UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

JOSEPH GIGANTI SR.,

Plaintiff, Case No. 26-cv-1934

v.

Patrick W. Moynihan, Jr., et al.,

Defendants.

PLAINTIFF'S CIVIL L. R. 7(h) EXPEDITED NON-DISPOSITIVE MOTION FOR PRELIMINARY INJUNCTION

Plaintiff Joseph Giganti Sr., under Fed. R. Civ. P. 65(a) and Civil L. R. 7(h), requests an injunction barring Defendants, within their respective authority, from denying or rejecting his November 3, 2026 vote solely because of the transactions below, or prosecuting him under Wis. Stat. § 12.13(1)(a) for that vote or § 12.13(1)(b) for the truthful eligibility oath specified in the proposed order. He requests an expedited briefing schedule and ruling before he votes.

MATERIAL FACTS

Plaintiff hosts a nationally syndicated conservative radio program that addresses politics and current events. Giganti Decl. ¶ 10. He is an otherwise qualified, registered Bellevue Ward 8 voter who intends to vote in person on November 3. Giganti Decl. ¶¶ 1–5 (Ex. 1). He opened a Polymarket US account and intends, immediately upon relief, to invest $50–$100 each in positions paying if Republican candidates wins Wisconsin's gubernatorial contest, and House seats in WI-03, WI-08, WI-06, and WI-07. Giganti Decl. ¶ 8. He refrained because of threatened disqualification and prosecution published in the July 2026 WEC staff memorandum and press release treating prediction-market wagers as disqualifying under § 6.03(2) with threats of potential felony consequences under § 12.13(1)(a). Giganti Decl. ¶¶ 6, 7 12–15; Compl. Ex. 3-4.

ARGUMENT

Relief requires likely success, irreparable harm, no adequate remedy at law, and favorable equities and public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Mays v. Dart*, 974 F.3d 810, 818 (7th Cir. 2020). Plaintiff must explain how he will prove the claim's essential elements. *Ill. Republican Party v. Pritzker*, 973 F.3d 760, 762–63 (7th Cir. 2020).

Plaintiff's definite plans and credible enforcement threat establish pre-enforcement injury. *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 159–66 (2014). The municipal clerk administers his vote and may challenge his qualifications; the county clerk and WEC chair review challenged ballots and have authority to exclude ballots; the Commissioners and Administrator implemented the challenged guidance; and the district attorney prosecutes election offenses. Wis. Stat. §§ 5.05, 6.95, 7.15, 7.60, 978.05(1). Relief directed at each official's functions will redress the threatened injury.

Excluding otherwise qualified voters must be "necessary to promote a compelling state interest." *Kramer v. Union Free Sch. Dist. No. 15*, 395 U.S. 621, 627 (1969). Total disqualification severely burdens voting and requires narrow tailoring. *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). Election integrity is compelling, but § 6.03(2) denies the entire franchise for these modest positions without requiring bribery, manipulation, or a corrupt voting agreement. Plaintiff disavows those acts. Giganti Decl. ¶ 11. Wisconsin separately prohibits bribery, multiple voting, and ballot tampering. Wis. Stat. §§ 12.11(1m), 12.13(1)(d)–(e), (3)(e)–(f). Those prohibitions target misconduct directly. Disqualifying small contract holders while permitting other financially interested voters to vote is not narrowly tailored to that interest.

No damages award or later judgment can restore a lost vote. *United States v. Town of Thornapple*, 143 F.4th 793, 799–800 (7th Cir. 2025), confirms that an election-related injury need not have already occurred before preliminary relief is available and that a small number of

affected voters does not defeat a showing of likely irreparable harm. Although that case concerned rights of voters with disabilities to vote privately and independently, those principles apply here. Threatened enforcement presently forces Plaintiff to forgo the specified transactions to preserve his franchise. Decl. ¶¶ 12-14. He need not incur a prosecution or ballot rejection first. There is no adequate remedy at law for the loss of a vote in the November 3 election. Injunctive relief prevents that injury before November 3; damages and post-election relief are inadequate.

Equities and public interest merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006), counsels caution this close to an election. Unlike *Purcell*, the enforcement action at issue is not a law that has been approved by voters. Instead, it is a resolution by the WEC made less than four months before the election, without going through formal rulemaking, to arbitrarily interpret an outdated Wisconsin law in a way that disenfranchises voters who participate in prediction markets under threat of felony prosecution. Plaintiff submits an order enjoining enforcement of WEC's unconstitutional guidance reduces confusion and will encourage voters to vote without fear of prosecution.

CONCLUSION

Plaintiff requests an injunction as provided in the proposed order (Ex. 2) without security because (1) this limited relief creates no identified risk of compensable monetary loss, *Habitat Educ. Ctr. v. U.S. Forest Serv.*, 607 F.3d 453 (7th Cir. 2010), and (2) requiring a bond would create undue hardship and negatively impact Plaintiff's exercise of his constitutional right to vote. *Smith v. Bd. of Election Comm'rs for City of Chicago*, 591 F. Supp. 70 (N.D. Ill. 1984). Compliance with the injunction would not result in any increased expenditure on the government because it directs the government to refrain from acting. If the Court declines to issue a broad injunction, Plaintiff alternatively seeks an injunction that applies specifically to Plaintiff.

Dated: October 21, 2026

Respectfully submitted,

/s/ Soriya R. Chhe
Soriya R. Chhe
Bar No. 986736
Competitive Enterprise Institute
1310 L St. NW, 7th Floor
Washington, DC 20005
+1 202-331-2265
Soriya.Chhe@cei.org
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of October 2026, I arranged for same day service of process of the summons, complaint and above motion with all exhibits to all Defendants in this matter.

DATED: October 21, 2026

Respectfully submitted,

/s/ SORIYA R. CHHE
SORIYA R. CHHE [986736]
Competitive Enterprise Institute
1310 L Street NW, 7th FL
Washington, D.C. 20005
Tel: (202) 331-2265
soriya.chhe@cei.org