

SUPREME COURT OF THE
STATE OF WISCONSIN
Appeal No. 22AP91

RICHARD TEIGEN and RICHARD THOM,
Plaintiffs-Respondents-Petitioners,
vs.
WISCONSIN ELECTIONS COMMISSION,
Defendant-Co-Appellant,
DEMOCRATIC SENATORIAL CAMPAIGN COMMITTEE,
Intervenor-Defendant-Co-Appellant, and
DISABILITY RIGHTS WISCONSIN, WISCONSIN FAITH
VOICES FOR JUSTICE and LEAGUE OF WOMEN VOTERS OF
WISCONSIN,
Intervenors-Defendants-Appellants.

On Appeal from the Circuit Court for Waukesha County
The Honorable Michael O. Bohren, Presiding
Circuit Court Case No. 2021CV958

NOTICE AND MOTION OF
TRUE THE VOTE, INC.
FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*
SUPPORTING APPEAL OF PLAINTIFFS-RESPONDENTS-PETITIONERS
RICHARD TEIGEN AND RICHARD THOM

Pursuant to § 809.19(7), Wis. Stats., True the Vote, Inc., by its attorneys Madison Center for Free Speech, Inc., by General Counsel James Bopp, Jr., and First Freedoms Foundation, Inc., by General Counsel Michael D. Dean, moves the Court for leave to file its Brief of *Amicus Curiae* accompanying this Motion on or before

March 21, 2022, in support of Plaintiffs-Respondents-Petitioners Richard Teigen and Richard Thom.

In support, Movant shows the interest of *Amicus* and benefits of considering its Brief as follows.

FUNDAMENTAL ISSUE

1. The *real* substance of this appeal is not an arcane exercise in statutory construction.

2. Rather, the “elephant in the room” is whether § 6.87(4)(b)1., § 6.855, and companion provisions of Ch. 6, Subch. IV, Stats., governing absentee voting will be construed to permit massive unreported tax-exempt funding of drop-boxes and other election activity by mega-wealthy outside interests in a limited number of Wisconsin municipalities strategically selected by those interests to achieve a partisan result.

3. Those “issues are larger than their impact on the particular litigants.” Judge Neal Nettesheim & Clare Ryan, *Friend of the Court Briefs: What the Curiae Wants in an Amicus*, Wis. Law., May 2007, at 11.

4. It matters profoundly what actually happened on the ground in 2020 and will happen again, and proposed *Amicus* is uniquely qualified to “offer economic, social science, or political [and technical] data vital to an informed decision.” *Id.*

TRUE THE VOTE, INC.

5. True the Vote, Inc. (“TTV”) is a non-profit public interest research and education organization founded in 2009. <https://www.truethevote.org/>

6. TTV’s mission is to protect all voters’ rights and restore public confidence in free and fair elections.

7. Among its activities, TTV promotes election integrity and transparency, provides citizen engagement and training in election processes, and works to ensure that the voting rolls utilized by states are updated and accurate.

8. Of particular significant in this case, TTV also conducts non-partisan research and analysis of election administration and processes.

9. TTV’s resources include experts with extensive experience analyzing “geo-spatial” data emitted by cell phones to detect patterns and develop information in complex commercial and criminal investigations across diverse market segments, including government agencies and healthcare.

2020 ELECTION CYCLE AND CTCL

10. During the November 2020 election cycle, the Center for Technology and Civil Life (“CTCL”) made over \$350 Million in election-related grants to local governments across the country.

11. In response to informants’ reports of systematic ballot-harvesting (including cash payments for votes), TTV began conducting investigative research and analysis

of the use and impact of drop-boxes in CTCL-funded jurisdictions including Atlanta, Phoenix, and Detroit.

12. Analyzing geo-spatial data emitted in those areas in the weeks surrounding the elections, TTV identified hundreds of mobile devices that collectively made thousands of repeat trips to drop-boxes in regular routes from government and non-governmental organizations (“NGOs”).

13. In Atlanta, for example, the “collectors” making those trips ran regular daily routes commencing at various NGO offices, stopping at as many as 15 – 20 separate boxes around the metro area in regular sequences. Collectors typically commenced their routes after business hours, visiting the final boxes in their routes past midnight.

14. Video surveillance obtained and synchronized by TTV confirmed that collectors were depositing large batches of ballots in the boxes – the purpose of the multiple stops obviously being to avoid questions that would arise from a single collector leaving an NGO and dropping hundreds or thousands of ballots in the single closest box.

WISCONSIN

15. In Wisconsin, CTCL distributed over \$10.3 million in grants. About 86% of the funding went to five cities - Milwaukee, Madison, Green Bay, Kenosha, and Racine – which those cities used to fund drop boxes for collecting absentee ballots and other voter assistance.

16. Because CTCL funding and drop-box operations in Wisconsin were similar to those elsewhere, TTV conducted similar research and analysis of cell phone signal data emitted in metropolitan Milwaukee areas during the two weeks period prior to the election.

17. TTV has now completed and published its study of ballot harvesting in those metropolitan areas, which disclosed the same collector and drop box patterns as in Atlanta, Phoenix and Detroit.

18. During the two week period studied, 107 unique devices (1) made at least 20 or more visits to drop boxes in regular patterns seen elsewhere (averaging 26 visits each, some as many as 10-15 per day) and (2) also made multiple visits to non-governmental organizations (“NGOs”) involved in get-out-the-vote efforts (averaging 5 NGO visits each).

19. Further, it is extremely concerning that, unlike Atlanta, Phoenix and Detroit, which made at least *some* effort to provide video surveillance of drop boxes and retain the files, when TTV submitted open records requests to the City of Milwaukee and 16 other metropolitan municipalities for surveillance video of the boxes they maintained, Milwaukee and every other municipality except the Village of Brown Deer denied that they had recorded or kept video surveillance of their boxes.

20. In the coming weeks, TTV will also complete and publish additional studies of geo-spatial data emitted in Green Bay and Racine during the same two week pre-election period.

CONTRIBUTION TO CASE

21. TTV is uniquely qualified and experienced, and has conducted technical geospatial research and analysis of drop box usage in urban Milwaukee that no party or other *amicus* can provide.

22. TTV therefore moves to submit a “data-intensive” “Brandeis brief” to inform the Court of the actual circumstances and consequences of construing § 6.878(4)(b)1. and Subch. IV to approve unknown actors collecting and delivering ballots to drop-boxes unregulated and unsurveilled. Nettesheim at 11, 12.

CONCLUSION

23. TTV can provide real-world perspective and factual verification of the Supreme Court’s warning in *Brnovich v. Democratic Nat’l Comm.*, 141 S.Ct. 2321 (2021): “Absentee balloting is vulnerable to abuse,” and “States therefore should reduce the risks of fraud and abuse in absentee voting by prohibiting ‘third-party’ organizations, candidates, and political party activists from handling absentee ballots.” *Id.* at 2347–48 (quoting *Building Confidence in U.S. Elections, Report of the Commission on Federal Election Reform* (Sept. 2005) at 46, published by the bipartisan Commission on Federal Election Reform chaired by past-President Jimmy Carter and past-Secretary of State James Baker).

WHEREFORE, True the Vote, Inc. respectfully requests permission to file its Brief *Amicus Curiae* accompanying this Motion in support of Plaintiffs-Respondents-Petitioners Richard Teigen and Richard Thom on or before March 21, 2022.

Dated March 21 2022.

ATTORNEYS FOR AMICUS TRUE THE VOTE, INC.

JAMES MADISON CENTER
FOR FREE SPEECH

FIRST FREEDOMS FOUNDATION

By: James Bopp, Jr.
James Bopp Jr., Ind. Bar # 2838-84*

By: Michael D. Dean
Michael D. Dean, SBN 01019171

Electronically Signed

Electronically Signed

1 South 6th Street
Terre Haute, Indiana 47807
(812) 232-2434

350 Bishops Way, Suite 201
Brookfield, WI 53005
(262) 987-8044

* Application pending for admission pro hac vice.