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Supreme Court of Wisconsin

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November 17, 2021

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You are hereby notified that the Court has entered the following order:

No. 2021AP1450-OA Johnson v. Wisconsin Elections Commission

Pending before the court is an original action filed by petitioners Billie Johnson, et al. This 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.

The court intends to issue an opinion on or about November 30, 2021, answering the first three questions posed in this court's order dated October 14, 2021, and briefed by the parties and amici, namely: (1) Under the relevant state and federal laws, what factors should we consider in evaluating or creating new maps? (2) The petitioners ask us to modify existing maps using a "least-change" approach. Should we do so, and if not, what approach should we use? and (3) Is the partisan makeup of districts a valid factor for us to consider in evaluating or creating new maps?

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Upon issuance of the court's decision on the first three questions, the parties are encouraged to review discovery and record development needs and are advised that the following deadlines will apply:

IT IS ORDERED that by 4:00 p.m. on December 3, 2021, if parties desire discovery, they shall submit a joint proposed discovery plan that details from whom and how discovery will be sought, with all discovery to be completed on or before December 23, 2021;

IT IS FURTHER ORDERED that on or before 12:00 noon on December 15, 2021, each party (including all intervenors) may file a proposed map (for state assembly, state senate, and congress), complying with the parameters set forth in the court's forthcoming decision, a supporting brief, and an expert report; or, a party may file a letter-brief stating the party supports a map proposed by another party. Any brief filed in support of a proposed map shall not exceed 50 pages if a monospaced font is used or 11,000 words if a proportional serif font is used. A letter-brief filed in support of another party's proposed map shall not exceed 15 pages if a monospaced font is used or 3,300 words if a proportional serif font is used;

IT IS FURTHER ORDERED that any expert report filed in support of a proposed map and accompanying its supporting brief shall strive for brevity and shall contain an executive summary not to exceed five pages if a monospaced font is used or 1,100 words if a proportional serif font is used;

IT IS FURTHER ORDERED that on or before 12:00 noon on December 30, 2021, each party may file a responsive brief which shall not exceed 25 pages if a monospaced font is used or 5,500 words if a proportional serif font is used. A party that elects to support another party's proposed map may file a letter-brief that shall not exceed 15 pages if a monospaced font is used or 3,300 words if a proportional serif font is used;

IT IS FURTHER ORDERED that any non-party that wishes to file a non-party brief amicus curiae in support of or in opposition to a proposed map must file a motion for leave of the court to file a non-party brief. Wis. Stat. § (Rule) 809.19 (7). Non-parties should consult this court's Internal Operating Procedure III.B.6.c., concerning the nature of non-parties who may be granted leave to file a non-party brief. A proposed non-party brief must accompany the motion for leave to file it and shall not exceed 15 pages if a monospaced font is used or 3,300 words if a proportional serif font is used. Any motion for leave with the proposed non-party brief attached shall be filed no later than 12:00 noon on January 4, 2022. Any proposed non-party brief for which this court does not grant leave will not be considered by the court;

IT IS FURTHER ORDERED that on or before 12:00 noon on January 4, 2022, each party may file a reply brief, which shall not exceed 15 pages if a monospaced font is used or 3,300 words if a proportional serif font is used. A party that elects to support another party's proposed map may file a letter-brief that shall not exceed 15 pages if a monospaced font is used or 3,300 words if a proportional serif font is used;

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IT IS FURTHER ORDERED that the form, pagination, appendix, and certification requirements shall be the same as those governing standard appellate briefing in this court for a brief-in chief, response, and reply;

IT IS FURTHER ORDERED that any party that filed a proposed map and subsequently determines that it merits a correction or modification, may file a motion seeking the court's leave to amend the proposed map. Such motion shall include a description of the amendments, the reasons for them, a proposed amended map, and shall state whether the motion is unopposed by other the parties. The court may request responses from the other parties; unsolicited responses to such a motion will be disfavored;

IT IS FURTHER ORDERED that the parties are advised that the court may elect to conduct a hearing and/or oral argument on one or more of four consecutive days beginning January 18, 2022; and

IT IS FURTHER ORDERED that all filings in this matter shall be filed as an attachment in pdf format to an email addressed to clerk@wicourts.gov. See Wis. Stat. §§ 809.70, 809.80 and 809.81. A paper original and 10 copies of each filed document must be received by the clerk of this court by 12:00 noon of the business day following submission by email, with the document bearing the following notation on the top of the first page: "This document was previously filed via email."

Sheila T. Reiff
Clerk of Supreme Court

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