

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOWN OF THORNAPPLE, WISCONSIN; ANGELA JOHNSON, RALPH C. KENYON, TOM ZELM, and JACK ZUPAN, in their official capacities as Town Clerk and Town Board Supervisors of the Town of Thornapple; TOWN OF LAWRENCE, WISCONSIN; CHARIDY LUDESCHER, BOB NAWROCKI, STACY ZIMMER, and DUANE BILLER, in their official capacities as Town Clerk and Town Board Supervisors of the Town of Lawrence; and STATE OF WISCONSIN,

Defendants.

Civil Case No. 3:24-cv-664

**UNITED STATES’
MEMORANDUM OF LAW IN
SUPPORT OF ITS MOTION FOR A
PRELIMINARY INJUNCTION**

**UNITED STATES’ MEMORANDUM OF LAW IN SUPPORT OF ITS
MOTION FOR A PRELIMINARY INJUNCTION**

Plaintiff United States of America (“United States”), pursuant to Rule 65 of the Federal Rules of Civil Procedure, respectfully moves this Court for an order granting immediate injunctive relief against the Town of Thornapple, Wisconsin (“Thornapple”), and Angela Johnson, Ralph C. Kenyon, Tom Zelm, and Jack Zupan, in their official capacities as Town Clerk and members of the Town Board of Thornapple (collectively, “Thornapple Defendants”), to remedy violations of the requirements of Section 301 of the Help America Vote Act of 2002 (“HAVA” or “Section 301”), 52 U.S.C. § 21081.

I. INTRODUCTION

Voters with disabilities¹ face manifold barriers to casting in-person paper ballots with the same degree of privacy and independence as other voters. Congress passed Section 301 in part to address that issue. This action arises from Defendants’ failures to comply with Section 301, which requires, among other things, that each voting system used in an election for federal office be accessible for voters with disabilities in a manner that provides “the same opportunity for access and participation . . . as for other voters,” including affording those voters the same opportunity for “privacy and independence.” 52 U.S.C. § 21081(a)(3)(A). Voting systems used in federal elections satisfy this requirement by making available “at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.” *Id.* § 21081(a)(3)(B).

¹ As used in this Memorandum, a “voter with a disability” refers generally to voters, including voters with vision, manual, learning, developmental, cognitive, and other disabilities, who, absent access to an accessible voting system, would not enjoy “the same opportunity for access and participation . . . as . . . other voters.” *See* 52 U.S.C. § 21081(a)(3)(A).

In 2023, the Town Board of Thornapple (“Thornapple Board”) voted to opt out of using the electronic voting machine that Thornapple had used in prior elections and which the Wisconsin Elections Commission had previously approved as compliant with Section 301. The Thornapple Board did not replace that machine with a voting system that is accessible for individuals with disabilities in the manner required by Section 301(a)(3). The Thornapple Board has taken no official action to reverse or reconsider its decision to stop use of that machine. As a result, the Thornapple Defendants violated Section 301 of HAVA by failing to provide HAVA-compliant accessible voting systems during the subsequent federal primary elections held in April and August 2024. Absent preliminary relief, the Thornapple Defendants are poised again to deny voters with disabilities their right to vote privately and independently in the November 5, 2024, federal general election.

Preliminary relief is appropriate here. First, the undisputed facts establish that Thornapple failed to provide HAVA-compliant voting systems during two consecutive federal elections, and so the United States is substantially likely to prevail on the merits of its HAVA claim. Second, absent immediate injunctive relief, voters with disabilities are at risk of suffering the irreparable harm of either disenfranchisement or the denial of their right to participate on the same grounds as other voters in the November 5, 2024, federal general election. Finally, the preliminary relief sought would impose no undue burden upon Thornapple Defendants, especially when balanced against that acute harm of disenfranchisement. Indeed, Thornapple has previously used a HAVA-compliant accessible voting system; Thornapple simply refuses to use it now. Accordingly, to ensure that all eligible Thornapple voters with disabilities can exercise their right to vote using accessible voting systems in the November 5, 2024, general election, the United States respectfully moves this Court for a preliminary injunction.

II. BACKGROUND

A. Statutory Background

The Help America Vote Act of 2002, 52 U.S.C. §§ 20901-21145, establishes minimum standards for states to follow in key aspects of election administration in federal elections, including voting systems, voter registration databases, and provisional ballots. Title III of HAVA directs state officials to, among other things, adhere to certain minimum standards in the conduct of federal elections.

Specifically, Section 301 directs state officials to meet certain general requirements for voting systems used in elections for federal office. 52 U.S.C. § 21081(a). As defined by HAVA, a “voting system” includes the “total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used . . . to cast and count votes” *Id.* § 21081(b)(1)(B).

Section 301 also requires that each voting system used in an election for federal office “be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.” 52 U.S.C. § 21081(a)(3)(A). To satisfy this requirement, any voting system in use on or after January 1, 2006, must include “at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.”² *Id.* § 21081(a)(3)(B), (d).

² A “direct recording electronic voting system” (DRE) is one of a nonexclusive list of three voting systems explicitly contemplated by HAVA. *See* 52 U.S.C. § 21081(a)(1)(A) (setting out requirements for “voting system[s] . . . including any lever voting system, optical scanning voting system, or direct recording electronic system”). HAVA does not explicitly define DRE, optical scanning, or any other voting system. The Wisconsin Elections Commission, however, describes the ImageCast Evolution

The requirements of Section 301(a)(3) apply to all jurisdictions conducting a federal election, regardless of the size of the jurisdiction or whether voters with disabilities identify themselves as such at their polling places. *See id.* § 21081(a)(3)(A)-(B), (d).

B. Factual Background

1. The Thornapple Board’s Decision To Stop Use of Its Electronic Voting Machine

On June 13, 2023, the Thornapple Board voted to “stop use of the electronic voting machine and use paper ballots.” United States’ Proposed Statement of Record Facts in Support of Its Motion for a Preliminary Injunction (PSRF) ¶¶ 23, 33. Thornapple had in prior elections used a Dominion ImageCast Evolution (“ImageCast Evolution”) combination “tabulator and . . . ballot marking device,” which had been approved by the Wisconsin Elections Commission for use as part of a HAVA-compliant accessible voting system. *Id.* ¶¶ 14-17, 22. The Dominion Voting Democracy Suite 5.5-C, of which the ImageCast Evolution is a component, has been certified by the United States Elections Assistance Commission as meeting an identified set of federal voting system standards, including those regarding accessibility.³ *Id.* ¶¶ 12-13.

previously used by Thornapple to serve as both an “optical scan” “tabulator” and as a “ballot marking device.” PSRF ¶ 17.

Voting via an “optical scan” system is a two-step process. First, a voter uses a pen or pencil “to fill in a bubble or arrow by the name of the candidate [they] wish[] to vote for.” *Wexler v. Anderson*, 452 F.3d 1226, 1228 (11th Cir. 2006). Then, when the ballot is completed, the ballot is counted by being “run through an automatic tabulation machine.” *Id.* Ballot marking devices, which “are voting machines that electronically mark, and then physically print, the voter’s ballot,” are part of the first step of that process. *Nat’l Fed’n of the Blind, Inc. v. Lamone*, 438 F. Supp. 3d 510, 518 (D. Md. 2020). A ballot marking device like the ImageCast Evolution is an example of a “voting system equipped for individuals with disabilities at each polling place,” 52 U.S.C. § 21081(a)(3)(B), which a jurisdiction may make available to satisfy its responsibility under HAVA to provide a voting system “accessible for individuals with disabilities,” *id.* § 21081(a)(3)(A).

³ Once the ImageCast Evolution has tabulated a ballot, the ballot is deposited into a secure storage bin at the base of the machine. PSRF ¶ 18. When a voter uses the ImageCast Evolution’s ballot-marking functionality to complete their ballot, the marked ballot is returned to the voter for review. *Id.* ¶ 19. Only

Thornapple did not record any discussion in its June 13, 2023, meeting on whether or how it would, absent use of the ImageCast Evolution, satisfy HAVA's accessibility requirements. *Id.* ¶ 24.

2. April 2, 2024, Federal Primary Election

Thornapple has one polling location. *Id.* ¶ 21. During the April 2, 2024, federal primary election, and consistent with the Town Board's vote to stop using electronic voting machines, Thornapple failed to provide its previously-used accessible voting system at that polling place. *Id.* ¶¶ 22, 25-26. Instead, Thornapple provided paper ballots to voters as the sole means by which voters could record their choices. *Id.* ¶ 27.

3. Communications with Defendants

By letter dated May 7, 2024, the United States notified Thornapple that it had received reports that Thornapple lacked a HAVA-compliant accessible voting system during the April 2, 2024, federal primary election and requested additional information. *Id.* ¶ 28. That letter also informed Thornapple of HAVA's accessibility-related requirements. *Id.* ¶ 29. In response, Thornapple's Chief Election Inspector, Suzanne Pinnow, characterized the Town's June 13,

after the voter has had an opportunity to view the marked ballot is the ballot again inserted into the ImageCast Evolution to be tabulated and deposited into the secure storage bin. *Id.* The vote totals reported by the ImageCast Evolution can be verified against the actual cast ballots retrieved from the secure ballot box.

The vendor of the ImageCast Evolution offers devices that, when attached to the ImageCast Evolution, allow election results to be sent via encrypted, secure wireless transmission from the polling place to the election administrator's office. *Id.* ¶ 20. Use of that external device is optional, *id.*, and their use or non-use is not relevant to the HAVA violations at issue here. Neither Thornapple nor Lawrence use such devices to transmit election results, and the United States does not seek an order requiring the Towns to use wireless transmission for any purpose.

2023, vote as one to “opt out of using ‘voting machines or electronic voting systems’” and attached the minutes from that meeting. *Id.* ¶¶ 30-33.

On July 8, 2024, the United States informed the Thornapple Defendants that Thornapple’s failure to make available an accessible voting machine during the April 2024 federal primary violated HAVA. *Id.* ¶ 34.

4. August 13, 2024, Federal Primary Election

During the August 13, 2024, federal primary election—and despite the United States’ notification that failure to provide at least one accessible voting system in federal elections violates HAVA—Thornapple’s sole polling location again lacked HAVA-compliant accessible voting systems. *Id.* ¶¶ 35-37. The August primary is the second consecutive federal election in which Thornapple failed to comply with Section 301 of HAVA.

C. Procedural History

The United States filed this suit on September 20, 2024. *See* Complaint, ECF No. 1. The complaint alleged that the Thornapple Defendants violated Section 301 by failing to make an accessible voting system available to voters in the April 2, 2024, and August 13, 2024, federal primary elections. PSRF at ¶¶ 30-39, 46-48. The complaint also named the Town of Lawrence (“Lawrence”) and, in their official capacities, Lawrence Town Clerk Charidy Ludescher and Lawrence Town Board members Bob Nawrocki, Stacy Zimmer, and Duane Biller (collectively, “Lawrence Defendants”). *Id.* at ¶¶ 10-14. The complaint alleged that, following a January 16, 2023, vote by the Town Board of Lawrence to stop using its electronic voting machine in elections, Lawrence violated Section 301 by failing to make an accessible voting system available to voters in the April 2, 2024, federal primary election. *Id.* at ¶¶ 40-45. The United States and the Lawrence Defendants resolved those allegations. On September 20, 2024, the

parties moved jointly for this Court to enter their agreement as a consent decree. *See* ECF No. 2. The United States thus moves this Court for preliminary relief as to the Thornapple Defendants only based on that Town’s prior deliberate HAVA violations and the likelihood of yet another HAVA violation in the November 5, 2024, federal general election. The United States does not believe preliminary relief against the State is justified at this time.

III. ARGUMENT

Plaintiffs seeking a preliminary injunction must show that “(1) they will suffer irreparable harm in the absence of an injunction, (2) traditional legal remedies are inadequate to remedy the harm, and (3) they have some likelihood of success on the merits.” *Camelot Banquet Rooms, Inc. v. U.S. Small Bus. Admin.*, 14 F.4th 624, 628 (7th Cir. 2021). “If the movant successfully makes this showing, the court must engage in a balancing analysis, to determine whether the balance of harm favors the moving party or whether the harm to other parties or the public sufficiently outweighs the movant’s interests.” *Whitaker By Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034, 1044 (7th Cir. 2017). This balancing process involves a “sliding scale” approach: the more likely the plaintiff is to win on the merits, the less the balance of harms needs to weigh in his favor, and vice versa. *Ty, Inc. v. Jones Grp., Inc.*, 237 F.3d 891, 895-96 (7th Cir. 2001). Because the United States has met all three threshold factors and the balancing analysis tips sharply in its favor, this Court should order preliminary relief.

A. The United States is Substantially Likely to Succeed on the Merits.

HAVA permits jurisdictions to use a range of voting systems for federal elections, but it requires that the voting system used “be accessible for individuals with disabilities” by using “at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.” 52 U.S.C. §§ 21081(a)(3)(A)-(B), 21085.

Every state and sub-jurisdiction in the United States must comply with Section 301 requirements when conducting an election for federal office. *Id.* § 21081(d). During federal elections in April and August 2024, the Thornapple Defendants violated Section 301 by failing to make available a voting system that was accessible for individuals with disabilities as required by Section 301 of HAVA.

That failure was not inadvertent. In 2023, the Thornapple Board voted to stop using the accessible voting machine that Thornapple had used in prior federal elections. PSRF ¶¶ 23, 33. As noted above, the ImageCast Evolution tabulator and ballot marking device that Thornapple had used in prior elections was approved by the Wisconsin Elections Commission for use as a HAVA-compliant accessible voting system. *Id.* ¶¶ 14-16, 22. But the Thornapple Board voted deliberately to stop using the ImageCast Evolution and instead use paper ballots as the sole means by which voters could mark and cast their ballots.

Paper ballots are not a method of voting that is accessible to voters with disabilities, including voters who have vision disabilities, manual disabilities, or other disabilities that make reading, marking, or handling a paper ballot difficult or impossible. *See Am. Ass'n of People with Disabilities v. Harris*, 647 F.3d 1093, 1096 & n.3 (11th Cir. 2011) (explaining that paper ballot-based voting systems do not “enable [voters with disabilities] to vote without the assistance of third parties” unless additional accessibility-related equipment is provided); *Am. Ass'n of People with Disabilities v. Shelley*, 324 F. Supp. 2d 1120, 1125 (C.D. Cal. 2004) (describing the capabilities of accessible voting systems); *Nat'l Fed. Of the Blind, Inc. v. Lamone*, No. RDB-14-1631, 2014 WL 4388342, at *6 (D. Md. Sept. 4, 2014) (finding that voters with disabilities could not complete paper absentee ballots “privately and independently”); 148 Cong. Rec. S10488-02 (2002) (statement of Sen. Christopher Dodd); *see also Cal. Council of the*

Blind v. County of Alameda, 985 F. Supp. 2d 1229, 1232 (N.D. Cal. 2013) (describing accessible voting machines required by federal law as those allowing a blind voter to use audio and tactile features “to privately and independently complete and submit a ballot”). Without an accessible voting system, such voters cannot cast a paper ballot without assistance. And, while voters with disabilities have a right to an assistor of their choice, *see* 52 U.S.C. § 10508, they also have a right to “accessible” voting systems “that provide[] the same opportunity for access and participation” as is provided to other voters, 52 U.S.C. § 21081(a)(3)(A). Because voters without disabilities may cast a ballot without assistance and in complete secrecy, voters with disabilities are only provided equal access when they are afforded, through the use of an accessible voting system, the ability to vote without assistance. *Id.* (requiring accessible voting systems to allow voters with disabilities to enjoy the same “privacy and independence” available to voters without disabilities).

As a direct result of the Thornapple Board’s official actions, Thornapple’s sole polling location lacked an accessible voting system during the April and August 2024 federal primary elections, including lacking any devices equipped to be accessible to individuals with disabilities “in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.” 52 U.S.C. § 21081(a)(3)(A); PSRF ¶¶ 21, 25-26, 35-36. Those failures violated Section 301.

As of the filing date of this motion, the Thornapple Board has taken no official action to reverse or reconsider its 2023 decision to deny voters the opportunity to use HAVA-compliant accessible voting systems in elections for federal office. Indeed, the Town deliberately failed to make an accessible voting system available for the August 2024 federal election—even after the United States informed Thornapple that its decision to withhold its electronic voting machines in

the April 2024 federal primary election violated HAVA. PSRF ¶ 34. Accordingly, absent injunctive relief, the Thornapple Defendants are poised again to violate Section 301 during the November 5, 2024, federal general election and beyond.

B. Thornapple Voters Will Suffer Irreparable Harm Absent Immediate Injunctive Relief.

Absent immediate injunctive relief to remedy Thornapple Defendants' HAVA violations, Thornapple voters with disabilities risk imminent disenfranchisement or the denial of their right to participate on the same grounds as other voters during the November 5, 2024, federal general election. The right to vote is both "fundamental," *Bartlett v. Strickland*, 556 U.S. 1, 10 (2009), and "the essence of a democratic society," meaning that "any restrictions on that right strike at the heart of representative government," *Reynolds v. Sims*, 377 U.S. 533, 555 (1964). It is well settled that infringing on the fundamental right to vote constitutes an irreparable injury. *See, e.g., Jones v. Governor of Fla.*, 950 F.3d 795, 828-29 (11th Cir. 2020); *League of Women Voters of U.S. v. Newby*, 838 F.3d 1, 9, 12-13 (D.C. Cir. 2016); *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *see also Common Cause Ind. v. Lawson*, 327 F. Supp. 3d 1139, 1154 (S.D. Ind. 2018) (collecting cases).

The U.S. Centers for Disease Control and Prevention estimate that 1,275,864 adults in Wisconsin—or 28% of the State's population—have a disability. PSRF ¶ 9. Many of these individuals have disabilities that may make voting more difficult, including the 4% of Wisconsin's population living with serious vision impairments. *Id.* ¶ 10.

The ability to participate in elections on equal terms as other voters is therefore essential for voters with disabilities to access the franchise meaningfully. *See, e.g., Shelley*, 324 F. Supp. 2d at 1125. Voters with disabilities are significantly more likely than other voters to experience difficulties while voting, often due to the inaccessibility of election infrastructure. For example,

an audit run by the Wisconsin Elections Commission from 2022 to 2023 found an average of 5.9 accessibility problems per polling place, 44% of which were “high severity” problems, meaning they “would be likely to prevent a voter with a disability from entering a polling place and casting a ballot privately and independently.” PSRF ¶ 11. HAVA reflects Congress’s determination that accessibility for voters with disabilities is a vital national interest. To illustrate, one of HAVA’s sponsors stated that “[t]he accessibility standard for individuals with disabilities is perhaps one of the most important provisions of this legislation,” and “the purpose” is to ensure voters with disabilities “have an equal opportunity to cast a vote and have that vote counted, just as all other non-disabled Americans, with privacy and independence.” 148 Cong. Rec. S10488-02 (2002) (statement of Sen. Christopher Dodd). Moreover, any burden placed on voters with disabilities is likely to have a ripple effect, because “denial of equal access to the electoral process discourages future participation by voters.” *United States v. Berks County*, 250 F. Supp. 2d 525, 540 (E.D. Pa. 2003).

Nor does it matter whether Thornapple is aware of any voters with disabilities within the Town who require the use of an accessible voting system to vote privately and independently. There is no basis in the text of Section 301 for such a requirement. And Congress, in passing HAVA, explicitly addressed the possibility that a jurisdiction may “have no known disabled voters.” 148 Cong. Rec. S10488-02 (2002) (statement of Sen. Christopher Dodd). Congress determined that “[i]t is simply not acceptable that individuals with disabilities should have to hide in their homes and not participate with other Americans on election day simply because no one knows that they exist” and that it was “equally unacceptable to suggest that individuals with disabilities must come forward and declare their disability in order to participate in democracy through the polling place.” *Id.* Congress required every election-conducting jurisdiction subject

to HAVA to comply with Section 301’s requirements for exactly this reason: to avoid placing the burden on voters with disabilities to request that their election jurisdiction provide an accessible voting system.⁴

C. Traditional Legal Remedies Are Inadequate To Address Infringements On The Right To Vote.

The final threshold factor asks whether traditional legal remedies would be adequate. The United States seeks—and is entitled only to—declaratory and injunctive relief. Section 401 of HAVA authorizes the Attorney General to bring a civil action for declaratory and injunctive relief as may be necessary to enforce the mandates of Section 301. 52 U.S.C. § 21111. And even if the United States could sue for damages, infringement on the right to vote cannot be redressed by monetary damages. *See Democratic Nat’l Comm. v. Bostelmann*, 447 F. Supp. 3d 757, 770 (W.D. Wisc. 2020) (finding traditional legal remedies inadequate because infringement on the “constitutional right to vote cannot be redressed by money damages”); *League of Women Voters of N. Carolina v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) (“[O]nce the election occurs, there can be no do-over and no redress.”). The United States has satisfied all three threshold factors for preliminary relief.

D. Any Burden on Defendants is Minimal and Is Far Outweighed by the Risk of Harm to Voters with Disabilities.

Where, as here, a movant “is likely to win on the merits, the balance of harms need not weigh as heavily in [its] favor.” *Speech First, Inc. v. Killeen*, 968 F.3d 628, 637 (7th Cir. 2020) (citation omitted). Nevertheless, the balance of harms starkly favors the United States.

⁴ Congress’s decision here makes particular sense in light of the fluid nature of the voting electorate. Even if an election-conducting jurisdiction could know that no voter with a disability requiring the use of an accessible voting system was part of the jurisdiction’s electorate in a prior election, the jurisdiction cannot know whether a voter newly moving into the jurisdiction has, or if an existing voter will develop, a disability requiring the use of an accessible voting system.

The balancing process considers the public interest. *Speech First*, 968 F.3d at 637. The public has a clear interest in the enforcement of federal statutes that protect constitutional rights, including, and especially, voting rights. *United States v. Raines*, 362 U.S. 17, 27 (1960) (“there is the highest public interest in the due observance of all the constitutional guarantees, including those that bear the most directly on private rights”). Given the right to vote’s primacy in guaranteeing other freedoms, protecting this right “is without question in the public interest.” *NAACP v. Cortes*, 591 F. Supp. 2d 757, 767 (E.D. Pa. 2008); see *id.* (granting motion for preliminary injunction in voting rights case); *Williams v. Rhodes*, 393 U.S. 23, 30 (1968) (reiterating that the right to vote “rank[s] among our most precious freedoms”). And courts have recognized in other voting rights cases that both irreparable harm and the public’s interest in an injunction are presumed where the United States—rather than a private party—seeks injunctive relief pursuant to statute. See *United States v. Alabama*, No. 06-cv-392, 2006 WL 1598839, at *2 (M.D. Ala. 2006) (“[A]n examination of whether an injunction pursuant to a statute is in the public interest is unnecessary because Congress acts in the public’s interest.” (citations and internal quotation marks omitted)).

Granting a preliminary injunction in this case will also impose minimal hardship on the Thornapple Defendants. Appropriate remedial action would involve requiring the Thornapple Defendants to provide a HAVA-compliant accessible voting system for the November 5, 2024, federal general election. Thornapple did so in the past; it just *chooses* not to do so now. That decision must be reversed. The United States’ interest in protecting access to the franchise for all eligible voters and in prohibiting the use of voting practices that violate HAVA outweighs any burden placed on the Thornapple Defendants in complying with court-ordered relief.

IV. SCOPE OF RELIEF SOUGHT

The relief the United States seeks is appropriately tailored to remedy the Thornapple Defendants' violations of HAVA. The United States respectfully seeks an order: (1) requiring Thornapple Defendants to ensure that during the November 5, 2024, federal general election, every polling place in Thornapple has available at least one voting system equipped for individuals with disabilities as required by Section 301 of HAVA, and that that voting system is, for the full period that the polling place is required to be open under Wisconsin law, plugged into a functioning electrical outlet, turned on, and readily visible and accessible to voters; (2) requiring Thornapple Defendants to post signage prominently in every Thornapple polling place alerting voters that an accessible voting system is available for use; (3) requiring Thornapple Defendants to ensure that all appropriate election officers and officials in Thornapple receive appropriate training on how to implement HAVA-compliant accessible voting systems, update any relevant materials within their control, monitor compliance with Section 301 requirements, and take any other steps necessary to ensure the availability of at least one required accessible voting system in every polling place in Thornapple; (4) requiring Thornapple Defendants to permit a representative of the United States Department of Justice to enter any Thornapple polling place for the sole purpose of monitoring compliance with this Court's remedial order during the November 5, 2024, federal election; (5) requiring the Town Board of Thornapple to revoke its unlawful June 13, 2023, decision to "stop use of the electronic voting machine;" and (6) requiring the Thornapple Defendants to cooperate fully with the State of Wisconsin and any State agency's efforts to enforce State or federal law regarding the provision of accessible voting systems for use in elections.

V. CONCLUSION

For these reasons, the United States respectfully requests that the Court grant its motion for a preliminary injunction and enter the attached proposed Order granting immediate relief for the HAVA violations described herein.

Date: September 20, 2024

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