

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOWN OF THORNAPPLE, WISCONSIN; ANGELA JOHNSON, RALPH C. KENYON, TOM ZELM, and JACK ZUPAN, in their official capacities as Town Clerk and Town Board Supervisors of the Town of Thornapple; TOWN OF LAWRENCE, WISCONSIN; CHARIDY LUDESCHER, BOB NAWROCKI, STACY ZIMMER, and DUANE BILLER, in their official capacities as Town Clerk and Town Board Supervisors of the Town of Lawrence; and STATE OF WISCONSIN,

Defendants.

Civil Case No. 3:24-cv-664

**DECLARATION OF BRIAN
REMLINGER IN SUPPORT OF
THE UNITED STATES' MOTION
FOR A PRELIMINARY
INJUNCTION**

I, Brian Remlinger, an attorney duly admitted to practice law before this Court, hereby declare and certify to the best of my knowledge and belief the following:

1. I am a trial attorney in the Voting Section of the Civil Rights Division of the United States Department of Justice.
2. I am familiar with the facts and circumstances of the subject matter of this lawsuit and submit this Declaration in support of the United States of America's ("United States") Motion for a Preliminary Injunction.
3. Attached as Exhibit 1 is a true and correct copy of an excerpt from the Excel file "Accessible Voting Equipment List by Municipality 2022," which is posted on the Wisconsin

Elections Commission's website and shows the accessible voting machines used in each town in Wisconsin as of 2022, available at <https://elections.wi.gov/accessible-voting-equipment>.

4. Attached as Exhibit 2 is a true and correct copy of a letter sent from R. Tamar Hagler, Chief of the Voting Section of the Civil Rights Division of the United States Department of Justice, to Suzanne Pinnow, dated May 7, 2024 ("May 7 Letter").

5. Attached as Exhibit 3 is a true and correct copy of the response to the May 7 Letter, delivered via email, by Suzanne Pinnow, dated May 21, 2024.

6. Attached as Exhibit 4 is a true and correct copy of the attachment to Suzanne Pinnow's response regarding the May 7 Letter, which Ms. Pinnow represented to be the Meeting Minutes for the Thornapple Town Board Meeting that occurred on June 13, 2023.

7. Attached as Exhibit 5 is a true and correct copy of a letter from United States Assistant Attorney General Kristen Clarke to Wisconsin Election Officials, dated July 8, 2024.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 20, 2024.

/s/ Brian Remlinger
BRIAN REMLINGER
Attorney, Voting Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
brian.remlinger@usdoj.gov
202-717-4154

Exhibit 1

County	Municipality	Optical/Digital Scan Tabulator (Vendor/Dealer-Model)	Accessible Voting Equipment Vendor/Dealer-Model
RUSK COUNTY - 55	TOWN OF THORNAPPLE - 55038	Dominion Voting - ImageCast Evolution (ICE)	Dominion Voting - ImageCast Evolution (ICE)

Exhibit 2



Civil Rights Division

*Voting Section
950 Pennsylvania Ave, NW
4CON 8th Floor
Washington, DC 20530*

May 7, 2024

Suzanne Pinnow
Chief Election Officer
Town of Thornapple
W10101 Thornapple Road
Ladysmith, WI 54848
Suzannep_townoft@yahoo.com

Dear Ms. Pinnow:

The United States Department of Justice has received reports that the Thornapple Town Board may have voted to remove all electronic voting machines in all elections, including the presidential preferential primary on April 2, 2024. We have also received reports that some voters with disabilities in the Town of Thornapple requested to use an accessible voting machine but were not provided with that opportunity during the April 2, 2024 election for federal office. We write to obtain the Town of Thornapple's response to these reports and to remind the Town of federal law governing voting systems used in federal elections and protecting voters with disabilities in all elections.

The Help America Vote Act of 2002 (HAVA), 52 U.S.C. §§ 20901-21145, establishes minimum standards for states to follow in several key aspects of election administration in Federal elections, including voting systems, voter registration databases, and provisional ballots. Section 301 of HAVA requires that each voting system used in an election for Federal office meet specified requirements. 52 U.S.C. § 21081(a). Particularly relevant here, each voting system must "be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters." *Id.* § 20181(a)(3)(A). To satisfy this requirement, voting systems must use "at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place." *Id.* § 20181(a)(3)(B).

Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12134, as amended (ADA), and its implementing regulation, 28 C.F.R. Part 35, require public entities to make their services, programs, and activities accessible to qualified individuals with disabilities. *See* 42 U.S.C. § 12132; 28 C.F.R. §§ 35.130, 35.160. This includes the Town's voting programs for federal, state, and local elections. Under Title II and its implementing regulation, a public entity must furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity, including voting programs,

unless the public entity can demonstrate that doing so would result in a fundamental alteration or in undue financial and administrative burdens. To be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability. 28 C.F.R. § 35.160. For voting programs, an auxiliary aid, such as an accessible voting system, is necessary to provide effective communication to voters who are blind or have print disabilities.

We would appreciate a prompt and thorough response to the reports described above and the following information:

1. If the Town is represented by an attorney, the name and contact information of the attorney;
2. A copy of any Town resolution related to electronic voting equipment and any related Town documents, such as Town Board meeting minutes or recordings;
3. Any documents related to requests for an accessible voting machine during the April 2, 2024 election;
4. Any documents related to accommodating voters with disabilities in 2024.

We respectfully request your response within 14 days from the date of this letter, addressed to Barbara Oswald (barbara.oswald@usdoj.gov) and Jennifer Yun (jennifer.yun@usdoj.gov). If you would like to discuss this matter, we would be happy to arrange a meeting with appropriate Town officials and counsel.

Thank you for your attention to this important matter.

Sincerely,

R. Tamar Hagler
Acting Chief

By:

/s/ Jennifer J. Yun
Richard A. Dellheim
Jennifer J. Yun
Margaret M. Turner
Attorneys
Voting Section
Civil Rights Division

/s/ Barbara L. Oswald
Leslie Herje
Barbara L. Oswald
Assistant U.S. Attorneys
United States Attorney's Office
Western District of Wisconsin

cc: Chairman Ralph C. Kenyon, Town of Thornapple
Supervisor Tom Zelm, Town of Thornapple
Supervisor Jack Zupan, Town of Thornapple
Ronda Parker, Thornapple Municipal Clerk
Administrator, Wisconsin Elections Commission

Exhibit 3

From: [Suzanne Pinnow](#)
To: [Oswald, Barbara \(USAWIW\)](#)
Subject: [EXTERNAL] Thornapple Response Letter
Date: Tuesday, May 21, 2024 4:31:04 PM
Attachments: [2023-06-13 Meeting Removing Voting Machines.pdf](#)

May 21, 2024

To: Barbara Oswald and Jennifer Yun

From: Suzanne Pinnow,
Town of Thornapple
Chief Election Officer

Re: May 7, 2024 DOJ Letter

Thank you for the opportunity to respond to the May 7, 2024, letter from your Office regarding the usage of electronic voting machines in the Town of Thornapple, Rusk County, Wisconsin.

The Town of Thornapple takes the integrity of the administration of elections very seriously and strictly abides by the United States Constitution, the Wisconsin Constitution, Wisconsin State Statutes, Legislative Reference Bureau, settled Case Law involving the administration of elections, Legislative Oversight, States Rights, the Congressional Research Service, the Legislative Audit Bureau, the Wisconsin Election Commission and Staff Memos, non-profit election integrity organizations, cyber security experts and Law Enforcement assistance.

This response will be formatted to include the disclosure of each issue raised in your May 7, 2024, letter and the appropriate related information:

Your letter states in part,

"The United State Department of Justice has received reports that the Thornapple Town Board may have voted to remove all electronic voting machines in all elections, including the presidential preferential primary on April 2, 2024."

Your letter goes on to state,

"We have also received reports that some of voters with disabilities in the Town of Thornapple requested to use an accessible voting machine but were not provided with that opportunity during the April 2, 2024 election for federal office."

Your letter goes on to state,

"We write to obtain the Town of Thornapple's response to these reports and to remind the Town of federal law governing voting systems used in federal elections and protecting voters with disabilities in all elections."

Finally, your letter makes reference to the Help America Vote Act of 2002 (HAVA) and Title II of the Americans with Disabilities Act of 1990 (ADA) regarding provision(s) of accessibility for individuals with disabilities using voting systems.

Your letter also concludes,

"Under Title II and its implementing regulation, a public entity must furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity, including voting programs, unless the public entity can demonstrate that doing so would result in a fundamental alteration or undue financial and administrative burdens. To be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability."

Please consider the following responses to the 4 questions at the end of your May 7, 2024, letter:

1. Name and contact information of an attorney that represents the Town. We are not represented by an attorney for this response.
2. Please find attached the Town minutes of the June 13, 2023, Town Board Meeting voting to opt out of using "voting machines or electronic voting systems" as authorized and stipulated per State Statute 5.40.
3. There are no documents "...related to requests for an accessible voting machine during the April 2, 2024 election". The Town of Thornapple did not have any electors participate in the April 2, 2024 election that needed "assistance" or had "a physical disability" as stated in various parts of Wisconsin State Statute 5.40.

4. There are no documents "...related to accommodating voters with disabilities in 2024." The Town of Thornapple did not have any electors participate in 2024 elections that needed "assistance" or had "a physical disability" as stated in various parts of Wisconsin State Statute 5.40.

5. The Town of Thornapple is not aware of any "reports" that you refer to in your letter.

Thank you again for the opportunity to address this most important and critical matter to make sure that every effort is exhausted, while administering elections with integrity without the influence of false claims and misinformation released to the public, without any fact finding, that causes confusion and distrust.

Suzanne Pinnow
Town of Thornapple,
Chief Election Inspector

Exhibit 4

NOTICE OF REGULAR TOWN BOARD MEETING

NOTICE HEREBY GIVEN that a Township Monthly Board Meeting for the Township of Thornapple in the County of Rusk, State of Wisconsin, for Transaction of business as is by Law required or permitted to be transacted. Such meeting will be held at the Thornapple Town Hall located at CTH E, Bruce, WI on **Tues, June 13, 2023 at 7:00 pm**

At this time, please silence your cell phones. If you need to reply to a call, you must leave the building. This is a business meeting. Please keep all distractions and interactions to a minimum or you will be asked to leave the building. Thank you.

AGENDA:

Call meeting to order
Pledge of allegiance

Roll Call and verify Quorum.

Open meeting compliance and posted in the 3 places referenced below

1. Reading and action on minutes as presented
2. Review and action on the Treasurer's report as presented
3. Review and approve payment of bills due
4. Roads
5. Equipment
6. Buildings/Town Hall/Recycling Center
7. Online bank access for Treasurer/Clerk
8. Voting Machine
9. Citizens Participation
10. Adjourn Meeting

This Notice and Agenda was prepared and posted in three locations 72 hours prior to the meeting date: At the Town Hall on CTH E, Town Recycling Center on Thornapple Road and Heiny Road by Ronda Parker.

**** Please abide by PPE: Personal Protective Equipment guidelines if attending this meeting.**

Pages Copied

Minutes of the Regular Board Meeting of the Thornapple Township: 06-13-2023
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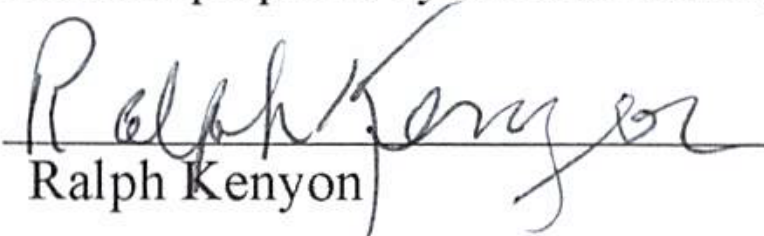
Chairman Ralph Kenyon called the meeting to order at 7:03pm, followed by the Pledge of Allegiance. Open meeting compliance was verified with notice posted in three locations.

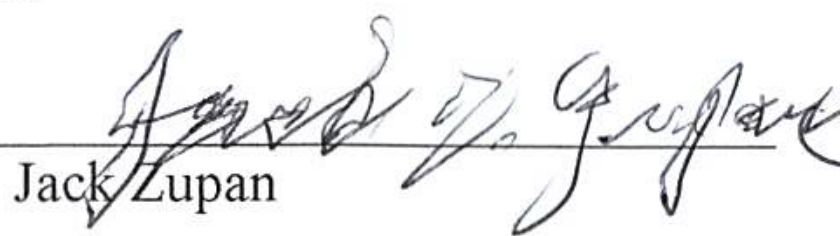
Roll Call: Board members present: Acting Chairman: Jack Zupan, Ralph Kenyon, Supervisors: Tom Zelm-Absent, Jack Zupan. Treasurer: Suzanne Pinnow. Clerk: Ronda Parker. Quorum was verified.

1. **Board Minutes** Motion to approve last month's minutes as presented by Kenyon, seconded by Zupan. Carried.
2. **Treasurer's Report:** Pinnow reported. Motion to approve report as presented by Kenyon, seconded by Zupan. Carried. Reports are now from Quickbooks formerly Quicken and for Superior Checking and Cumberland Bank as we will be switching over to Cumberland within the next month. Discussion held. Pinnow received a returned check for a building permit. Discussion held.
3. **Bills due:** The months' bills were reviewed. Motion to approve payments by Zupan, seconded by Kenyon. Carried.
4. **Roads:** Baker reported the brush cleanup is moving along but it is taking a long time. There are lots of tangled trees. The rental equipment goes back on Monday. Discussion held regarding culverts.
5. **Equipment:** Baker reported the tractor needs attention the dump truck will be going over to Meyer. Discussion held. Baker will work on updated the Township Asset list.
6. **Buildings/Town Hall/Recycling Center:** Pinnow reported it is so busy and the deposits are almost tripled another township has told them they could use our dump. Discussion held.
7. **Online bank access for Treasurer/Clerk:** Motion to approve Treasurer/Clerk to access online banking as outlined in the Cumberland Bank specifications form by Kenyon, seconded by Zupan, Carried.
8. **Voting Machine:** Pinnow reported due to the controversial nature of electronic voting machines and the costs associated with them as well as that if you have less than 7000 voters you are not required to have a electronic voting machine. Discussion held. Motion to stop use of the electronic voting machine and use paper ballots by Kenyon, seconded by Zupan. Carried.
9. **Citizen Participation:** None.
10. **Adjourn Meeting:** Motion to adjourn at 8:0pm by Zupan, seconded by Kenyon. Carried.

Next month's board meeting will be on: Tuesday, July 11, 2023 at 7:00pm.

Minutes prepared by: Ronda Parker, Clerk


Ralph Kenyon


Jack Zupan

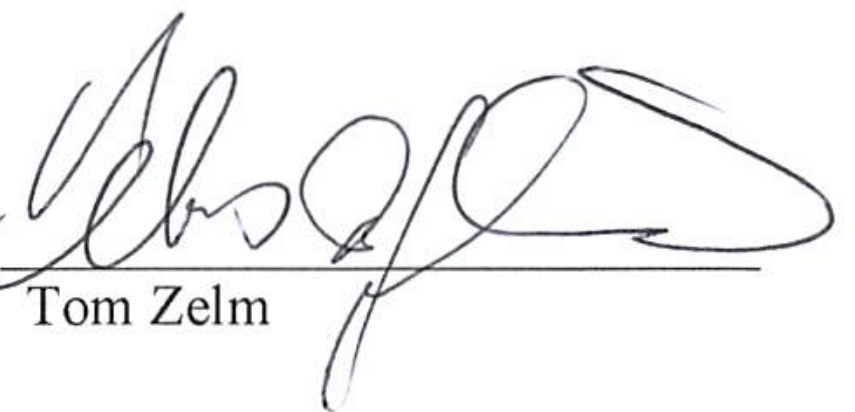

Tom Zelm

Exhibit 5



Civil Rights Division

July 8, 2024

Attorney General Josh Kaul
Wisconsin Department of Justice
P.O. Box 7857
Madison, WI 53707
kauljl@doj.state.wi.us

Administrator Meagan Wolfe
Wisconsin Elections Commission
201 W. Washington Ave.
Madison, WI 53703
elections@wi.gov

Angela Johnson
Town Clerk
Town of Thornapple
P.O. Box 83
Ladysmith, WI 54848
thornappleclerk@mail.com

Charidy Ludescher
Town Clerk
Town of Lawrence
W3570 Walrath Rd.
Glen Flora, WI 54526
cludeschertownclerk@gmail.com

Dear Attorney General Kaul, Administrator Wolfe, Ms. Johnson, and Ms. Ludescher:

This is to notify you that I have authorized the filing of a lawsuit on behalf of the United States against the State of Wisconsin, the Wisconsin Elections Commission, the Commission Administrator, the Town of Thornapple, the Town of Lawrence, and the Town Clerks and Town Board Supervisors of Thornapple and Lawrence, pursuant to Section 301 of the Help America Vote Act of 2002 (“HAVA”), 52 U.S.C. § 21081. HAVA authorizes the Attorney General to bring an action in federal district court for such declaratory and injunctive relief as is necessary to carry out the requirements of Title III of HAVA. 52 U.S.C. § 21111.

Section 301 of HAVA sets forth standards for all states for each voting system used in an election for federal office. Among other things, Section 301 requires that each voting system “be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation

(including privacy and independence) as for other voters.” 52 U.S.C. § 21081(a)(3)(A). To satisfy this requirement, any voting system currently in use for federal elections must include “at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.” *Id.* § 21081(a)(3)(B). States and their jurisdictions are required to comply with Section 301 of HAVA. *Id.* § 21081(d).

Based on our investigation, we have concluded that the State of Wisconsin and the Towns of Thornapple and Lawrence, located in Rusk County, Wisconsin, failed to make at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities available at each polling place, including during the April 2, 2024, federal primary election, in violation of Section 301(a)(3)(A) of HAVA.

We hope to resolve this matter amicably and to avoid protracted litigation. Accordingly, we are prepared to delay filing the complaint briefly to permit us time to negotiate a consent decree to be filed with the complaint. Margaret Turner, an attorney with the Civil Rights Division’s Voting Section, will call your offices to discuss your interest in settlement. Ms. Turner may be reached at (771) 217-6882 or by email at margaret.m.turner@usdoj.gov.

We look forward to working with you to resolve this matter promptly.

Sincerely,



Kristen Clarke
Assistant Attorney General
Civil Rights Division

cc: Chairman Ralph C. Kenyon, Town of Thornapple, WI
Supervisor Tom Zelm, Town of Thornapple, WI
Supervisor Jack Zupan, Town of Thornapple, WI
Chairman Bob Nawrocki, Town of Lawrence, WI
Supervisor Stacy Zimmer, Town of Lawrence, WI
Supervisor Duane Biller, Town of Lawrence, WI