

FILED

11-08-2023

CLERK OF WISCONSIN
SUPREME COURT

IN THE SUPREME COURT OF WISCONSIN

No. 2023AP1399

REBECCA CLARKE, RUBEN ANTHONY, TERRY DAWSON,
DANA GLASSTEIN, ANN GROVES-LLOYD, CARL HUJET, JERRY IVERSON,
TIA JOHNSON, ANGIE KIRST, SELIKA LAWTON, FABIAN MALDONADO,
ANNEMARIE MCCLELLAN, JAMES MCNETT, BRITTANY MURIELLO, ELA
JOOSTEN (PARI) SCHILS, NATHANIEL SLACK, MARY
SMITH-JOHNSON, DENISE SWEET AND GABRIELLE YOUNG,

Petitioners,

GOVERNOR TONY EVERS IN HIS OFFICIAL CAPACITY, NATHAN
ATKINSON, STEPHEN JOSEPH WRIGHT, GARY KRENZ, SARAH J.
HAMILTON, JEAN-LUC THIFFEAULT, SOMESH JHA, JOANNE KANE AND
LEAH DUDLEY,

Intervenors-Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION, DON MILLIS, ROBERT F.
SPINDELL, JR., MARK L. THOMSEN, ANN S. JACOBS, MARGE
BOSTELMANN, CARRIE RIEPL, IN THEIR OFFICIAL CAPACITIES AS
MEMBERS OF THE WISCONSIN ELECTIONS COMMISSION; MEAGAN
WOLFE IN HER OFFICIAL CAPACITY AS THE ADMINISTRATOR OF THE
WISCONSIN ELECTIONS COMMISSION; ANDRE JACQUE, TIM
CARPENTER, ROB HUTTON, CHRIS LARSON, DEVIN LEMAHIEU,
STEPHEN L. NASS, JOHN JAGLER, MARK SPREITZER, HOWARD
MARKLEIN, RACHAEL CABRAL-GUEVARA, VAN H. WANGGAARD, JESSE
L. JAMES, ROMAINE ROBERT QUINN, DIANNE H. HESSELBEIN, CORY
TOMCZYK, JEFF SMITH AND CHRIS KAPENGA IN THEIR OFFICIAL
CAPACITIES AS MEMBERS OF THE WISCONSIN SENATE,

Respondents,

WISCONSIN LEGISLATURE, BILLIE JOHNSON, CHRIS GOEBEL, ED
PERKINS, ERIC O'KEEFE, JOE SANFELIPPO, TERRY MOULTON,
ROBERT JENSEN, RON ZAHN, RUTH ELMER AND RUTH STRECK,

Intervenors-Respondents.

**MOTION OF LEGAL SCHOLARS FOR LEAVE TO FILE A NON-PARTY
AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONERS**

Robert Yablon
State Bar No. 1069983
State Democracy Research
Initiative, University of
Wisconsin Law School
975 Bascom Mall
Madison, WI 53706
robert.yablon@wisc.edu

Bryna Godar
State Bar No. 1136046
State Democracy Research
Initiative, University of
Wisconsin Law School
975 Bascom Mall
Madison, WI 53706
bryna.godar@wisc.edu
Telephone: (608) 262-4645

Counsel for Non-Party Legal Scholars

Through the undersigned counsel, seven legal scholars (collectively “Movants”) request permission pursuant to Wis. Stat. (Rule) § 809.19(7) to file the attached non-party *amicus curiae* brief in support of petitioners. In support of this motion, Movants submit the following:

1. This original action challenges the constitutionality of Wisconsin’s state legislative district boundaries, as adopted in *Johnson v. Wisconsin Elections Commission*, 2022 WI 19, 2401 Wis. 2d 198, 972 N.W.2d 559. This court granted the petition for original action on two grounds, namely whether the existing maps violate the contiguity requirements in the Wisconsin Constitution and whether adoption of the existing maps violated the Wisconsin Constitution’s separation of powers. It also asked parties to address what standards should guide the court in imposing a remedy if it rules that the existing maps do violate the Constitution. Court Order, *Clarke v. Wisconsin Elections Commission*, No. 2023AP1399-OA (Oct. 6, 2023).
2. Movants are legal scholars and nationally recognized experts in state constitutional law and election law, including redistricting. They have a professional interest in promoting a sound understanding of redistricting law and the Wisconsin Constitution.

3. Drawing on their research and expertise in the areas of state constitutional law and redistricting, Movants offer an important perspective distinct from all the parties. Their proposed non-party *amicus curiae* brief provides additional historical context and interpretation of the Wisconsin Constitution and its separation-of-powers principles.
4. Movants' proposed brief, attached, argues (1) that the Wisconsin Constitution's bedrock democratic commitments should inform this court's analysis on the merits and in determining an appropriate remedy; (2) that Wisconsin separation-of-powers principles call for new legislative maps because the existing maps do not reflect a constitutionally sound allocation of legislative, executive, and judicial power; and (3) that remedial maps from this court should prioritize the principles of political neutrality and majority rule.
5. This motion is timely, filed in the time period for non-party briefs as prescribed by this Court's Order of October 6, 2023.

WHEREFORE, Movants respectfully request that the Court grant this motion and accept the attached *amicus curiae* brief.

Dated this 8th day of November, 2023.

Respectfully submitted,

Electronically Signed By

Bryna Godar

Robert Yablon
State Bar No. 1069983
State Democracy Research
Initiative, University of
Wisconsin Law School
975 Bascom Mall
Madison, WI 53706
robert.yablon@wisc.edu

Bryna Godar
State Bar No. 1136046
State Democracy Research
Initiative, University of
Wisconsin Law School
975 Bascom Mall
Madison, WI 53706
bryna.godar@wisc.edu
Telephone: (608) 262-4645

Counsel for Non-Party Legal Scholars