

MICHAEL GABLEMAN, IN HIS OFFICIAL CAPACITY AS SPECIAL  
COUNSEL TO THE WISCONSIN ASSEMBLY

Plaintiff

v.

Case No.: \_\_\_\_\_

ERIC GENRICH, PERSONALLY, AND IN HIS OFFICIAL CAPACITY  
AS MAYOR OF GREEN BAY, WISCONSIN and  
MARIBETH WITZEL-BEHL, PERSONALLY, AND IN HER OFFICIAL  
CAPACITY AS CITY CLERK OF MADISON, WISCONSIN

Defendants

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**MOTION FOR AN ORDER TO COMPEL COMPLIANCE WITH A  
LEGISLATIVE SUBPOENA AND FOR AN ORDER TO APPEAR AND  
SHOW CAUSE**

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COMES NOW the Special Counsel, and for his motion states:

**THE PARTIES**

1.     The plaintiff is Michael Gableman, a retired Justice of the Wisconsin Supreme Court. He was duly appointed and authorized by the Wisconsin Assembly and charged with conducting legislative investigation and oversight into Wisconsin's elections.

2.     One of the defendants is Eric Genrich. He was the duly elected and serving mayor of Green Bay, Wisconsin, during the 2020 elections and at the time a legislative subpoena was issued to and served upon him.

3.     The second defendant is Maribeth Witzel-Behl. She is the city clerk of Madison, Wisconsin, during the November 2020 elections and at the time a legislative subpoena was issued to and served upon her.

## JURISDICTION AND VENUE

4. This Court has jurisdiction over the parties pursuant to Wis. Stat. § 13.31.
5. This Court has jurisdiction over the parties pursuant to Wis. Stat. § 885.12.
6. Venue is proper in this court pursuant to Wis. Stat. § 885.12 because the subpoena was to be returned and the deposition was to be attended in Waukesha County.

## COMPLIANCE WITH WIS. STAT. § 802.01(2)(B)

7. A copy of the documents appointing Michael Gableman as Special Counsel are attached as exhibit one.
8. A copy of the legislative subpoena issued to Eric Genrich is attached as exhibit two.
9. A copy of the legislative subpoena issued to Maribeth Witzel-Behl is attached as exhibit three.
10. A certificate of non-appearance for Eric Genrich is attached as exhibit four.
11. An affidavit of Nicholas Morgan memorializing the failure of Maribeth Witzel-Behl to comply with the subpoena or attend the deposition is attached as exhibit five.

## FACTS

12. Michael Gableman was appointed Special Counsel by the Assembly on **DATE**. See Ex. 1.
13. Pursuant to his appointment, he is to conduct legislative oversight and investigation into Wisconsin elections, including the 2020 elections.
14. As a result of the legislative investigation process, the Special Counsel sought information relating to Madison and Green Bay's election administration that was subject to legislative review.
15. The Special Counsel issued a subpoena *duces tecum* to Eric Genrich pursuant to

Wis. Stat. § 13.31. *See* Ex. Two. Pleading further, this subpoena *duces tecum* was for the production of documents and testimony by deposition in Waukesha County on **DATE**. *Id.*

16. The Special Counsel issued a subpoena *duces tecum* to Maribeth Witzel-Behl pursuant to Wis. Stat. § 13.31. *See* Ex. Three. Pleading further, this subpoena *duces tecum* was for the production of documents and testimony by deposition in Waukesha County on **DATE**. *Id.*

17. That on **DATE**, Eric Genrich failed to object to the subpoena, produce documents, or appear and give testimony. *See* Ex. 5.

18. That on **DATE**, Maribeth Witzel-Behl failed to object to the subpoena, produce documents, or appear and give testimony. *See* Ex. 6.

#### **CAUSE OF ACTION AND REQUESTED RELIEF**

19. The circuit court in which a witness's attendance is required by legislative subpoena has the authority to enforce a legislative subpoena.

20. The Special Counsel moves the court to enforce the legislative subpoena *duces tecum* issued to Eric Genrich by compelling him to provide the documents commanded by the subpoena and appear at a deposition on December 14, 2021, at 9:00 a.m.

21. In the alternative, the Special Counsel moves the court to order Eric Genrich to appear and show cause for his failure to attend the deposition or comply with the subpoena *duces tecum*.

22. The Special Counsel moves the court to enforce the legislative subpoena *duces tecum* issued to Maribeth Witzel-Behl by compelling her to provide the documents commanded by the subpoena and appear at a deposition on December 15, 2021, at 9:00 a.m.

23. In the alternative, the Special Counsel moves the court to order Maribeth Witzel-Behl to appear and show cause for her failure to attend the deposition or comply with the subpoena

*duces tecum.*

24. The State of Wisconsin has been damaged by the actions of Eric Genrich. These damages include attorney's fees and costs.

25. That Eric Genrich should be ordered to pay these fees and costs pursuant to Wis. Stat. § 885.11(1).

26. The State of Wisconsin has been damaged by the actions of Maribeth Witzel-Behl. These damages include attorney's fees and costs.

27. That Maribeth Witzel-Behl should be ordered to pay these fees and costs pursuant to Wis. Stat. § 885.11(1).

WHEREFORE the Special Counsel moves this honorable court to enforce the legislative subpoena, order the defendants to appear with commanded documents and give testimony, alternatively, to appear and show cause, and for all other just and proper relief to which he may be entitled.