

# Supreme Court of Wisconsin

NO. 2021AP001450 - OA

---

BILLIE JOHNSON, ERIC O'KEEFE, ED PERKINS, AND  
RONALD ZAHN,

Petitioners,

LISA HUNTER, JACOB ZABEL, JENNIFER OH, JOHN  
PERSA, GERALDINE SCHERTZ, AND KATHLEEN  
QUALHEIM,

Proposed Intervenor-Petitioners,

vs.

WISCONSIN ELECTIONS COMMISSION, MARGE  
BOSTELMANN, JULIE GLANCEY, ANN JACOBS, DEAN  
KNUDSON, ROBERT SPINDELL, AND MARK THOMSEN, IN  
THEIR OFFICIAL CAPACITIES AS MEMBERS OF THE  
WISCONSIN ELECTION COMMISSION,

Respondents.

---

**MOTION TO INTERVENE OF PROPOSED INTERVENOR-  
PETITIONERS LISA HUNTER, JACOB ZABEL,  
JENNIFER OH, JOHN PERSA, GERALDINE SCHERTZ,  
AND KATHLEEN QUALHEIM**

---

Aria C. Branch\*  
Jacob D. Shelly\*  
Christina A. Ford\*  
William K. Hancock\*  
ELIAS LAW GROUP LLP  
10 G St., NE, Suite 600  
Washington, D.C. 20002  
ABranch@elias.law  
JShelly@elias.law

CFord@elias.law  
WHancock@elias.law

*\*Admitted Pro Hac Vice*

Charles G. Curtis, Jr.  
Bar No. 1013075  
PERKINS COIE LLP  
33 E Main St, Ste 201  
Madison, Wisconsin 53703-3095  
608.663.7460  
CCurtis@perkinscoie.com

Lisa Hunter, Jacob Zabel, Jennifer Oh, John Persa, Geraldine Schertz, and Kathleen Qualheim (“Proposed Intervenor’s”), by and through their attorneys, move to intervene as Intervenor-Petitioners in this action. In support of their motion, Proposed Intervenor’s state as follows:

1. Proposed Intervenor’s are registered Wisconsin voters who face the prospect of being forced to cast diluted votes in overpopulated congressional and/or state legislative districts in the 2022 election in the very likely event that the Wisconsin legislature and governor cannot agree on redistricting maps.

2. On August 13, 2021, Proposed Intervenor’s filed suit in federal district court alleging that Wisconsin’s congressional and state legislative districts are malapportioned in violation of the U.S. Constitution. *See Hunter v. Bostelmann*, No. 21-CV-512 (W.D. Wis Aug. 13, 2021).<sup>1</sup>

---

<sup>1</sup> The Johnson Petitioners have since been granted intervention in the federal action. *See Hunter v. Bostelmann*, No. 21-CV-512, Dkt. No. 24, Order (W.D. Wis. Aug. 27, 2021).

3. Ten days later, on August 23, 2021, the Johnson Petitioners filed their Petition for an Original Action. The Proposed Intervenor submitted a non-party brief opposing that petition, citing the availability of alternate forums. However, the Proposed Intervenor also made clear that they would seek to intervene in this forum if the Johnson Petitioners' petition was granted. *Johnson v. Wisconsin Elections Comm'n*, No. 2021AP1450-OA, Motion for Leave to File a Non-Party Brief (Sept. 7, 2021).

4. On September 22, this Court granted that petition. *Johnson v. Wisconsin Elections Comm'n*, No. 2021AP1450-OA, Order (Wis. Sept. 22, 2021). Further, this Court requested that any prospective intervenors file motions to intervene by October 6, 2021. *Id.* at 3.

5. Consistent with this Court's September 22, 2021 Order, Proposed Intervenor now submit their Motion to Intervene, a brief in support of the motion, and a proposed Complaint in Intervention.

6. As explained further in their brief, Proposed Intervenor satisfy the four elements of intervention of right under Wis. Stat. § 803.09(1). First, their motion is timely, as it comes pursuant to this Court's schedule. Second, they are intensely interested in the outcome of this litigation—both as voters and as litigants in a parallel suit. Third, their interests will undoubtedly be affected by whether and how this Court develops a redistricting plan. Fourth, they are not adequately represented by the Johnson Petitioners, who do not raise associational rights claims that ensure a timely remedy, disagree on the proper forum for these claims, and have discordant views on redistricting criteria.

7. Alternatively, Proposed Intervenor satisfy the criteria for permissive intervention under Wis. Stat. § 803.09(2). Proposed Intervenor's claims involve the same legal issues—whether the current districts are malapportioned and when this Court must act to protect voters—and there is no risk of prejudice at this early stage of the litigation.

8. In accordance with Wis. Stat. § 803.09(3), Proposed Intervenorors have attached to this motion their pleading setting forth the claims for which intervention is sought.

9. Counsel for Proposed Intervenorors contacted counsel for Respondents and Petitioners to obtain their positions on this Motion. Counsel for Respondents indicated that Respondents take no position on this Motion. Petitioners' counsel indicated that Petitioners do not oppose this Motion.

WHEREFORE, Proposed Intervenorors Lisa Hunter, Jacob Zabel, Jennifer Oh, John Persa, Geraldine Schertz, and Kathleen Qualheim respectfully request that this Court grant the Motion to Intervene and enter an order joining the Proposed Intervenorors as Intervenor-Petitioners to this original action.

Dated: October 6, 2021

Charles G. Curtis, Jr.  
Bar No. 1013075  
PERKINS COIE LLP  
33 East Main Street, Suite 201  
Madison, WI 53703-3095  
Telephone: (608) 663-5411  
Facsimile: (608) 283-4462  
CCurtis@perkinscoie.com

Respectfully submitted,

/s/ Aria C. Branch  
Aria C. Branch\*  
Jacob D. Shelly\*  
Christina A. Ford\*  
William K. Hancock\*  
ELIAS LAW GROUP LLP  
10 G St., NE, Suite 600  
Washington, D.C. 2002  
ABranch@elias.law  
JShelly@elias.law  
CFord@elias.law  
WHancock@elias.law

\*Admitted *Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I certify that on this 6th day of October 2021, I caused a copy of this brief to be served upon counsel for each of the parties via e-mail and Federal Express.

Dated: October 6, 2021

/s/ Aria C. Branch  
Aria C. Branch