

Patrick Marley, “Republicans spend nearly \$2 million in taxpayer money to fight election lawsuits,” *Milwaukee Journal Sentinel*, October 15, 2020.

MADISON - Taxpayers have spent nearly \$2 million this year on lawyers hired by Republican legislators to fight election lawsuits, including ones aimed at making voting easier during the coronavirus pandemic.

In addition, taxpayers have spent more than \$400,000 on attorneys hired by Republicans to fight parts of Democratic Gov. Tony Evers’ COVID-19 response plan.

The costs are sure to climb because both legal battles are ongoing. Most attorneys are being paid \$500 an hour, but some are getting as much as \$820 an hour.

In all, Republican lawmakers have spent more than \$5 million over the last two years on private attorneys at taxpayer expense. The largest part of that amount — \$2.1 million — went toward defending lame-duck laws that limited Evers’ powers, according to bills released under the state’s public records law.

"It's fascinating to have small-government minded conservatives have a slush fund of money with no accountability for private lawyers. One might think that antithetical to their 'don't tread on me' flag that they're flying on the back of their trucks," said Democratic Rep. Evan Goyke of Milwaukee.

The Republicans have largely been successful in court. Courts have upheld most of the lame-duck laws, knocked down Evers’ stay-at-home order and kept in place most election laws. They blame the costs on Democrats and their allies for bringing many of the lawsuits.

Kit Beyer, a spokeswoman for Assembly Speaker Robin Vos of Rochester, said lawmakers have an obligation to defend state laws when they’re challenged in court.

"It would be easier and less expensive if the Evers administration worked with the Legislature and followed state law," she said in a statement.

Democrats have also hired private attorneys, but they’re spending less on them than Republicans are because much of the legal work is being done by Democratic Attorney General Josh Kaul, who is required to represent the state in most matters.

Not all of the legal fights have gone Republicans' way. For instance, the courts changed some voting rules for the April election for state Supreme Court because of the pandemic.

Republicans have hired seven firms to help them with various legal matters — Troutman Pepper; Husch Blackwell; Eimer Stahl; Baker Botts; von Briesen & Roper; Bell Giftos St. John; and Consvooy McCarthy Park.

Troutman and Husch Blackwell are getting the biggest share of the work.

The lead attorney with Troutman is Misha Tseytlin, who served as solicitor general under Republican Attorney General Brad Schimel. The job of state solicitor general no longer exists — Republicans eliminated the position under a provision of the lame-duck laws because they didn't want Kaul to name Tseytlin's successor.

The Republicans have been more active in court over the last two years because the governor and attorney general are Democrats and because parts of the lame-duck laws allow them to get involved in lawsuits more easily.

### **Election lawsuits**

Democrats, their allies and nonpartisan groups sued in the spring over how elections are being conducted during the pandemic. The courts loosened some rules for the April election, such as by allowing absentee ballots that were postmarked by Election Day to be counted even if election officials didn't receive them until after then.

But so far the courts have kept in place the state's usual voting rules for the Nov. 3 presidential election.

Republican lawmakers intervened in the cases to try to prevent changes to election laws. The firms working on those cases, as well as one over who should be on the state's voter rolls, have billed the state \$1.9 million so far, records show.

Those expenses will go up because the matter has been appealed to the U.S. Supreme Court.

### **Stay-at-home litigation**

Republican lawmakers sued Evers this spring over the stay-at-home order his administration imposed to try to prevent the spread of COVID-19. The state Supreme Court in May agreed with them and threw out the stay-at-home order.

That effort cost about \$414,000.

Other legal fights over Evers' COVID-19 response are ongoing. A group of conservatives has sued over his mask requirement and the Tavern League of Wisconsin has sued over an order limiting public gatherings.

Republican lawmakers filed a brief seeking to end the mask mandate, but so far have not gotten involved in the lawsuit over public gatherings. The mask requirement remains in place, but the capacity limits have been temporarily halted.

### **Veto lawsuit**

Republicans also weighed in on a lawsuit that challenged some of Evers' budget vetoes. Their lawyers charged taxpayers more than \$100,000 for that work.

The state Supreme Court in July threw out three of Evers' vetoes and upheld a fourth one.

### **Lame-duck lawsuits**

Taxpayers have spent about \$2.1 million on law firms hired by Republicans to defend the lame-duck laws that cut into the power of Evers and Kaul.

The courts have mostly upheld the lame-duck laws but tossed a provision that put restrictions on how government documents could be written. The litigation is ongoing, so costs will rise.

Firms hired by Evers spent more than \$500,000 as of late last year. More recent bills have not yet been released under the state's public records law.

Evers hired three firms — Pines Bach, Lawton & Cates and Gingras, Cates & Luebke — to represent him and two government agencies.

### **Open records lawsuits**

Rep. John Nygren, R-Marinette, spent nearly \$78,000 in taxpayer money to sue Evers under the state's open records law, according to the Legislative Fiscal Bureau. Evers settled the case and turned over the records.

Nearly \$40,000 has been spent to defend the Legislature from lawsuits filed against it under the open records law, including one brought by the Milwaukee Journal Sentinel and other news outlets seeking to find out about sexual harassment claims.

### **Act 10**

Republican lawmakers hired Troutman and Husch Blackwell last year to deal with a lawsuit over Act 10, the 2011 law that greatly limited collective bargaining for most public workers. That work has cost about \$266,000 so far.

A federal judge dismissed the case in April and it is now on appeal.

### **Environmental cases**

Last year GOP lawmakers retained Husch Blackwell to intervene in environmental cases because Kaul has sided with the environmentalists. Husch Blackwell's work on those issues has cost taxpayers about \$197,000.

### **Planned Parenthood suit**

Planned Parenthood of Wisconsin last year sued to try to overturn laws that prevent nurses from performing abortions and limit the ability of women to obtain medications that induce abortions.

Republican lawmakers sought to intervene in the case. A trial judge and appeals court rejected their effort, finding there was no evidence that Kaul wasn't adequately defending the laws.

Taxpayers have spent nearly \$120,000 on the lawyers Republicans hired in that case.

The lawmakers are represented in that case by Consovoy McCarthy Park, a boutique law firm in Virginia that also represents President Donald Trump to try to keep his financial records private.

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