



# Wisconsin Elections Commission

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**DATE:** September 9, 2024

**TO:** Wisconsin County Clerks  
Milwaukee County Election Commission

**FROM:** WEC Staff

**SUBJECT:** Ballot Access Litigation Update

Dear County Clerks,

Commission staff would like to provide a few brief updates on ongoing litigation against the Commission relating to ballot printing and distribution processes:

**Frank Marshall et al. v. WEC et al. (24-C-1095) (US District Court – Eastern District of Wis.)**

**- Status: Dismissed**

- This case was brought by two of the chosen presidential electors for independent candidate Dr. Shiva Ayyadurai. The plaintiff-electors alleged the Commission's finding that Dr. Ayyadurai is a naturalized citizen, and thus not qualified for the office of President of the United States, unlawfully denied them their ballot placement and constitutional rights.
- The court issued an order dismissing the matter as frivolous on September 10, 2024. Barring an appeal, the Commission's decision denying ballot access to Dr. Ayyadurai will stand, and he will not need to be added to your ballots.

**Robert F. Kennedy, Jr. v. WEC et al. (24-CV-2653) (Dane County Circuit Court / Wis. Court of Appeals)**

**- Status: With the Court of Appeals, Briefs due September 13, 2024.**

- Plaintiff, Robert F. Kennedy, Jr., brought this action arguing that the Commission is required by the First and Fourteenth Amendments of the US Constitution, and Wis. Stat. § 8.35(1), to remove his name from Wisconsin ballots. He requested this removal on August 23, 2024, but the Commission determined that he was precluded from being removed from the ballot at that late stage.
- At a status conference on September 11, 2024, the Wisconsin Court of Appeals indicated that each parties' briefs will be due this Friday, September 13, pertaining to a petition for leave to appeal the circuit court's decision not to grant temporary injunctive relief. This means that the Commission's ballot access decision keeping Mr. Kennedy on the ballot will remain intact until the litigation is resolved, and it is currently unclear when that will be. The Commission will update you as things progress.
- Also included with this communication is the Commission's most recent court filing, which includes affidavits from county clerks and officially notes several concerns on the record (*e.g.* the costs associated with reprinting ballots, timing problems, issues with proposed "solutions" such as placing a sticker over the candidate's name, etc.).

Please contact the WEC Help Desk at [elections@wi.gov](mailto:elections@wi.gov) with any questions you may have. Feel free to distribute this communication to your local clerks.

*Wisconsin Elections Commissioners*

Ann S. Jacobs, chair | Marge Bostelmann | Don M. Millis | Carrie Riepl | Robert Spindell | Mark L. Thomsen

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Administrator  
Meagan Wolfe