

STATE OF WISCONSIN

CIRCUIT COURT

WAUKESHA COUNTY

MICHAEL J. GABLEMAN, IN HIS
OFFICIAL CAPACITY AS SPECIAL
COUNSEL TO THE WISCONSIN
ASSEMBLY EX REL. WISCONSIN
STATE ASSEMBLY

Petitioner,

Case No. 2021-CV-1710

v.

ERIC GENRICH et al.,

Respondent,

**PETITIONER'S MOTION FOR SANCTIONS
PURSUANT TO WIS. STAT. § 802.05**

TO: ALL COUNSEL OF RECORD

Please take notice that Petitioner Michael J. Gableman, in his Official Capacity as Special Counsel to the Wisconsin Assembly ex rel. Wisconsin State Assembly, at a time and place to be determined by the Court, will move the Court for sanctions pursuant to Wis. Stat. § 802.05(3) against counsel for Respondent Eric Genrich Jeffrey A. Mandell as well as Mandell's law firm—Stafford Rosenbaum LLP.

The Grounds for this Motion are—

1. Petitioner filed this action seeking a Writ of Attachment of the Person regarding Respondent on November 29, 2021.
2. The grounds for the Petition are that Respondent failed to appear at a time and place designated in a Subpoena issued by the Wisconsin State Assembly compelling his appearance to give testimony relating to the Petitioner's investigation of the November 2020 General Election in Wisconsin.

3. Counsel for Respondent, Jeffrey A. Mandell (“Mandell”) filed a letter with the Court dated December 2, 2021 in which Mandell sought remedial action on behalf of respondent regarding the Petition (the “Letter”).

4. A true and correct copy of the Letter is attached as **Exhibit A**.

5. In the Letter, Mandell asks the Court to dismiss the Petition “without further proceedings,” or in the alternative consolidate this matter with another pending civil action—*Wis. Elections Comm’n et al. v. Wis. Assembly, et al.*, Dane County Case No. 2021CV2552.

6. The Letter is an improper procedural vehicle for Mandell to seek the relief demanded as Wis Stat 802.01(2) requires that any application to a court for relief must be made by a motion; and that any such motion must contain a formal caption and otherwise follow the applicable rules of civil procedure and local rules.

7. As such, the Letter is not reasonably grounded in law.

8. Further, the Letter is without reasonable basis in law or fact for the following reasons—

- a. The objection that the Petition fails under Wis. Stat. §§ 811.01 and 811.02 is frivolous as ch. 811 governs the process of obtaining an attachment of municipal property in relation to a civil proceeding, while the Writ is a personal attachment based on the enforcement mechanisms of chapter 885—which governs the taking of testimony pursuant to subpoena;
- b. The contention that the Subpoena does not “lawfully require” testimony “before any committee of the legislature” because it compels

attendance at a deposition at the office of the Special Counsel ignores creates a legal requirement out of whole cloth that Subpoenas issued under section 13.31 are limited to requiring appearance at a public hearing before the legislature or a committee;

- c. The statements found in the Letter that the Petition “does not belong in this Court” because section 885.12 only permits a court “in the county where the person was obliged to attend” to issue an attachment, and that the Subpoena “does not oblige Mayor Genrich to give testimony in any location,” ignore the fact that the Subpoena requires the Respondent to appear at 200 South Executive Drive, Suite 101, Brookfield Wisconsin” to give testimony;
- d. The contention that the Special Counsel “lacks standing to bring the petition” is frivolous as the Special Counsel has been appointed by the Legislature to assist in the investigation of the November 2020 General Election in Wisconsin, and is a “person authorized to take testimony” by the Legislature in that regard;
- e. Attorney Mandel’s contentions that 1) Mayor Genrich has acted “reasonably” and as such the Petition should fail and 2) that, alternatively, this matter should be consolidated with the Dane County case are, again, attempts to seek relief from the Court via correspondence and improper.

9. The Letter has also been filed for an improper purpose, specifically to harass and cause needless increase in the cost of pursuing the duly-authorized

investigation of the November 2020 General Election in Wisconsin.

10. This motion was served more than twenty-one (21) days prior to its filing, and Mandell was given an opportunity to withdraw the Letter.

11. As such, Petitioner requests that the Letter be stricken from the record, and that sanctions be entered against Mandell and his law firm for pursuing court remedies via the Letter, and that Petitioner be awarded their actual attorney's fees incurred in responding to the Letter and seeking this relief from the Court.

This Motion is supported by the accompanying Brief, Affidavit of Michael J. Gableman and the Court record on file.

Dated this 7th day of December, 2021.

**ATTORNEYS FOR PETITIONER
MICHAEL J. GABLEMAN, IN HIS OFFICIAL CAPACITY
AS SPECIAL COUNSEL TO THE WISCONSIN
ASSEMBLY EX REL. WISCONSIN STATE ASSEMBLY.**

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