if the alleged violator is a nonresident, to the district attorney for the county where the matter arises, or if par. (i) applies, to the attorney general or a special prosecutor. For purposes of this subdivision, a person other than a natural person resides within a county if the person's principal place of operation is located within that county.
>
> **Wisconsin Statute § 5.06(8):** Any election official or complainant who is aggrieved by an order issued under sub. (6) *may appeal the*

> *decision of the commission to circuit court for the county where the official conducts business or the complainant resides* no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders. (*Emphasis Added*)

Though it is your right regardless, the Commission formally gives you leave to submit this complaint to the respective district attorney for the jurisdiction in which the alleged violator resides for alleged criminal violations under Wis. Stat. § 5.05 or appeal this decision directly to the circuit court in accordance with Wis. Stat. § 5.06(8) for alleged administrative violations. It is also the Commission's belief that Wis. Stat. § 5.06(8) appellate rights may also be applied to Wis. Stat. § 5.061 "HAVA Complaints."

You may also wish to consider any other maintained or available legal rights, including but not limited to, Wis. Stat. Chapter 227 appeal/hearing rights, the filing of a civil complaint in the courts, or similar remedies.

Please feel free to contact me if you have additional questions regarding this complaint. Sincerely,

s/_____
Jim Witecha
Staff Attorney

WISCONSIN ELECTIONS COMMISSION

cc: Commission Members
Meagan Wolfe, Commission Administrator