



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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March 28, 2018

Ms. Sheila T. Reiff  
Clerk of the Wisconsin Supreme Court  
110 East Main Street  
Post Office Box 1688  
Madison, WI 53701-1688

Re: *Newton v. Walker*, No. 2018XX452 (Ct. App.)

Dear Ms. Reiff:

Governor Scott Walker files this letter to inform the Court of the possibility of his filing with the Court tomorrow, Thursday, March 29, at 9:15 a.m., an emergency petition to bypass the Court of Appeals. The Governor would make such a filing, if necessary, so that this Court could consider the Governor's emergency motion for an order temporarily preserving the status quo for eight days in the above-referenced case. **If the Governor were to file this emergency petition, he would respectfully request that the Court issue an order granting the Governor's emergency motion (or at least administratively staying the underlying circuit-court order to permit more time for this Court to consider the Governor's emergency motion) if at all possible by 12:00 p.m. tomorrow, Thursday, March 29.**

On March 22, 2018, the Dane County Circuit Court ordered the Governor to issue an order calling for special elections for two vacant legislative seats within seven days—by noon tomorrow, Thursday, March 29. This order is premised exclusively on Wis. Stat. § 8.50(4)(d). On Monday, March 26, the Governor filed an emergency motion under Wis. Stat. § 806.07(1)(h) with the circuit court, requesting only that the court modify its order to extend its seven-day deadline by a mere eight days, to April 6, 2018. The Governor requested this relief because, earlier that same day, the Legislature called an extraordinary session to repeal and recreate Section 8.50(4)(d), eliminating the Governor's authority to call for—and the Election Commission's authority to administer—the special elections at issue in this case. Since that imminent legislative action would, if enacted, moot the court's order (and this entire

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case), this modest, eight-day extension was necessary to avert confusion and the waste of public resources that would inevitably flow from the Governor calling a special election on Thursday—pursuant to the court order—then cancelling that same election eight days later—pursuant to newly enacted law. Importantly, regardless of whether the court granted this eight-day extension, the Governor has committed to holding any special election on the very same day: June 12, 2018, assuming the Legislature ultimately chooses not to act. Thus this eight-day extension would cause no harm to Plaintiffs in this case, or to the public. Last night, the circuit court denied that motion after a hearing that same day.

Today, at approximately 9:00 a.m., the Governor appealed from the circuit court's denial of his Section 806.07(1)(h) motion, as well as the circuit court's underlying order, to the Court of Appeals, District II. The Governor then immediately filed an emergency motion under Wis. Stat. § 808.07(2), requesting only an order temporarily preserving the status quo for eight days with the Court of Appeals. Given that the circuit-court order's deadline is tomorrow, Thursday, March 29, at noon, the Governor requested that the Court of Appeals act on his motion by 9:00 a.m. tomorrow.

Should the Court of Appeals deny the Governor's emergency motion, or fail to issue an order by 9:00 a.m. tomorrow, the Governor intends to file with this Court an emergency petition to bypass the Court of Appeals, requesting only that it issue an order temporarily preserving the status quo for eight days. If that occurs, **the Governor would respectfully request that this Court act in some way on his emergency petition before the deadline of the circuit court's order, 12:00 p.m., tomorrow, Thursday, March 29.**

Thank you for your consideration in this matter.

Sincerely,

Misha Tseytlin  
Solicitor General  
State Bar #1102199

MT:kml

cc: David L. Anstaett