

**STATE OF WISCONSIN      CIRCUIT COURT      BROWN COUNTY**

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NATHAN D. DELOREY  
1808 Rainbow Avenue  
De Pere, WI 54115,

RANDY WERY  
2492 Gemini Road  
Green Bay, WI 54311,

PATRICIA SCHICK  
1141 Pleasant Valley Drive  
Hobart, WI 54155,

and

DENISE VETTER,  
904 Chelsea Court  
De Pere, WI 54115,

Plaintiffs,

v.

CELESTINE JEFFREYS, in her official capacity  
as City Clerk for the City of Green Bay, Wisconsin  
100 N. Jefferson Street  
Green Bay, WI 54301,

Defendant.

Case No.: 22-CV-\_\_\_\_\_

Code No.: 30704, 30701, 30952

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**SUMMONS**

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THE STATE OF WISCONSIN to each person named above as a Defendant:

You are hereby notified that the Plaintiffs named above have filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within twenty (20) days of receiving this Summons, you must respond with a written answer, as that term is used in Wis. Stat. Ch. 802, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the Statutes. The answer must be sent or delivered to the Court, whose address is Brown County Circuit Courthouse, 100 S. Jefferson Street, Green Bay, Wisconsin, 54301, and to the Plaintiffs' attorneys, the Law Firm of Conway, Olejniczak & Jerry, S.C., 231 S. Adams Street, Green Bay, Wisconsin 54301. You may have an attorney help or represent you.

If you do not provide a proper answer within twenty (20) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated this 1<sup>st</sup> day of November, 2022.

LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.  
Attorneys for Plaintiffs.

By: *Electronically signed by Kurt A. Goehre*

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**COMPLAINT**

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NOW COMES the above-named Plaintiffs, Nathan DeLorey, Randy Wery, Patricia Schick, and Denise Vetter, by their attorneys, the Law Firm of Conway, Olejniczak & Jerry, S.C., who complain and allege against the above-named Defendant as follows:

**NATURE OF THIS ACTION**

1. As the Wisconsin Supreme Court has recently emphasized, “[e]lections are one of the most important features of our Republic, and upholding the rules and procedures prescribed

for elections, according to the laws enacted by the Legislature, reinforces the sanctity of the rule of law and reassures all Americans of the integrity of our elections.” *Teigen v. Wisconsin Elections Comm'n*, 2022 WI 64, ¶ 21, 403 Wis. 2d 607, 626, 976 N.W.2d 519, 529.

2. The Legislature for the State of Wisconsin has the sole authority to enact laws relating to suffrage, including “[p]roviding for in-person absentee voting.” Wis. Const. art. III, § 2; art. IV, § 1.

3. Administration of our election in accordance with the laws enacted by the Legislature, is critical and “mandatory” as it pertains to absentee ballot voting, since voting by absentee ballot is a “privilege . . . [that] must be carefully regulated to prevent the potential for fraud or abuse.” Wis. Stat. § 6.84(1), (2).

4. As a vital means to ensure that our elections are administered in accordance with the law, the Legislature has expressly afforded members of the public with the unfettered right to, among other things, be present at the municipal clerk’s office “for the purpose of observation of an election and the absentee ballot voting process” and, as a result, “observation areas shall be so positioned” by the municipal clerk “to permit any election observer to readily observe all aspects of the voting process.” Wis. Stat. § 7.41(1) – (2).

5. Contrary to Wis. Stat. § 7.41, the City Clerk for the City of Green Bay has been prohibiting members of the public from observing all aspects of the in-person absentee ballot voting process that has been underway since October 25, 2022 at the office of the City Clerk for the City of Green Bay.

6. This is an action against the City Clerk for the City of Green Bay, Celestine Jeffreys, seeking a temporary restraining order and injunction prohibiting her from violating Wis. Stat. § 7.41, which requires that municipal clerks allow the public to observe all public aspects of

the in-person absentee ballot voting process, and an order and a declaratory judgment regarding the proper construction of the Wisconsin Statutes requiring that the public be afforded the ability to observe all public aspects of the in-person absentee ballot voting process.

### **PARTIES**

7. The Plaintiff, Nathan DeLorey (“DeLorey”), is an adult individual and citizen of the State of Wisconsin, who resides at 1808 Rainbow Avenue, De Pere, Wisconsin 54115.

8. DeLorey is not a candidate in the upcoming election on November 8, 2022.

9. DeLorey’s regular polling location where he votes is in De Pere, Wisconsin and, although DeLorey is not an elector of a jurisdiction or district served by the City Clerk for the City of Green Bay, DeLorey was an observer of in-person absentee ballot voting taking place in City Hall for the City of Green Bay on October 26, 2022 from approximately 8 a.m. to noon.

10. The Plaintiff, Randy Wery (“Wery”), is an adult individual and citizen of the State of Wisconsin, who resides at 2492 Gemini Road, Green Bay, Wisconsin 54311.

11. Wery is not a candidate in the upcoming election on November 8, 2022.

12. Wery’s regular polling location where he votes is in the Village of Bellevue and, although Wery is not an elector of a jurisdiction or district served by the City Clerk for the City of Green Bay, Wery was an observer of in-person absentee ballot voting taking place in City Hall for the City of Green Bay on the morning of October 28, 2022, and on the morning of October 31, 2022.

13. The Plaintiff, Patricia Schick (“Schick”), is an adult individual and citizen of the State of Wisconsin, who resides at 1141 Pleasant Valley Drive, Hobart, Wisconsin 54155.

14. Schick is not a candidate in the upcoming election on November 8, 2022.

15. Schick's regular polling location where she votes is in the Village of Hobart and, although Schick is not an elector of a jurisdiction or district served by the City Clerk for the City of Green Bay, Schick was an observer of in-person absentee ballot voting taking place in City Hall for the City of Green Bay on the morning of November 1, 2022.

16. The Plaintiff, Denise Vetter ("Vetter"), is an adult individual and citizen of the State of Wisconsin, who resides at 904 Chelsea Court, De Pere, Wisconsin 54115.

17. Vetter is not a candidate in the upcoming election on November 8, 2022.

18. Vetter's regular polling location where she votes is in the Town of Lawrence and, although Vetter is not an elector of a jurisdiction or district served by the City Clerk for the City of Green Bay, Vetter was an observer of in-person absentee ballot voting taking place in City Hall for the City of Green Bay on the afternoon of October 26, 2022 and is intending on observing again prior to the end of in-person absentee ballot voting in City Hall for the City of Green Bay.

19. Vetter also serves as the Co-Chief Election Inspector of the City of De Pere's District IV precinct.

20. The Defendant, Celestine Jeffreys ("Jeffreys"), is the City Clerk for the City of Green Bay, Wisconsin and is named in her official capacity, which is located at 100 N. Jefferson Street, Green Bay, Wisconsin 54301.

21. As the City Clerk for the City of Green Bay, Jeffreys is responsible for, among other things, the administration of in-person absentee ballot voting at her office and ensuring that the public be afforded the opportunity to observe all public aspects of the in-person absentee ballot voting process.

## **JURISDICTION AND VENUE**

22. Jurisdiction is appropriate in the State of Wisconsin as the parties reside within the State of Wisconsin and the conduct challenged herein was carried out in the State of Wisconsin.

23. Venue is appropriate in Brown County pursuant to Wis. Stat. 801.50(2)(a) and (c).

## **BACKGROUND FACTS**

24. Wisconsin allows in-person absentee ballot voting at a municipal clerk's office prior to election day, pursuant to Wis. Stat. §§ 6.86(1)(a)2, (1)(ar),(1)(b), and 6.87.

25. In-person absentee ballot voting for the City of Green Bay commenced on Tuesday, October 25, 2022 at 8:00 a.m. inside Green Bay City Hall at 100 N. Jefferson Street, Green Bay, Wisconsin, and will continue through 4 p.m. on Sunday, November 6, 2022. *See* the City of Green Bay website, located at: <https://greenbaywi.gov/655/Voters> (last visited October 31, 2022).

26. In particular, the in-person absentee ballot voting is situated in Jeffreys' office, as well as in the public hallway outside of Jeffreys' office, which is located inside Green Bay City Hall.

27. Members of the public have a right to observe the public aspects of the in-person absentee voting process taking place at Jeffreys' office and in the hallway outside Jeffrey's office pursuant to Wis. Stat. § 7.41(1), which provides that:

Any member of the public may be present at any polling place, in the office of any municipal clerk whose office is located in a public building on any day that absentee ballots may be cast in that office, or at an alternate site under s. 6.855 on any day that absentee ballots may be cast at that site for the purpose of observation of an election and the absentee ballot voting process, except a candidate whose name appears on the ballot at the polling place or on an absentee ballot to be cast at the clerk's office or alternate site at that election.

28. Although a municipal clerk may designate certain areas within the clerk's office for members of the public to observe in-person absentee ballot voting, Wis. Stat. 7.41(2) expressly

provides, among other things, that “[t]he observation areas shall be so positioned to permit any election observer to readily observe all public aspects of the voting process.”

29. As a result, municipal clerks are instructed by the Wisconsin Elections Commission (“WEC”) that observers must be given the opportunity to observe the public aspects of the in-person absentee voting process and that “additional observer areas may be established in other areas of the polling place to allow for observation of other public aspects of the voting process (challenges, ballot box security, etc.).” WEC, Election Day Manual, at 168-69, 183, located at: <https://elections.wi.gov/resources/manuals/election-administration-manual>, and click on link titled “Election Administration Manual (2022-09).pdf” (last visited October 31, 2022).

30. Despite the requirements of Wis. Stat. § 7.41, Jeffreys has refused to afford the public with the ability to observe all public aspects of the in-person absentee ballot voting process.

31. Since in-person absentee ballot voting commenced on October 25, 2022, Jeffreys has unnecessarily split the voting process into two different areas: part of the voting process takes place in her office, and part of the voting process takes place along a long stretch in a public hallway outside of her office. Attached as **Exhibit A** is a diagram depicting the current layout of in-person absentee ballot voting.

32. When electors arrive to vote, they must enter Jeffreys’ office to check-in, register to vote, and/or obtain an in-person absentee ballot.

33. After an elector obtains an in-person absentee ballot, the elector leaves Jeffreys’ office and enters into the hallway in order to vote his or her in-person absentee ballot, then the elector has an individual perform and execute the required witness certification to the in-person absentee ballot out of the view of the observers, and then the elector deposits the in-person absentee ballot into a blue ballot box that is located down the hallway and out of view of the observers.



Attached as **Exhibit B** are photographs showing the aspects of the in-person absentee ballot voting process in the hallway outside of Jeffrey's office where no observers are present.

34. Although there are two different areas where the in-person absentee ballot voting process takes place, Jeffrey has prohibited observers from observing any aspect of the voting process that takes place in the public hallway outside of her office. *See* **Exhibit A**.

35. In particular, Jeffrey has restricted observers to a small area of her office, where they can only observe electors coming into her office to check-in, register to vote, and obtain an in-person absentee ballot—but they are expressly prohibited from observing any aspect of the voting process that takes place in the public hallway including, but not limited to, the witness certification process and depositing the in-person absentee ballot in the ballot box. *See* **Exhibits A and B**.

36. Although the Plaintiffs informed Jeffrey that they were unable to observe the voting process that was taking place in the hallway, Jeffrey refused to allow Plaintiffs and other observers to observe the voting process in the hallway—despite the fact that the hallway is a public area and others, who are not present to observe, are free to traverse through the hallway while voting is taking place.

37. On more than one occasion when observers left the observing area to use the restroom, the blue bin being used as a ballot return box, which was outside of an elevator area, appeared to be unattended and unguarded. **Exhibit B** at 1.

38. In responding to pleas from observers to allow them the ability to stand in the hallway to observe the voting process, Jeffrey responded that they will be kicked out if they observe in the hallway and that observers must talk to her legal department if they required further explanation.

39. Jeffreys continues to refuse to afford observers the ability to observe any aspect of the voting process that takes place in the hallway, which observers are unable to meaningfully see or hear from their designated observation area, and Jeffreys refuses to rearrange the voting or observation areas to afford the public the ability to observe the public aspects of the voting process.

40. For example, Jeffreys could easily designate a second area in the hallway for observers to see and hear the voting process taking place in the hallway, or simply have voters return their completed ballots to the Clerk's office for witnessing and deposit—similar to the layout that was utilized for the August 2022 primary—but Jeffreys refuses to do so.

41. Likewise, there used to be a public bench in that hallway that was removed for some reason prior to in-person absentee ballot voting.

42. That bench could also have been an adequate observation area if it was not removed prior to the start of in-person absentee ballot voting.

43. Upon information and belief, WEC attempted to reach Jeffreys to discuss the issues concerning the inability of observers to readily observe all public aspects of the voting process, but Jeffreys has denied that she is violating Wis. Stat. § 7.41 or denied that public aspects of the voting process were taking place in the hallway.

44. Regardless, Jeffreys' refusal to allow members of the public to view all aspects of the public voting process harms Plaintiffs, as well as other members of the public.

45. The Plaintiffs are harmed since they have a right to observe, among other things, all public aspects of the in-person absentee ballot voting process and ensure that the election is being administered in accordance with the laws of the State of Wisconsin, and Jeffreys' is prohibiting them from doing so.

46. If Jeffreys is allowed to continue to prohibit Plaintiffs and the public from observing all public aspects of the voting process and in a manner contrary to law, it will only cast doubt on the administration of our elections and cause a lack of voter confidence in our electoral process.

**COUNT I: INJUNCTIVE RELIEF**

47. Plaintiffs incorporate by reference the previously alleged paragraphs as if fully set forth herein.

48. Jeffreys has violated, and continues to violate, Wis. Stat. § 7.41 by prohibiting members of the public from observing all public aspects of the absentee ballot voting process occurring in the hallway outside Jeffreys' office or at Green Bay City Hall.

49. Plaintiffs and others have requested that Jeffreys allow observers to view all aspects of the in-person absentee ballot voting process, including those aspects that have thus far taken place in the hallway and outside of the observers' ability to meaningfully hear or see, but such requests have been rebuffed by Jeffreys.

50. Upon information and belief, Jeffreys and employees of her office will continue to operate in-person absentee ballot voting in a manner that violates Wis. Stat. § 7.41.

51. Plaintiffs will suffer irreparable harm from Jeffreys refusal to allow members of the public to observe all public aspects of the voting process in her office, in the hallway outside of Jeffreys' office, or at Green Bay City Hall in violation of Wis. Stat. § 7.41.

52. As Plaintiffs have no other adequate remedy at law, injunctive relief is appropriate.

**COUNT II: DECLARATORY RELIEF**

53. Plaintiffs incorporate by reference the previously alleged paragraphs as if fully set forth herein.

54. The interests of Plaintiffs and Jeffreys are adverse.

55. The controversy is ripe for a judicial determination as to whether Jeffreys' interpretation and application of Wis. Stat. § 7.41 is in accordance with the law.

56. Plaintiffs are entitled to a declaration that Jeffreys violated Wis. Stat. § 7.41 by restricting members of the public from viewing all aspects of the in-person absentee ballot voting process and, furthermore, that Jeffreys must allow members of the public the ability to observe all public aspects of the absentee voting process that occur in her office, in the hallway outside Jeffreys' office, or at Green Bay City Hall.

57. Such judicial determination is necessary to terminate the controversy between the parties, and to clarify Wisconsin law in anticipation of future elections.

### **COUNT III: WRIT OF MANDAMUS**

58. Plaintiffs incorporate by reference the previously alleged paragraphs as if fully set forth herein.

59. Plaintiffs have a clear legal right to observe all public aspects of the voting process undertaken at Green Bay City Hall, in the hallway outside of Jeffreys' office, or in Jeffreys' office.

60. Jeffreys has a clear and unequivocal legal obligation to allow members of the public the ability to observe all public aspects of the voting process undertaken at Green Bay City Hall, in the hallway outside of Jeffreys' office, or in Jeffreys' office.

61. Plaintiffs will suffer irreparable harm in the November 2022 election and beyond if Jeffreys and her office do not comply with their duties as prescribed by Wis. Stat. § 7.41.

62. A writ of mandamus is required to compel Jeffreys and her office to adhere to their duties and administer the upcoming election in accordance with Wisconsin law.

### **RELIEF REQUESTED**

The Plaintiffs demand Judgment against the Defendant, Celestine Jeffreys, as follows:

1. An immediate restraining order entered against Jeffreys and prohibiting Jeffreys from violating Wis. Stat. §7.41(1) and (2), and prohibiting Jeffreys from precluding or restricting members of the public from observing all public aspects of the in-person absentee voting process including, but not limited to, observing the performance and execution of the witness certification and the depositing of a completed absentee ballot into a ballot box.

2. A temporary and permanent injunction prohibiting Jeffreys from violating Wis. Stat. § 7.41(1) and (2), and prohibiting Jeffreys from precluding or restricting members of the public from observing all public aspects of the in-person absentee voting process including, but not limited to, observing the performance and execution of the witness certification and the depositing of a completed absentee ballot into a ballot box.

3. A declaration that Jeffreys violated Wis. Stat. § 7.41 by restricting members of the public from viewing all aspects of the in-person absentee ballot voting process and, furthermore, an order or writ of mandamus providing that Jeffreys must allow members of the public the ability to observe all public aspects of the absentee voting process that occur at her office, in the hallway outside Jeffreys' office, and at Green Bay City Hall, including, but not limited to, observing the performance and execution of the witness certification and the depositing of a completed absentee ballot into a ballot box.

4. An order directing Jeffreys to post a copy of the Court's order and a notice in the entrance way to her office alerting electors and observers that the public has a right to observe all public aspects of the voting process that occur at the Clerk's office including, but not limited to, observing the performance and execution of the witness certification and the depositing or returning of the completed absentee ballot into a ballot box.

5. All statutory costs and disbursements incurred in pursuing this action.

6. Judgment for such other and further relief the Court may deem just and equitable.

Dated this 1st day of November, 2022.

THE LAW FIRM OF CONWAY, OLEJNICZAK & JERRY, S.C.  
Attorneys for the Plaintiffs.

By: Electronically signed by Kurt A. Goehre  
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