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Ms. Sheila T. Reiff
Clerk of Supreme Court
110 East Main Street, Suite 215
Madison, WI 53701-1688

Re: *Johnson v. Wisconsin Elections Commission*,
Case No. 2021AP1450-OA

Dear Ms. Reiff:

We write on behalf of Respondents, Wisconsin Elections Commission and all six commissioners in their official capacities, in response to the supreme court's September 22, 2021, order, as amended on September 24, 2021. The court directed the parties and prospective intervenors to address the following question:

> When (identify a specific date) must a new redistricting plan be in place, and what key factors were considered to identify this date?

Order, Sept. 22, 2021, as amended.

Respondents submit that, in order to enable the Commission to accurately integrate new districting data into its statewide election databases, and to timely and effectively administer the fall 2022 general election, a new redistricting plan must be in place no later than March 1, 2022. This is the same date provided to a three-judge panel of the federal district court presiding over *Hunter v. Bostelmann*, No. 21-CV-512-jdp-ajs-eec (W.D. Wis.) and *Black Leaders Organizing for Communities v. Spindell*, No. 21-CV-534-jdp-ajs-eec (W.D. Wis.), an ongoing consolidated federal redistricting case. This March 1, 2022, date is based on the following factors.

Wisconsin's congressional and state legislative districts must be reapportioned on the basis of the 2020 census data prior to any future congressional or state legislative election. *See* U.S. Const. art. I, §§ 2, 4; U.S. Const. amend. XIV, § 2; Wis. Const. art. IV, § 3.

The next general election for congressional and state legislative seats in Wisconsin is November 8, 2022; the partisan primary for that election is August 9, 2022.

State law requires the Wisconsin Elections Commission to administer elections. *See generally* Wis. Stat. ch. 5–10, 12. The Commission has no authority to draw district maps and, accordingly, takes no position in this original action as to the particulars of the maps. Nonetheless, the Commission takes its statutory charge seriously and advocates for final maps to be in place by March 1, 2022, a pragmatic date by which it believes it can properly, effectively, and timely administer the fall general election.

Administering an election requires that the Commission perform much work well before election day, especially in the year after the census data is released. Once new congressional and state legislative district boundaries have been determined, Commission staff must begin the complex process of recording these new boundaries in WisVote—the statewide election management and voter registration system. Staff must integrate the new redistricting data with existing voter registration and address data. This process includes manual review of ward map changes and parcel boundary data throughout the state of Wisconsin, to ensure accurate and efficient implementation of new redistricting data. Communication with municipal clerks about certain addresses is required because only local clerks would have such knowledge.[1] Manual review of ward map changes and parcel boundary data is a crucial task in administering an election because it ensures that each voter receives the correct ballot and is correctly located in their proper districts.

Wisconsin voters and candidates must know their proper districts far ahead of the fall general election. For instance, the period for candidates to circulate nominating petitions for the general election begins on April 15, 2022, and runs through June 1, 2022. If map boundaries are not drawn and finalized well before April

[1] While Commission staff will likely not need to contact every municipal clerk in Wisconsin, there are 1,851 clerks in the state.

15, candidates will not know in what district they reside and in turn will not know for what office they can run. And voters will not know what candidates' petitions they may properly sign. Improper residency of both a candidate and signor of a petition are bases for a challenge to a candidate's nomination papers. *See* Wis. Stat. §§ 6.10 (elector residence), 8.07 (Commission's authority to promulgate rules re validity of nomination papers), 8.30 (candidates ineligible for ballot placement), 8.40 (petition requirements); Wis. Admin. Code EL §§ 2.05 (treatment and sufficiency of nomination papers), 2.07 (challenges to nomination papers); *see also* Wis. Stat. § 8.28 (challenges to sitting office holder's residency). Therefore, before candidates can begin to prepare and circulate nomination papers, Commission staff must produce new district lists for nomination paper review. Further, both before and after the new maps are applied to the state-wide system, the Commission must perform basic quality assurance checks on the data.

Thus, the statutory foundation for Respondents' proposed March 1, 2022, deadline is the April 15, 2022, nomination paper date under Wis. Stat. § 8.15. If new maps are not in place at least 45 days before April 15, 2022, there is a significant risk that there will be errors in the statewide system and, in turn, less time for the Commission to correct those errors before circulation of nomination papers begins. The Legislature has prescribed that nomination papers for the fall general election must circulate between April 15 and June 1, 2022. The Commission must respect that statutory mandate and is in no position to advocate for delaying or shortening that time period.

Moreover, Commission staff will be performing this necessary work of recording new boundaries in WisVote while simultaneously administering the spring 2022 statewide election—for State Superintendent of Public Instruction, Court of Appeals Judge, Districts I, II and III, and Circuit Court Judge—with an election date of April 6, 2022.

For the Commission to properly, timely, and effectively administer the fall general election—which includes the nominating petition circulation process starting on April 15, 2022—a new congressional and state legislative district plan should be in place no later than March 1, 2022.

Sincerely,



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