

WILL: Asks Court to Hold Wisconsin Elections Commission in Contempt

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The News: The Wisconsin Institute for Law & Liberty (WILL), on behalf of three Wisconsin voters, filed a [motion for contempt](#) in Ozaukee County Circuit Court Thursday after the Wisconsin Elections Commission (WEC) has refused, more than once, to take action to comply with the December 17 order of Circuit Court Judge Paul Malloy. The motion asks Judge Malloy to hold the state elections agency in contempt of court for failing to remove outdated voter registrations in compliance with state law and a court order.

The Quote: WILL President and General Counsel Rick Esenberg said, “Court orders are not optional. It is astonishing to observe the Wisconsin Elections Commission act as if they are. Despite the wishes of some, Judge Malloy’s order has not been stayed and must be enforced.”

Background: WILL filed [a lawsuit](#) in Ozaukee County Circuit Court on November 13 against the Wisconsin Elections Commission after the state agency put Wisconsin’s election integrity at risk by intentionally ignoring state law to allow voter registrations at old addresses to remain active. At a hearing on December 13, Ozaukee County Circuit Court Judge Paul Malloy ordered the Wisconsin Elections Commission to immediately comply with state law – cleaning up the voter rolls and removing registrations from outdated addresses.

Wisconsin law has established procedures to ensure and maintain accurate voter rolls. Wisconsin participates with 28 other states in the Electronic Registration Information Center (ERIC). ERIC flags “movers” – individuals who report an official government transaction from an address different than their voter registration address – to state election agencies.

The Wisconsin Elections Commission first reviews the information on “movers” for accuracy and reliability. State law then provides specific direction to WEC on how to handle “movers” flagged by ERIC.

- WEC is to send a notice to the mover at the address of their voter registration.
- A voter has 30 days to affirm whether they still live at the address.
- If the voter affirms they live at the address – by returning the postcard or completing a brief form online – nothing happens.
- If the voter takes no action for 30 days, WEC is to change the voter’s registration status from eligible to ineligible.

But the Wisconsin Elections Commission has decided, contrary to state law, that changes in eligibility for a voter flagged as a “mover” by ERIC will not occur for 12 to 24 months and has refused to comply with Judge Malloy’s Order to the contrary. WEC has posted the [following statement](#) on the WEC website effective December 30, 2019:

At a special meeting today, the Wisconsin Elections Commission did not pass any motion directing staff to take action on the movers mailing list. This means the Commission will await further direction from the Court of Appeals and the Supreme Court of Wisconsin. When those courts provide direction, the Commission will hold another meeting to discuss action to comply with the ruling.

Apparently, WEC does not believe that the Circuit Court’s Mandamus Order is “the law.” A story in the [Cap Times dated December 16, 2019](#), quotes Mark Thomsen, a Democratic appointee to WEC as saying “We know that there’s going to be an appeal. The law isn’t the law until the Court of Appeals says what it is and to mislead the public by this motion [that the Defendants comply with the Circuit Court’s Order] does a disservice to voters and voters’ rights everywhere.”

The Plaintiffs contend that the Circuit Court’s Order is the law and must be followed unless stayed or reversed by a higher court.