STATE OF WISCONSIN

IN SUPREME COURT

No. 2023AP1399-OA

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,

Intervenor-Respondents.

GOVERNOR TONY EVERS' OPPOSITION TO INTERVENORS-RESPONDENTS' MOTION FOR RECONSIDERATION

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TABLE OF CONTENTS

INTRODUCTION 5
BACKGROUND 7
STANDARD OF REVIEW 11
I. Reconsideration. 11
II. Due Process. 11
ARGUMENT 12
I. This Court's schedule leaves the Legislature ample time to adopt its own maps. 12
II. The Court's proceedings honor federal due process guarantees. 16
A. The Court's remedial proceedings provide fair, reliable, and adequate process. 17
B. There is no evidence that this matter was pre-decided. 23
C. The Court's partisan impact analysis complies with due process. 26
III. Respondents' arguments regarding the scope of anticipated remedy here are speculative and unsupported. 29
IV. This Court's Remedial Order provides sufficient time for the Legislature or this Court to act. 31
CONCLUSION 33

INTRODUCTION

Intervenor-Respondents' Motion for Reconsideration is nothing more than an attempt to rehash and reframe arguments they lost in this Court's well-reasoned December 22, 2023, Decision and Remedial Order of the same day.[1] Respondents[2] do not identify any new evidence or manifest error of law or fact in this Court's rejection of their arguments, as is required to support a Motion for Reconsideration. But even putting aside the standard governing this Motion, Respondents' arguments are meritless. And there is no support for their various attempts to cast their losses as federal due process violations.

Respondents first argue that the Legislature must be given a reasonable opportunity to redistrict. But it has been. It can call itself into extraordinary session any time it wishes. And it has regularly accomplished at least as much as it is called to do here, in less time. Next, Respondents contend that this Court's schedule and procedures do not comply with due process, ignoring that the schedule is comparable to, if not more forgiving than, that in *Johnson v. Wisconsin Elections Comm'n*, No. 2021AP1450-OA, just two years ago, and the procedures in this matter are even more extensive.

Then, Respondents assert that this Court prejudged this matter. Their "evidence"—that the Court decided quickly and did not expressly address each and every one of Respondents' arguments—is insufficient to raise even a

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[1] This Opposition will refer to Intervenor-Respondents' Motion for Reconsideration as the Motion (Mot.), and their Memorandum in Support of that Motion as the Memorandum (Mem.). It will also refer to this Court's December 22, 2023, Decision as the Decision and its December 22, 2023, Remedial Order as the Remedial Order.

[2] References to Respondents do not include the five Democratic Senator Respondents.

reasonable concern of prejudgment, let alone provide meaningful support for their allegation. As to Respondents' assertion that they lack sufficient notice of how this Court will approach partisan impact, that argument fails on even the most superficial review of this Court's discussion of the factor. And, finally, they argue that there is not enough time for the Court to decide this matter before the election. The Wisconsin Elections Commission, which administers Wisconsin elections, identifies no problems with the Court's timeline.

Tellingly, Respondents consistently fail to address the standards for the relief they seek. Those standards require consideration of the weighty public interests here. On that side of the balance are the interests of Wisconsin voters to vote in elections that comply with the Wisconsin Constitution and be represented in constitutional districts. Respondents ignore these vital interests completely. They also consistently, and without a shred of evidence, charge this Court and their opponents with acting in bad faith and seeking partisan advantage. But this Court's Decision and Remedial Order merely ensure maps that comply with the Wisconsin Constitution and this Court's institutional role. The Court is not "rebalancing" a partisan interest, Mem. at 56, but rather ensuring that it does not advance one. At base, Respondents' arguments make plain that it is *they* who are attempting to obtain (or maintain) a partisan advantage.

This Court's Decision and Remedial Order appropriately honor Wisconsin law, federal due process, and the private and public interests at issue. The Court should deny the Motion to Reconsider and decline to issue a stay of proceedings.

BACKGROUND

This litigation is a challenge to the state legislative districts adopted by the Court in the *Johnson* litigation. There, Justice Rebecca Bradley correctly observed that, "[f]undamentally, this court has a duty to resolve redistricting disputes." Order at 13, *Johnson v. Wis. Elections Comm'n*, No. 2021AP1450-OA (Sept. 22, 2021) (Grassl Bradley, J., concurring). As a result, it is "beyond question that the court has the power to declare a legislative plan constitutional or unconstitutional," and "on a legal finding of unconstitutionality, to draw lines and exercise its constitutional function of equal representation." *Id.* (quotation marks omitted). Because "[e]lections are the foundation of American government and their integrity is of such monumental importance," "any threat to their validity should trigger not only [the Court's] concern but [its] *prompt action*." *Id.* (emphasis added) (citation omitted).

The current litigation reflects exactly those principles. On August 2, 2023, a group of individual voters filed a petition for an original action in this Court arguing that Wisconsin's legislative districts violate the Wisconsin Constitution. The Legislature sought leave to intervene, which the Court granted, and opposed the petition. The Court granted Petitioners' request for leave on four issues—two questions concerning the Wisconsin Constitution and two remedy-related questions[3]—and set an expedited but reasonable

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[3] 1.) Do the existing state legislative maps violate the contiguity requirements contained in Article IV, Sections 4 and 5 of the Wisconsin Constitution?

2.) Did the adoption of the existing state legislative maps violate the Wisconsin Constitution's separation of powers?

3.) If the court rules that Wisconsin's existing state legislative maps violate the Wisconsin Constitution for either or

briefing schedule, in keeping with its approach in *Johnson* and based on the deadlines noted by the Wisconsin Elections Commission. Oct. 6, 2023, Order at 4.

This Court's October 6, 2023, Order gave the parties ten days to file opening briefs on the constitutional and remedial issues and 14 days after submission of initial briefs to file response briefs. *Id*. And although the Court stated that "requests for additional briefing or extensions will be viewed with disfavor," *id.* at 5, the Court did not prohibit either. While no party moved for an extension or sought additional briefing on the constitutional and remedial issues, the Legislature submitted a "supplemental authority letter" identifying a 1954 case omitted from its opening and response brief.[4] It also submitted what it styled a "Motion to Dismiss," raising issues of standing, laches, preclusion, estoppel, and stare decisis, many of which the Court had already decided in granting leave to file the petition for original action.

After holding oral argument on November 21, 2023, the Court issued a well-reasoned Decision concluding that Wisconsin's legislative districts violate the contiguity

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both of these reasons and the legislature and the governor then fail to adopt state legislative maps that comply with the Wisconsin Constitution, what standards should guide the court in imposing a remedy for the constitutional violation(s)?

4.) What fact-finding, if any, will be required if the court determines there is a constitutional violation based on the contiguity clauses and/or the separation-of-powers doctrine and the court is required to craft a remedy for the violation? If fact-finding will be required, what process should be used to resolve questions of fact?

Oct. 6, 2023, Order at 4.

[4] For comparison, in the *Johnson* litigation, the Court provided the parties with 11 days to file opening briefs regarding remedial issues and seven days to file response briefs. Order at 2, *Johnson v. Wis. Elections Comm'n*, No. 2021AP1450-OA (Oct. 14, 2021).

requirement of the Wisconsin Constitution, Decision ¶ 3, rejecting the arguments set out in Respondents' motion to dismiss, *id.* ¶ 36, and setting basic parameters for the remedial phase, *id.* ¶¶ 64-68. Under the Court's Decision, remedial maps (1) must comply with population equality requirements, (2) must meet the basic requirements set out in Article IV of the Wisconsin Constitution, and (3) must comply with all applicable federal law. Decision ¶¶ 64-67. The Court also noted it would consider other traditional districting criteria, such as communities of interest and reducing municipal splits, and would "take care to avoid selecting remedial maps designed to advantage one political party over another." *Id.* ¶¶ 68-71. The Court's Decision and Remedial Order came 53 days after submission of response briefs and 31 days after oral argument.[5]

Issued at the same time as its Decision, the Court's Remedial Order set a schedule allowing three weeks for the submission of proposed redistricting plans, expert reports, and supporting opening briefs, as well as another ten days for responses. Remedial Order at 2-3.[6]

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[5] In *Johnson*, the Court issued its decision on the methodology for selecting new redistricting plans 29 days after the parties submitted their response briefs. *See Johnson v. Wis. Elections Comm'n*, 2021 WI 87, 399 Wis. 2d 623, 967 N.W.2d 469 (*Johnson I*).

[6] In *Johnson*, parties had 15 days to submit proposed redistricting plans and supporting documents and 15 days for responses after submission of proposed redistricting plans. *See* Order at 1-2, *Johnson v. Wis. Elections Comm'n*, No. 2021AP1450-OA (Nov. 17, 2021).

Additionally, the Decision explicitly allowed for the possibility of enactment of new districts through the legislative process. The Court stated that:

> [B]oth the legislative process (should there be one) and our process will proceed concurrently. This will allow the court to adopt remedial legislative maps in time for the upcoming elections if legislation creating remedial maps is not enacted.

Decision ¶ 76. Thus, the political branches have at least as much time as this Court to redistrict before the April 15, 2024, beginning of the petition circulation process.[7]

Further, the Court here has adopted institutional safeguards beyond those utilized in *Johnson*: the appointment of two redistricting experts, Dr. Bernard Grofman and Dr. Jonathan Cervas, to serve as the Court's consultants. Remedial Order at 1. In *Johnson*, the Court was forced to evaluate the maps without the benefit of independent consultants, and, in the end, it chose the last "remaining option" among the "maps [it] received." *Johnson v. Wisconsin Elections Comm'n*, 2022 WI 19, ¶¶ 154-55, 401 Wis.2d 198, 972 N.W.2d 559 (Hagedorn, J., concurring). The appointment of Drs. Grofman and Cervas in this litigation therefore provides the Court with both independent expertise and flexibility it did not have in *Johnson*. Its independent consultants will submit a report evaluating the proposed maps, and those consultants may either "suggest technical corrections or minor changes to the parties' submissions as required," or, if none of the submissions meet the criteria the

[7] In *Johnson*, the Court's remedial order merely stated that "[t]his order provides scheduling expectations for the parties in the event new maps are not enacted into law, and it becomes necessary for this court to award judicial relief" in 13 days. Order at 1, *Johnson v. Wis. Elections Comm'n*, No. 2021AP1450-OA (Nov. 17, 2021).

Court has identified, they may "submit their own proposed remedial map." Remedial Order at 4.

Drs. Grofman and Cervas are due to file a written report by February 1, 2024, with the parties' deadline to respond set for February 8, 2024. *Id.* at 3-4. Based on that schedule, the litigation will almost certainly conclude well before the March 15, 2024, timeline set by the Wisconsin Elections Commission (WEC) for finalization of legislative districts in advance of the April 15, 2024 beginning of the petition circulation process. *See* Response of Wisconsin Elections Commission to Court Order of October 6, 2023, at 3.

STANDARD OF REVIEW

I. Reconsideration

"To succeed, a reconsideration movant must either present newly discovered evidence or establish a manifest error of law or fact." *Bauer v. Wis. Energy Corp.*, 2022 WI 11, ¶ 13, 400 Wis. 2d 592, 970 N.W.2d 243 (quotation marks omitted).[8] "[A] manifest error must be more than disappointment or umbrage with the ruling; it requires a heightened showing of wholesale disregard, misapplication, or failure to recognize controlling precedent." *Id.* (quotation marks and citation omitted). Thus, a motion for reconsideration "is not intended to be an opportunity to reargue issues already argued and considered." Michael S. Heffernan, *Appellate Practice and Procedure in Wisconsin* § 22.4 (2014).

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[8] The Legislature ignores *Bauer* and instead cites only to the discussion of motions for reconsideration in the Court's Internal Operating Procedures. *See* Mem. at 18. But the Internal Operating Procedures "are not rules. They do not purport to limit or describe in binding fashion the powers or duties of any Supreme Court personnel. These internal operating procedures are merely descriptive of how the court currently functions." Introduction, Wis. S.Ct. IOP.

II. Due process

The U.S. Supreme Court has repeatedly stressed that procedural due process is context-dependent and that it "'calls for such procedural protections as the particular situation demands.'" *Jennings v. Rodriguez*, 583 U.S. 281, 314 (2018) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)). In reviewing whether procedural protections comply with due process requirements, the U.S. Supreme Court has therefore "declined to establish rigid rules and instead ha[s] embraced a framework to evaluate the sufficiency of particular procedures," tailored to the particular context. *Wilkinson v. Austin*, 545 U.S. 209, 224 (2005).

The framework requires considering "three distinct factors:" (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* (quoting *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). As to the third factor, courts consider not only the "administrative burden" but also "other societal costs." *Mathews*, 424 U.S. at 347.

ARGUMENT

I. This Court's schedule leaves the Legislature ample time to adopt its own maps.

Both the calendar and the Legislature's past practice show that it has ample opportunity to adopt its own maps. Under the remedial schedule, the Legislature has more than two months to do so. *See* Response of Wisconsin Elections Commission to Court Order of October 6, 2023, at 2. It could do so through currently scheduled floor periods in

January, February, and early March. Wis. Leg., 2023 *Floor Period Calendar*, https://docs.legis.wisconsin.gov/document/sessioncalendar/2023/floor_period_calendar.pdf. Or, if more time is necessary, it can call itself into extraordinary session any time it wishes. *See League of Women Voters of Wisconsin v. Evers*, 2019 WI 75, ¶ 2, Wis. 2d 511, 929 N.W.2d 209. The Legislature's failure to do so undercuts Respondents' solicitude for the Legislature's calendar.

Respondents' concern is also inconsistent with the Legislature's recent history, which demonstrates the reasonableness of the Court's timeline. Respondents themselves point to the Legislature's last redistricting process, which "entailed public hearings, a public portal, committee debates, and floor debates," asserting that it shows there is "no time" to attempt to comply with the Court's timetable. Mem. at 25. Contrary to the Legislature's argument, the redistricting bill that resulted, SB 621, was introduced Oct. 20, 2021, passed in 22 days, and was vetoed one week later, roughly a month after its introduction. *See* S.B. 621, 2021-22 Session (Wis. 2021); *Johnson I*, 399 Wis. 2d 623, ¶ 17. And in 2011, a legislative redistricting act was passed in nine days. *See* S.B. 148, 2011-12 Session (Wis. 2011); *Baldus v. Members of Wisconsin Gov't Accountability Bd.*, 849 F. Supp. 2d 840, 846 (E.D. Wis. 2012).

Indeed, the Legislature regularly uses short extraordinary sessions to accomplish at least as much as it is called to undertake here. For example, in November 2018, the Legislature called an extraordinary session lasting under two months, including the Christmas holiday and New Year. *See* 2019 Senate Journal of Wisconsin 1015 (Jan. 7, 2019), https://docs.legis.wisconsin.gov/2017/related/journals/senate/20190107eno8. During that session, it passed "three sweeping bills that limited the powers of the governor and the attorney general and included provisions related to early voting, agency guidance documents, online sales tax revenue, and

federal transportation funding, among other things," and still had time to confirm more than 80 nominees. Wisconsin Blue Book, at 446, *Extraordinary Sessions of the Wisconsin Legislature* (2023-24) https://docs.legis.wisconsin.gov/misc/lrb/blue_book/2023_2024/150_extraordinary_sessions.pdf; *League of Women Voters of Wisconsin v. Evers*, 387 Wis. 2d 511, 522-23, 929 N.W.2d 209. Similarly, in a 1998 extraordinary session, the Legislature considered 116 bills and passed nearly 100. Wisconsin Blue Book, at 445, *Extraordinary Sessions of the Wisconsin Legislature* (2023-24) https://docs.legis.wisconsin.gov/misc/lrb/blue_book/2023_2024/150_extraordinary_sessions.pdf.

The Legislature also often moves quickly in regular session when it wants to. This legislative session, Senate Joint Resolution 4, calling for an advisory referendum, was adopted in less than a week. 2023 Wis. S.J. Res. 4, https://docs.legis.wisconsin.gov/2023/proposals/sjr4. Similarly, Senate Joint Resolution 2, submitting a proposed amendment to the Wisconsin Constitution to voters, was introduced on January 5, 2023, and enrolled on January 19, 2023. 2023 Wis. S.J. Res. 2, https://docs.legis.wisconsin.gov/2023/proposals/sjr2. In both cases, the Legislature moved quickly based on a pending election deadline.

As to the argument that courts generally provide more time to the Legislature, while some courts have given the Legislature more time to redistrict than this Court has, other courts have allowed even less time. *See*, *e.g.*, *League of Women Voters of Pennsylvania v. Commonwealth*, 644 Pa. 287, 290, 175 A.3d 282 (2018) (giving legislature 18 days to enact new plan); *Neiman v. LaRose*, 169 Ohio St. 3d 565, 583, 207 N.E.3d 607, *cert. granted, judgment vacated on other grounds sub nom. Huffman v. Neiman*, 143 S. Ct. 2687, 216 L. Ed. 2d 1253 (2023) (giving legislature 30 days to enact new plan); *Singleton v. Allen*, No. 21-1291, 2023 WL 5014089, at *2 (N.D. Ala. Aug. 6, 2023) (describing legislature's 30 day window to

enact new plan after U.S. Supreme Court remand); Order, *Carter v. Chapman*, No. 464 M.D. 2021 (Pa. Dec. 20, 2021) (giving legislature 41 days to enact new plan, spanning Christmas and New Year).

As these examples show, the timelines set out by the Court are consistent with nationwide practice. Redistricting and election litigation are routinely expedited. This makes sense; where possible, courts ensure that elections comply with constitutional constraints and voters are not trapped in unconstitutional districts. Here, the calendar and past practice show that there is no compelling reason to extend the schedule at the expense of Wisconsin's citizens.

For the same reason, Respondents' "policy" considerations do not move the needle. At base, Respondents maintain that citizens should be subjected to unconstitutional representation based on nothing more than their groundless assertion that the Legislature does not have time to act. This assertion is especially unpersuasive given that the Legislature has repeatedly demonstrated that it can take quick action under similar circumstances—but has so far shown no will to do so here. And the Legislature's forecast that the Governor will simply run the clock on any maps it offers is profoundly mistaken. *See* Mem. at 21. The Governor is committed to considering in good faith any map offered by the Legislature. His sole commitment is to fair maps, from whatever quarter they originate.

Fundamentally, this Court has not "shut . . . the Legislature" out of redistricting. Mem. at 31. Far from setting off a footrace, the Court is ensuring that, "'should the other arms of our state government be unable to resolve their differences and adopt a valid plan," it does not "'abdicate [its] power to draft and execute a final plan of apportionment'" that complies with the Wisconsin Constitution. Decision ¶ 58 (quoting *State ex rel. Reynolds v. Zimmerman*, 22 Wis. 2d 544, 571, 126 N.W.2d 551, 566 (1964)). As this Court put it in

Jensen, "the legislature, *as a legislature*, can act more rapidly and respond to the exigencies of the situation." *Jensen v. Wis. Elections Bd.*, 2002 WI 13, ¶ 22, 249 Wis. 2d 706, 639 N.W.2d 537. There, too, "[t]he legislature [had] it within its power, if not its present will, to draft a redistricting plan," and, like the Court here, the *Jensen* Court "urge[d] it to summon the will and do so forthwith." *Id.* at ¶ 23. Instead—underscoring the wisdom of this Court's course—the Legislature has apparently spent its time pursuing this Motion.

II. The Court's proceedings honor federal due process guarantees.

Respondents do not attempt to provide a meaningful due process analysis, offering in its place a litany of complaints and speculation. Their arguments fail. They object to the Remedial Order's time frame and process but do not cite any relevant case law or articulate the basic standard governing a procedural due process claim, much less show that it is satisfied. Then, they argue that this matter was prejudged, but they both ignore this Court's well-reasoned responses to their arguments and fail to offer any meaningful support for their claim.[9] Finally, they predict that this Court's ultimate order on partisan impact will impose a retroactive standard on them, despite this Court's clear articulation of the standard, the underpinnings and institutional purpose of the standard, and the interplay between that standard and other redistricting factors.

[9] Respondents' incorporation by reference of their objections regarding Justice Protasiewicz's participation in this matter does not purport to raise any issue the Court overlooked or misconstrued. Mem. at 42. The Justice's participation is entirely appropriate for the reasons capably set out in her October 6, 2023, Memorandum Decision and Order.

A. The Court's remedial proceedings provide fair, reliable, and adequate process.

Citing no relevant case law, Respondents contend that this Court's remedial schedule does not comply with due process because it does not accord with their preferred process or timeline. Mem. at 47-49. "Parties entitled to such process cannot, however, choose the precise process they desire. Due process is not a rigid concept." *Fed. Deposit Ins. Corp. v. Morley*, 915 F.2d 1517, 1522 (11th Cir. 1990); *accord Dist. Attorney's Off. for Third Jud. Dist. v. Osborne*, 557 U.S. 52, 69 (2009) ("The State accordingly has more flexibility in deciding what procedures are needed. . . . [D]ue process does not 'dictate the exact form such assistance must assume.'" (citation omitted)); *Annan v. Benignetti*, 776 F. App'x 364, 367 (7th Cir. 2019) ("due process requires only *sufficient* process, not [one's] preferred additional process.").

Unsurprisingly, Respondents find no support in the authority on which they rely. Two of Respondents' citations are to footnoted asides in dicta, in cases concerning standards for imposing sanctions under Wisconsin law. Mem. at 48 (citing *Indus. Roofing Servs., Inc. v. Marquardt*, 2007 WI 19, ¶ 66 n.13, 299 Wis. 2d 81, 726 N.W.2d 898; *Garfoot v. Fireman's Fund Ins. Co.,* 228 Wis. 2d 707, 725, 599 N.W.2d 411 (Ct. App. 1999)). Both cases are specific to the requirements "on a motion for a sanction of dismissal with prejudice" under Wisconsin law. *Marquardt*, 299 Wis. 2d 81, ¶ 66 n.13; *Garfoot*, 228 Wis. 2d at 725, n. 8. Neither case mentions the term "due process," much less purports to settle federal due process issues.[10]

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[10] Respondents also fail to acknowledge that *Marquardt* and *Garfoot* are not entitled to any stare decisis effect. *Marquardt* is a three-justice plurality opinion, *see* 2007 WI 19, ¶ 99 (Butler, J., concurring in mandate but declining to join majority opinion), and

Respondents' third case gets them no further. That case, *Codd v. Velger*, 429 U.S. 624 (1977), is a U.S. Supreme Court decision regarding procedural due process requirements in the context of a claim of personnel-file stigmatization under *Board of Regents v. Roth*, 408 U.S. 564 (1972), and *Bishop v. Wood*, 426 U.S. 341 (1976). *See* Mem. at 48 (citing *Codd*). *Codd* sheds little light on the due process requirements outside that specific context—and does not purport to. As the U.S. Supreme Court has repeatedly recognized, due process analysis is highly context dependent. "Applying the Due Process Clause is . . . an uncertain enterprise which must discover what 'fundamental fairness' consists of in a particular situation by first considering any relevant precedents and then by assessing the several interests that are at stake." *Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N. C.*, 452 U.S. 18, 24-25 (1981); *see also Wilkinson*, 545 U.S. at 224-25, 227; *Mathews*, 424 U.S. at 334-35.

For example, as *Codd* recognizes, the procedure required depends on the nature of the interest at stake, among other things. 429 U.S. at 627 (distinguishing process necessary where liberty interest is conditional freedom following parole). There is little overlap between the interests at play in a personnel-file stigma case like *Codd* and those in this redistricting litigation, meaning *Codd* is of little value by its own terms.

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thus was "not the opinion of the court." *State v. King*, 205 Wis. 2d 81, 89, 555 N.W.2d 189, 193 (Ct. App. 1996). Moreover, in *Marquardt,* the Court made clear that the issue of whether to grant an evidentiary hearing—the issue for which Respondents cite the case—was "not raised as an issue on appeal" and thus "not before" the Court. 2007 WI 19, ¶ 66 n. 13. *Garfoot*, as a Court of Appeals opinion, of course also does not bind this Court. And that decision also merely remanded for a determination whether an evidentiary hearing was merited. *Garfoot*, 228 Wis. 2d at 725 & n.8.

In short, none of Respondents' far-afield cases bear on the redistricting context. And even if they had some persuasive value, they cannot justify the significant additional process and delay Respondents contend is necessary here.[11] At most, Respondents' authority suggests that: (1) in a Wisconsin case imposing the sanction of dismissal, a hearing may be necessary on disputed factual issues, and (2) in a personnel-file stigmatization case, a hearing is necessary under some (but not all) circumstances. This is a far cry from establishing the necessity of the onerous requirements and significant delay Respondents urge here.[12]

Nor have Respondents provided any reason to doubt the "fairness and reliability" of the procedures already in place, *Mathews*, 424 U.S. at 343, which are extensive and adequate. Expedited proceedings alone cannot establish a due process violation. "Judgment was speedily rendered; but ample time and opportunity were given for deliberation. Due process of law does not necessarily imply delay; and it is certainly no improper interference with the rights of the parties to give such cases as this precedence over the other business in the courts." *Kennard v. Louisiana ex rel. Morgan*, 92 U.S. 480, 483 (1875); *see also S. California Edison Co. v. Lynch*, 307 F.3d 794, 808 (9th Cir.), *modified*, 307 F.3d 943 (9th Cir. 2002), and

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[11] Respondents also err in citing *Jensen*. *Jensen* contemplates that proceedings in original jurisdiction redistricting cases will depart from those in normal litigation. 2002 WI 13, ¶ 24. And while it is true that, in doing so, the Court noted its due process obligations, as discussed herein, Respondents fail to identify any due process violation in the procedures the Court has adopted.

[12] Respondents devote several pages to the argument that their due process arguments were not "underdeveloped," in their Initial and Response briefs. Mem. at 33-36. Notably, though, the cases they cite in support of this due process argument—*Marquardt, Garfoot*, and *Codd*, see Mem. at 48-51—are not mentioned in those briefs.

certified question answered sub nom. S. California Edison Co. v. Peevey, 31 Cal. 4th 781, 74 P.3d 795 (2003); *Monette v. Colvin*, 654 F. App'x 516, 518 (2d Cir. 2016) (summary order). And the timing and process provided in this matter are similar to those set by the Court when it last adjudicated redistricting in *Johnson*. The Legislature did not complain about the timing in *Johnson*, and it has no grounds to do so now.

To start, the redistricting litigation here was initiated earlier in the year than in *Johnson*. *Johnson*'s petition was filed on August 23, 2021; here, the petition was filed on August 3, 2023. The Legislature thus has had ample notice of what is at issue. And the subsequent timelines set in *Johnson* were comparable with those here. There, the Court issued an August 26, 2021, order allowing responses to the petition eight days later. Order at 1, *Johnson v. Wisconsin Elections Comm'n*, No. 2021AP1450-OA (Aug. 26, 2021). Similarly, here, the Court allowed seven days for responses to the petition in an August 15, 2023, order. Aug. 15, 2023 Order.

Since the Court granted leave for an original action, the briefing schedule has been nearly identical to—if not more generous than—that in *Johnson*. There, the Court issued an October 14, 2021, order directing the parties to brief four questions that would govern the proceedings, including what map-drawing criteria would apply. Order at 2, *Johnson v. Wisconsin Elections Comm'n*, No. 2021AP1450-OA (Oct. 14, 2021). The order allowed for opening briefs 11 days later and required response briefs by seven days after that. *Id.* Similarly, here, the Court allowed the parties to brief four questions in an October 6, 2023 order, with deadlines for opening briefs ten days later and responses 14 days after that. Oct. 6, 2023, Order at 4. In addition, this Court then held oral argument on the four questions on November 21, 2023. *Id.* at 5.

For the remedial phase, the Court in *Johnson I* issued a ruling on the four questions on November 30, 2021. 399 Wis. 2d 623, ¶¶ 1-4. That decision set out the factors the Court would consider when adopting maps, including announcing its "least change" mandate. *Id.* ¶ 81. The parties were directed to submit proposed maps, expert reports, and briefs by December 15 (15 days later), with response briefs due December 30 (15 days after that).[13] Order at 1-2, *Johnson v. Wis. Elections Comm'n*, No. 2021AP1450-OA (Nov. 17, 2021). Here, the Court has provided *more* time for submission of maps: the Remedial Order gave the parties until January 12, 2024 (21 days after the Decision) to submit maps, expert reports, and briefs, with responses due January 22 (ten days after that). Remedial Order at 2-3. In addition, the parties will have an additional chance on February 8, 2024, to file briefs in response to the Court's consultants' report. *Id.* at 4.

Then, in *Johnson,* the U.S. Supreme Court, on March 23, 2022, reversed and remanded this Court's initial decision adopting maps, noting that, on remand, this Court could take additional evidence, including new maps. *See Wisconsin Legislature v. Wisconsin Elections Comm'n*, 595 U.S. 398, 406. The Governor sought to do just that, but the *Johnson* Court denied the request. Gov. Evers's Mot. to Supp. the Record, *Johnson v. Wisconsin Elections Comm'n*, No. 2021AP1450-OA (March 31, 2022). Rather, on April 15, 2022, and without holding any additional proceedings, the Court adopted the maps proposed by the Legislature. *Johnson*, 401 Wis. 2d 198, ¶ 3.

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[13] The *Johnson* Court issued an order on November 17, 2021, setting out these deadlines that would apply "[u]pon issuance of the court's decision," which occurred on November 30. Order at 1-2, *Johnson v. Wis. Elections Comm'n*, No. 2021AP1450-OA (Nov. 17, 2021). Prior to November 30, the Court had not yet ruled that "least change" would apply to the map drawing.

Here, in just the remedial phase, the Court has required submission of technical specifications, briefs, and competing maps, supplemented by expert reports explaining the maps, production of all inputs and data considered by the experts, response briefs, amicus briefs, and analysis by expert consultants—an additional procedural safeguard that the *Johnson* Court did not employ. *See generally* Remedial Order. Especially considered in view of the proceedings in *Johnson*, this Court's current process establishes more-than-adequate safeguards under the circumstances.[14]

Respondents also completely ignore the enormously significant governmental and public interest here, *see Mathews*, 424 U.S. at 347, including the interests of Wisconsin and its citizens to hold and vote in constitutional elections and be represented in constitutional districts. *See, e.g., Eu v. San Francisco Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989) ("A State indisputably has a compelling interest in preserving the integrity of its election process."); *Rosario v. Rockefeller*, 410 U.S. 752, 761 (1973) ("preservation of the integrity of the electoral process is a legitimate and valid state goal."). Indeed, this Court has declared an "unequivocal assertion" of its "institutional interest in vindicating the state constitutional rights of Wisconsin citizens in redistricting matters." *Jensen*, 2002 WI 13, ¶ 9. Courts routinely determine that less-significant interests outweigh the marginal benefit of delay and some additional process. *See Lemons v. Bradbury*, 538 F.3d 1098,

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[14] *Johnson* also directly contradicts Respondents' claim that "were this any other case, remedial proceedings would be working toward the 2026 elections." Mem. at 44. In that case, neither the U.S. Supreme Court nor this Court left the Governor's maps in place until 2024 despite their perceived flaws. As the *Johnson* proceedings show, courts do not simply leave unconstitutional maps in place as a matter of course. Instead, they regularly expedite proceedings to replace flawed maps.

1104-05 (9th Cir. 2008) (holding state's interests in "orderly administration of elections are weighty and undeniable" and outweighed "any marginal benefit that would result from additional procedures"); *see also Barkley v. U.S. Marshals Serv. Ex rel. Hylton*, 766 F.3d 25, 33 (D.C. Cir. 2014) (holding "government's interests in prompt and efficient determinations" outweighed plaintiff's purported interest in additional process); *Phat Van Le v. Univ. of Med. & Dentistry of N.J.*, 379 F. App'x 171, 175 (3d Cir. 2010) ("interest in prompt disposition . . . weighs heavily against" any interest in additional process).

Finally, the Legislature attempts to gin up a federal due process claim by way of Wisconsin statutory definitions of experts and referees and the discovery entailed by those statutes. Mem. at 49-51. These disputes do not sound in due process. They also do not require reconsideration, much less discarding this Court's carefully constructed schedule. Whatever the Court has called its consultants, it has made clear what discovery will be allowed. Remedial Order at 3. That is its prerogative in this action. *See, e.g., Jensen*, 249 Wis. 2d 706, ¶ 24 (contemplating creation of new procedures for adjudication of redistricting litigation in original jurisdiction matters). As discussed above, Respondents cannot show the procedures adopted violate procedural due process.

B. There is no evidence that this matter was pre-decided.

Respondents also complain that the Court's Decision failed to respond to certain of their and the dissents' points. Based purely on their speculation, Respondents contend that this "confirm[s] this case has been pre-decided." Mem. at 36-41.

In many instances, Respondents' real complaint seems to be that the Court did not agree with their positions. For example, Respondents' fault the Court for stating that "'[n]one of the parties disputes that the current legislative maps contain districts with discrete pieces of territory that are not in actual contact with the rest of the district.'" Mem. at 36 (quoting Decision ¶ 31).

Respondents say that the Court's statement is inaccurate—that they did dispute that "the current legislative maps contain districts with discrete pieces of territory that are not in actual contact with the rest of the district." *Id.* But they concede the Court's statement is only inaccurate if you accept their argument that "to consist of contiguous territory" is "read to refer to the particular towns or wards combined to make up the district." *Id.* In other words, the Court's statement is accurate, *unless* you accept Respondents' argument that "contiguous" means "political contiguity." The Court expressly considered and rejected that argument. Decision ¶¶ 18-19.

And in any case, it is perfectly accurate to say that Respondents do not dispute that some territory in some districts is not in "actual contact." That is the entire reason that Respondents needed to invent the concept of "political contiguity" in the first place—to have some basis to argue that although territory is not literally in actual contact, it is still contiguous within the meaning of the Wisconsin Constitution.

But, even putting aside such flaws in Respondents' analysis, courts are not obligated to undertake a point-by-point rebuttal of litigants or colleagues, particularly on underdeveloped or groundless arguments. A court's failure to do so does not establish that a matter has been prejudged or that there has been a denial of due process. *See, e.g.*, *Concepcion v. United States*, 597 U.S. 481, 501 (2022) (A court is "not required to be persuaded by every argument parties make, and it may, in its discretion, dismiss arguments that it

does not find compelling without a detailed explanation. Nor is a . . . court required to articulate anything more than a brief statement of reasons."); *Rita v. United States*, 551 U.S. 338, 356 (2007) ("The appropriateness of brevity or length, conciseness or detail, when to write, what to say, depends upon circumstances. Sometimes a judicial opinion responds to every argument; sometimes it does not; sometimes a judge simply writes the word 'granted' or 'denied' on the face of a motion while relying upon context and the parties' prior arguments to make the reasons clear.").

Respondents also ignore the careful attention that the Court actually paid to their arguments—including on questions that the Court did not agree to consider in the first place. For example, this Court devoted a substantial portion of its decision to consideration of Respondents' meritless standing, laches, issue preclusion, claim preclusion, judicial estoppel, and collateral attack arguments. Decision ¶¶ 36-55.

Nor is a quick decision after briefing evidence of a due process issue. *See Monette*, 654 F. App'x at 518 (rejecting argument that "quick decision deprived [plaintiff] of due process and of the right to submit new evidence. The due process argument fails because speed does not indicate inadequate review"). Indeed, as discussed above, the U.S. Supreme Court decided *Johnson* on an exceptionally tight timeline. Likewise, this Court in *Johnson I* issued its order on map-drawing criteria 29 days after submission of briefs on the issue. *See* 2021 WI 87. But the Legislature never argued that this was a due process violation or that the courts had prejudged the matter.

Unsurprisingly, Respondents do not cite a single case in support of their position that prejudgment can be divined from an alleged failure to robustly respond to all arguments and a quick decision. Accepting Respondents' argument would impose an unworkable burden on courts to respond to

frivolous arguments in time-sensitive matters—but not to do so too quickly, lest they be accused of prejudgment.

C. The Court's partisan impact analysis complies with due process.

Respondents also argue that this Court violated due process in deciding that it will seek to avoid enacting maps "that privilege one political party over another," Decision ¶ 70; Respondents rely primarily on *Bouie v. City of Columbia*, 378 U.S. 347 (1964), *see* Mem. at 51-56.

Bouie arose out of a sit-in demonstration at the height of the civil rights movement. The Court held that the South Carolina Supreme Court's unprecedented application of the state's trespass laws to protestors' conduct unconstitutionally punished peaceful civil rights activists "for conduct that was not criminal at the time they committed it." *Id.* at 359. The Court emphasized that the state had not provided "fair warning of the conduct which [the law] prohibits" before imposing this extension of the law. *Id.* Respondents argue that, under *Bouie* and related cases, this Court has failed to provide fair notice of the standard it will apply and deprived them of the opportunity to adequately defend their position. Mem. at 51-56.

Here, too, Respondents fundamentally misunderstand the requirements of due process. Due process does not obligate this Court to articulate every nuance of its standard. Courts, including this one and the U.S. Supreme Court, routinely leave the details of a standard's application to be refined through later cases. *See, e.g., Moore v. Harper*, 600 U.S. 1, 36 (2023) ("We do not adopt . . . any . . . test by which we can measure state court interpretations of state law in cases implicating the Elections Clause. The questions presented in this area are complex and context specific. We hold only that state courts may not transgress the ordinary bounds of judicial review such that they arrogate to

themselves the power vested in state legislatures to regulate federal elections."); *Crawford v. Washington*, 541 U.S. 36, 68 (2004) ("We leave for another day any effort to spell out a comprehensive definition of 'testimonial.'"); *State v. Forbush*, 2011 WI 25, ¶ 115, 332 Wis. 2d 620, 673, 796 N.W.2d 741, 768 (Prosser, J., concurring ("even the most momentous decisions rarely escape some refinement over time.")). Doing so is core to the "incremental and reasoned development of precedent that is the foundation of the common law system." *Rogers v. Tennessee,* 532 U.S. 451, 461 (2001).

The U.S. Supreme Court has consistently rejected attempts, like Respondents', to construe *Bouie* to disrupt this tradition and has emphasized the "substantial leeway [courts] must enjoy as they engage in the daily task" of judicial interpretation, "reevaluating and refining" doctrine. *Id.* at 460-61. Indeed, as the Court held, "*Bouie* restricted due process limitations on the retroactive application of judicial interpretations of criminal statutes to those that are 'unexpected and indefensible by reference to the law which had been expressed prior to the conduct in issue,'" precisely to avoid "unduly impair[ing] the incremental and reasoned development of precedent." *Id.* at 461 (quoting *Bouie*, 378 U.S. at 354).

This Court's discussion of partisan impact is a routine example of the traditional, incremental approach. Even assuming *Bouie* applies with the same force to civil cases like this one, *cf. BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 575 n. 22 (1996); *Gibson v. Am. Cyanamid Co.*, 760 F.3d 600, 623 n. 9 (7th Cir. 2014), there is no reasonable argument that Respondents lacked "fair warning" of the partisan impact analysis. *See Rogers*, 532 U.S. at 462 ("a judicial alteration of a common law doctrine . . . violates the principle of fair warning . . . only where it is unexpected and indefensible by reference to the law which had been expressed prior to the conduct in issue" (quotation marks omitted)).

As this Court pointed out in its Decision, the partisan impact analysis merely explains the principles that the Court announced in *Jensen*, which itself was citing *Prosser*: "'[J]udges should not select a plan that seeks partisan advantage——that seeks to change the ground rules so that one party can do better than it would do under a plan drawn up by persons having no political agenda——even if they would not be entitled to invalidate an enacted plan that did so.'" Decision ¶ 70 (citing *Jensen*, 249 Wis. 2d 706, ¶ 12 (quoting *Prosser*, 793 F. Supp. At 867)). This Court went on to cite several other cases describing similar analysis. *Id.* Against this backdrop, this Court's partisan impact conclusion cannot be characterized as "unexpected and indefensible by reference to the law which had been expressed prior to the conduct in issue," *Rogers*, 532 U.S. at 462, or a "sharp 'depart[ure] from the accepted and usual course of judicial proceedings." Mem. at 55 (quoting *Hollingsworth v. Perry*, 558 U.S. 183, 196 (2010) (per curiam)).

There is a more fundamental problem with Respondents' reliance on *Bouie* and its progeny, however: In this case, Respondents have ample opportunity to conform their submissions to the standard articulated by the Court. In *Bouie* and *Reich v. Collins*, 513 U.S. 106 (1994), the "new" law was imposed after it was too late to modify the conduct at issue. *Bouie*, 378 U.S. at 362; *Reich*, 513 U.S. at 111. There is no analogous "retroactive effect" here. The Court has plainly stated in advance the standard that it will apply: It "will take care to avoid selecting remedial maps designed to advantage one political party over another." Decision ¶ 71. The parties can now craft maps that account for this factor. As a result, this line of cases has no application here.[15]

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[15] Nor does *Lindsey v. Normet*, 405 U.S. 56, 66 (1972), suggest that the Court erred. In that case, the law *prevented* a

Respondents' position that they cannot comprehend the partisan impact factor, and therefore cannot address it, falls flat. First, elsewhere in their Motion, they purport to understand the analysis well enough to know precisely what will be involved and assert that the schedule does not provide enough time for it. *See, e.g.*, Mem. at 45. Second, the Court has provided substantial guidance on the content of the analysis. It has clearly articulated the standard. Decision ¶ 71. It has provided both the institutional grounding for the standard and analogous case law, providing guidance on its application. *Id.* ¶¶ 69-70. It has even made clear how the partisan impact analysis is situated relative to other considerations. *Id.* ¶ 71.[16] If Respondents cannot understand the standard with this level of explanation, the fault does not lie with this Court.

III. Respondents' arguments regarding the scope of anticipated remedy here are speculative and unsupported.

Respondents charge this court with "backdooring politics into the remedy," and speculate that the remedy here will "rebalance[e] the political scales in the Wisconsin Legislature." Mem. at 56. But there is no indication that this

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party from raising certain issues. That is not the case here. And even in that case, the Court found the restriction permissible under the circumstances.

[16] Respondents also glancingly invoke the doctrine of "void for vagueness," set out in *F.C.C. v. Fox Television Stations, Inc.*, 567 U.S. 239, 253 (2012). They do not explain how that doctrine, which governs "laws which regulate persons or entities" regarding what "conduct . . . is forbidden or required," *id.*, might apply to a factor considered in a redistricting analysis. In any case, as discussed above, the Court's discussion was not vague. Likewise, even if *County of Sacramento v. Lewis*, 523 U.S. 833 (1998), had some application here, Respondents cannot (and do not) maintain that the Court's decision "shocks the conscience." *Id.* at 846.

Court's decision to honor its institutional role by "remain[ing] politically neutral" and "tak[ing] care to avoid selecting remedial maps designed to advantage one political party over another," Decision ¶¶ 70-71, will result in it "rebalancing the political scales," in any way that exceeds the Court's authority. Mem. at 56. The Court has simply indicated, based on Wisconsin constitutional principles, that it will attempt to avoid selecting a map that is designed to advantage either political party. Decision ¶ 71. This will benefit voters statewide by promoting democracy and empowering all voters.

Nor will the Court's consideration of partisan impact exceed its remedial authority. As this Court has held, none of the factors that it will consider—not partisan impact, federal law, population equality, or traditional redistricting criteria—are separable from its remedial contiguity analysis. First, the pervasiveness of the contiguity issues caused a "ripple effect" across the state. *Id.* ¶ 56. Second, "[j]ust as a court fashioning a remedy in an apportionment challenge must ensure that remedial maps comply with state and federal law, so too must this court in remedying a different constitutional violation." *Id.* ¶ 59.

Respondents' purported "due process" concern with the remedy here amounts to a disagreement with those holdings. They would have preferred the Court to address the current map's contiguity flaws by absorbing "islands" into surrounding districts, largely ignoring other redistricting factors. Initial Br. of Johnson at 29. But they concede that this approach would produce a population deviation of 9.73%, conflicting with the Court's "judicial duty to 'achieve the goal of population equality with little more than de minimis variation.'" Decision ¶ 64 (quoting *Connor v. Finch,* 431 U.S. 407, 420 (1977), quoting *Chapman v. Meier*, 420 U.S. 1, 26-27 (1975)). Moreover, as the Court held, its decision to consider all relevant factors, including partisan impact, is part of its

duty to ensure compliance with federal and state law. *Id.* ¶ 59. Respondents provide no reason to believe that this analysis was incorrect.

To be clear, this disagreement has no federal due process dimension. The cases Respondents cite, as they acknowledge, relate to "'principles of equity jurisprudence,'" not due process. Mem. at 57 (quoting *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979)). Accordingly, Respondents' assertion that state courts "have never had free rein to violate" due process protections is, while accurate, irrelevant. *Id.* at 58.

Moreover, in addressing the equitable limits that apply in redistricting matters, Respondents focus on such limitations in *federal* court. These limitations, however, are designed to limit interference by *federal* entities in the state's exercise of its primary redistricting authority. *See North Carolina v. Covington*, 138 S. Ct. 2548, 2554 (2018); *Upham v. Seamon*, 456 U.S. 37, 43 (1982). State courts are differently situated. "'We say once again what has been said on many occasions: reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court.'" *Growe v. Emison*, 507 U.S. 25, 34 (1993) (quoting *Chapman*, U.S. at 27); *see also Jensen,* 249 Wis, 2d 706, ¶ 5.

At base, Respondents attempt to charge this Court with federal due process violations because its Decision does not cement their partisan advantage. Due process cannot be stretched so far.

IV. This Court's Remedial Order provides sufficient time for the Legislature or this Court to act.

Finally, Respondents contend that there is insufficient time to complete this case without disrupting the election. The entity traditionally deferred to and most expert in making this determination, WEC, states that the deadline for

new maps is March 15, 2024. *See* Response of Wisconsin Elections Commission to Court Order of October 6, 2023 at 3. WEC's determination was firmly grounded in the practical implications of 2024 election administration deadlines. *See generally id.*

It is also worth noting, as set out above, that the Legislature has acted on much tighter timeframes in the past and could easily attempt to avoid this purported disruption by moving quickly on its own maps. *See supra* 9-13. Instead, again, Respondents attempt to elevate the interests of the Legislature at the expense of the constitutionally protected interests of the citizens of Wisconsin.[17] This Court should not indulge their attempt.

[17] Respondents also, confusingly, move this Court for a stay without ever articulating the standard for a stay or how it is met here. *See Waity v. LeMahieu*, 2022 WI 6, ¶ 49, 400 Wis. 2d 356, 969 N.W.2d 263. The stay analysis, too, requires balancing of interests, including the public interest, which Respondents again ignore. *See id.* ¶¶ 49, 60. Their failure to even attempt to show that this standard is met is fatal to the Motion. "This court generally does not address issues that are inadequately briefed . . . " *State v. Roberson*, 2006 WI 80, ¶ 30 n. 11, 292 Wis. 2d 280, 717 N.W.2d 111; *see also Milwaukee Metro. Sewerage Dist. v. City of Milwaukee*, 2005 WI 8, ¶ 87 n. 30, 277 Wis. 2d 635, 691 N.W.2d 658.

CONCLUSION

For the foregoing reasons, this Court should deny Respondents' Motion.

Dated this 4th day of January 2024.

Respectfully submitted,

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CERTIFICATE OF EFILE/SERVICE

I certify that in compliance with Wis. Stat. § 801.18(6), I electronically filed this document with the clerk of court using the Wisconsin Appellate Court Electronic Filing System, which will accomplish electronic notice and service for all participants who are registered users.

Dated this 4th day of January 2024.

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