

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

RUTHELLE FRANK, ET AL.,

Plaintiffs,

v.

Case No. 11-CV-1128

SCOTT WALKER, ET AL.,

Defendants.

**DEFENDANTS' CIVIL LOCAL RULE 7(h) EXPEDITED
NON-DISPOSITIVE MOTION REQUESTING
EXPEDITED BRIEFING AND A DECISION ON DEFENDANTS'
MOTION TO STAY PRELIMINARY INJUNCTION PENDING APPEAL**

Pursuant to Civil Local Rule 7(h), Defendants hereby move this Court for an order setting an expedited schedule for briefing and decision on Defendants' Motion to Stay Preliminary Injunction Pending Appeal. Defendants respectfully request that this Court set the following schedule:

- July 26: Plaintiffs' response to stay motion is due.
- July 27: Defendants' reply is due, if any.

Expedited determination of the stay motion is necessary to resolve the request for a stay with enough time prior to the November 2016 election to effectuate the relief granted by this Court or an appellate court.

This Court's preliminary injunction order requires fundamental changes to Wisconsin's election procedures prior to the November 2016 election. As explained in the Defendants' stay motion, that injunction should be stayed. If this Court declines to enter a stay, Defendants will request a stay from the Seventh Circuit, and additional review by the U.S. Supreme Court is possible.

There will need to be time for appellate decisions far enough in advance of the November 2016 election to properly inform the public and train poll workers on the procedures that will be in effect on Election Day. For example, it would cause tremendous confusion if this Court declined a stay, an affidavit exception was advertised, and then the Seventh Circuit or Supreme Court ordered a stay shortly before the election. This is a very real possibility, given the disruption that this Court's injunction will cause to Wisconsin's current elections administration procedures. To minimize the need for such last-minute corrections, Defendants request rapid resolution of the stay motion.

This risk is not academic. After this Court issued a permanent injunction earlier in this case, review through the Seventh Circuit and Supreme Court took six months. *See Frank v. Walker*, 135 S. Ct. 7, 7 (2014) (Supreme Court's October 9, 2014, order vacating the Seventh Circuit's stay of this Court's April 29, 2014, injunction). Under that timeline, review would

not be complete until after the November 8, 2016, election. Such a result would leave voters and administrators in a state of confusion leading up to Election Day, a result that may be avoided if this Court promptly decides Defendants' current stay motion.

Expedited consideration is also consistent with the "*Purcell* principle," which provides that timing is of the utmost importance in election-law cases. *See Purcell v. Gonzalez*, 549 U.S. 1, 4–6 (2006). To that end, Defendants ask this Court to set a schedule that resolves the stay motion on or before July 29, 2016. If the Court does not dispose of the motion by that date, Defendants intend to file a motion for a stay of the preliminary injunction in the Seventh Circuit on August 1, 2016, for the reasons set forth herein.

Dated this 22nd day of July, 2016.

Respectfully submitted,

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