

**FILED
11-08-2023
CLERK OF WISCONSIN
SUPREME COURT**

No. 2023AP1399-OA

IN THE SUPREME COURT OF WISCONSIN

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 ELECTION 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 FOR LEAVE TO FILE A NON-PARTY BRIEF

THE COALITION ON LEAD EMERGENCY (“COLE”) hereby moves the Court pursuant to Wis. Stat. § 809.19(7) for permission to file a non-party brief as an *amicus curiae* in the above-captioned matter. The grounds for the motion are as follows:

1. COLE is a Wisconsin unincorporated association whose mission is to prevent and respond to lead poisoning in Milwaukee through partnerships with families impacted by lead poisoning, faith leaders, neighborhood-based organizations, environmentalists, health care systems, academics, workforce development providers, non-profits, community activists and dedicated volunteers.

2. COLE’s advocacy is guided by its members who are the parents of lead-poisoned children (“COLE Parents”). Most COLE Parents are Black mothers living and working in historically redlined and disinvested neighborhoods on the Northside of Milwaukee.

3. The historical and current characteristics of these Northside communities directly bear on the disproportionate and high rates of lead-poisoned kids who grow up there. Lead poisoning corresponds to poorly maintained housing stock, low rates of homeownership and aging water infrastructure.

4. COLE Parents have advocated at the city, state and federal levels for policies to end the lead poisoning of Milwaukee children.

5. The proposed non-party brief addresses the third question in the Court's October 6, 2023 order: What standards should guide the Court in imposing a remedy for constitutional violation(s)?

6. The proposed brief is desirable because it provides the Court with a real-world perspective from a historically marginalized group on why any remedial map must avoid partisan bias, why a "least change" approach should not be used, and why any new maps should promote legislative democracy for all Wisconsinites.

7. The proposed brief describes COLE Parents' experiences of being systematically disempowered by legislative maps that have a partisan bias. COLE Parents' experiences of political disempowerment are particularly noteworthy because the partisan bias in Wisconsin's legislative maps has a strong geographical relationship with the root causes of lead poisoning—the very policy issue COLE Parents are concerned about. The brief will explain how partisan bias has retrenched the negative effects of lead poisoning because the communities that have borne the historic harm of redlining and disinvestment – and now, the ongoing harm of high rates of childhood lead poisoning – have been denied fair opportunities to advocate for policies to end lead poisoning.

8. Based on COLE Parents' experiences, the proposed brief argues that maps with partisan bias generally prevent the mitigation of geographically disparate environmental injustices contrary to Article I, sections 1 and 22 of the Wisconsin Constitution. It also argues that a “least change” approach should

not be employed and the goal of redistricting should be “achieving . . . fair and effective representation for all citizens.” *Gaffney v. Cummings*, 412 U.S. 735, 748 (1973) (quoting *Reynolds v. Sims*, 377 U.S. 533, 565–66 (1964)).

Respectfully submitted this 8th day of November 2023.

Electronically signed by Tony Wilkin Gibart

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