

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

WILLIAM FEEHAN,

Plaintiff,

v.

CASE NO. 2:20-cv-1771-PP

**WISCONSIN ELECTIONS COMMISSION,
and its members ANN S. JACOBS, MARK L.
THOMSEN, MARGE BOSTELMAN, JULIE
M. GLANCEY, DEAN KNUDSON, ROBERT
F. SPINDELL, JR., in their official capacities,
GOVERNOR TONY EVERS, in his official
capacity,**

Defendants.

**PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S MOTION
FOR SANCTIONS (ECF NO. 97)**

Plaintiff William Feehan, by and through undersigned counsel, respectfully requests that this Honorable Court enter an order pursuant to Civil L. R. 7(a), striking Defendant's Motion for Sanctions pursuant to 28 U.S.C. § 1927. ECF No. 97. Defendant's request for sanctions under 28 U.S.C. § 1927 is barred as a matter of law and should be struck because it is untimely and without jurisdiction.

Under controlling Seventh Circuit precedent, Defendant's motion must be denied because it was brought after all appeals were disposed. *See Overnite Transp. Co. v. Chi. Indus. Tire Co.*, 697 F.2d 789, 793-794 (7th Cir. 1983). This Court has neither jurisdiction nor authority to entertain Defendant's Motion for Sanctions.

Plaintiff commenced this action on December 1, 2020 and amended his complaint on

December 3, 2020. ECF Nos. 1, 9. The court dismissed the complaint pursuant to a motion to dismiss on December 9, 2020. ECF No. 83. Judgment was entered on December 10, 2020. ECF No. 85. Plaintiff filed a notice of appeal to the Seventh Circuit on December 10, 2020 and an amended appeal on December 15. ECF Nos. 84, 90. On February 1, 2021, the Seventh Circuit dismissed Plaintiff's appeal with instruction to vacate this Court's earlier decision as moot. ECF No. 95.

Defendant brought this motion on March 31, 2021, 112 days after the court's Order of Dismissal on December 9, 2020, and two months since the Seventh Circuit dismissed the appeal. Under these circumstances, Defendant's motion for sanctions is out of time and should be stricken or dismissed in its entirety. *Overnite Transp. Co.*, 697 F.2d at 793-794.

Defendant's motion is, in essence, a request that the Court conduct a review and issue a decision on the merits of Plaintiff's evidence without trial or evidentiary hearing. While the case was pending, Defendant aggressively opposed the Court hearing the evidence at all, much less deciding its merits. Now that the case is closed and the judgment vacated as moot, Defendant demands that the Court decide the merits of Plaintiff's evidence after all – not on the basis of the evidence itself, but on the basis of newspaper articles (several of which are unavailable because links to them are already down).

Defendant's request that the Court decide the merits of Plaintiff's evidence without hearing it affronts due process, common sense, and the very nature of the adversarial system itself. Therefore, should the court deny the instant motion to strike despite its untimeliness and the lack of jurisdiction or authority, Plaintiff requests the opportunity to brief the merits and is entitled to a plenary hearing on the merits of his evidence, and the Court should hold a conference to schedule further proceedings.

For these reasons and the reasons stated more fully in the Memorandum in Support, Plaintiff respectfully requests that this Court strike Defendant's Motion and deny Defendant's request for sanctions.

Respectfully submitted, this 8th day of April, 2021.

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