

Citizens File Federal Civil Rights Lawsuit Against Wisconsin Election Commissioners and Administrator

Lawsuit claims state violated plaintiffs' civil rights by not hearing HAVA complaints.

October 25, 2023. *Kewaunee Wisc.* Ron Heuer, Wisconsin Voter Alliance (WVA) President announced that he, the WVA, and WVA member Ken Brown are plaintiffs in a civil rights lawsuit seeking declaratory and injunctive relief in the United States District Court for the Eastern District of Wisconsin. The plaintiffs are represented by attorney Erick Kaardal, of Minneapolis-based law firm Mohrman, Kaardal & Erickson, who filed the federal complaint this morning.

The plaintiffs allege the defendants state election officials Wisconsin Elections Commission (WEC), its individual members, and administrator Megan Wolf, are violating plaintiffs' federally-guaranteed administrative complaint rights under the *Help America Vote Act* (HAVA) by depriving them of their due administrative (non-court) complaint process when the complaint is against WEC itself. In 2022 and again in 2023, WEC refused to hear WVA's HAVA complaints concerning WEC's own violations of federal election law. In both 2022 and 2023, WEC responded with a letter stating it would not administratively consider or dismiss HAVA complaints against WEC, and that plaintiffs would have to take their grievances to court.

HAVA, in 52 U.S.C. § 21112, requires states to establish administrative complaint procedures to remedy grievances for violations of HAVA. Wisconsin Statutes § 5.061 lays out the state's process for HAVA administrative complaints—which directs those administrative complaints to WEC. Under 52 U.S.C. § 21112, the plaintiffs have a right to file a HAVA administrative complaint against WEC, and WEC has a responsibility to provide the plaintiffs an administrative hearing and an adjudication within 90 days of receipt of the complaint.

WVA President Ron Heuer commented, “The Wisconsin Elections Commission is a significant impediment to election integrity in Wisconsin. The WVA, the Legislative Audit Bureau and other organizations caught WEC in many serial violations of law in the 2020 Presidential election. In response, WEC doesn't want to review citizen complaints against Wisconsin's state election officials anymore. However, federal law mandates that WEC review such complaints.”

The events leading to this lawsuit began on September 8, 2022, when the WVA filed a HAVA administrative complaint with WEC, against WEC. In that administrative complaint, the plaintiffs alleged WEC violated HAVA's requirements to maintain its statewide voter registration database (WisVote) through the state's participation in the Electronic Registration Information Center (ERIC). WEC responded on October 19, 2022 with a letter returning the

plaintiffs' HAVA administrative complaint "without consideration or dismissal." On October 2, 2023, the plaintiffs filed a second HAVA administrative complaint with WEC. That time, the plaintiffs alleged the WEC violates HAVA by issuing unlawful guidance that allows overseas absentee votes to be received through the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) without HAVA-required voter identity and eligibility verification. Two days later, on October 4, 2023, WEC responded with a similar closure letter refusing to hear and adjudicate the plaintiffs' 2023 HAVA administrative complaint because the HAVA administrative complaint would require WEC to adjudicate against itself, but suggested that the plaintiffs might be able to get relief through the courts.

Court litigation is often a lengthy and costly process. Federal election law HAVA requires states to have a 90-day administrative complaint process for grievances alleging HAVA violations. While plaintiffs can see it may not be fair for WEC to hear and judge a HAVA complaint against itself, HAVA requires an alternative for administrative adjudication in the future. Ironically, WEC's failure to provide an administrative process for citizens' grievances that WEC itself is violating HAVA is what takes plaintiffs to federal court today to secure their federal due process right—to a 90-day administrative process

Attorney Erick Kaardal commented, "By refusing to hear and adjudicate the plaintiffs' 2022 and 2023 HAVA administrative complaints, WEC violated plaintiffs' federal rights under 52 U.S.C. § 21112, including the right to an administrative complaint process, a right to a hearing on the record and a right to an appropriate remedy if warranted. WEC's actions are unprofessional and illegal. We need the help of the federal court to clean up WEC's election integrity illegalities in Wisconsin."

About the Parties

Attorney [Erick Kaardal](#), a partner of [Mohrman, Kaardal & Erickson](#), P.A., has been representing people suing the government to improve it for over 30 years. For election integrity, Kaardal has listed [61](#) examples of election integrity counter-lawfare successes, including 2 U.S. Supreme Court victories.

Ron Heuer, President, Wisconsin Voter Alliance is a Captain, U.S. Army, and Vietnam combat veteran. He worked as a senior executive in the travel industry for 45 years and served as Chairman of the Kewaunee County Board of Supervisors. Ron started the WVA in September of 2020.