

No. 2021AP1450-OA

In the Supreme Court of Wisconsin

BILLIE JOHNSON, ERIC O'KEEFE, ED PERKINS *and* RONALD ZAHN,
PETITIONERS,

BLACK LEADERS ORGANIZING FOR COMMUNITIES, VOCES DE LA
FRONTERA, LEAGUE OF WOMEN VOTERS OF WISCONSIN, CINDY FALLONA,
LAUREN STEPHENSON, REBECCA ALWIN, CONGRESSMAN GLENN
GROTHMAN, CONGRESSMAN MIKE GALLAGHER, CONGRESSMAN BRYAN
STEIL, CONGRESSMAN TOM TIFFANY, CONGRESSMAN SCOTT FITZGERALD,
LISA HUNTER, JACOB ZABEL, JENNIFER OH, JOHN PERSA, GERALDINE
SCHERTZ, KATHLEEN QUALHEIM, GARY KRENZ, SARAH J. HAMILTON,
STEPHEN JOSEPH WRIGHT, JEAN-LUC THIFFEAULT, *and* SOMESH JHA,
INTERVENORS-PETITIONERS,

v.

WISCONSIN ELECTIONS COMMISSION, MARGE BOSTELMANN, IN HER
OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS
COMMISSION, JULIE GLANCEY, IN HER OFFICIAL CAPACITY AS A MEMBER OF
THE WISCONSIN ELECTIONS COMMISSION, ANN JACOBS, IN HER OFFICIAL
CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS COMMISSION,
DEAN KNUDSON, IN HIS OFFICIAL CAPACITY AS A MEMBER OF THE
WISCONSIN ELECTIONS COMMISSION, ROBERT SPINDELL, JR., IN HIS
OFFICIAL CAPACITY AS A MEMBER OF THE WISCONSIN ELECTIONS
COMMISSION, *and* MARK THOMSEN, IN HIS OFFICIAL CAPACITY AS A
MEMBER OF THE WISCONSIN ELECTIONS COMMISSION,
RESPONDENTS,

THE WISCONSIN LEGISLATURE, GOVERNOR TONY EVERS, IN HIS OFFICIAL
CAPACITY, *and* JANET BEWLEY, SENATE DEMOCRATIC MINORITY LEADER,
ON BEHALF OF THE SENATE DEMOCRATIC CAUCUS,
INTERVENORS-RESPONDENTS.

**MOTION OF CONGRESSMEN GLENN GROTHMAN, MIKE
GALLAGHER, BRYAN STEIL, TOM TIFFANY, AND SCOTT
FITZGERALD TO SUBMIT THEIR MODIFIED VERSION OF
THEIR PROPOSED REMEDIAL CONGRESSIONAL MAP, PER
THIS COURT'S NOVEMBER 17, 2021 ORDER**

Intervenor-Petitioners Congressmen Glenn Grothman, Mike Gallagher, Bryan Steil, Tom Tiffany, and Scott Fitzgerald (hereinafter “the Congressmen”), respectfully move to submit a modified version of their Proposed Remedial Map for this Court’s consideration, in its remedial discretion, and respectfully request that this Court grant this Motion (if this Court deems a motion necessary) for the following reasons:

1. On December 15, 2021, the Congressmen submitted a proposed remedial congressional map (“Proposed Remedial Map”), along with a Brief that explained how this map best complied with this Court’s governing standards in *Johnson v. Wisconsin Elections Commission*, 2021 WI 87. See Br. Of Congressmen Supp. Their Proposed Congressional District Map, *Johnson v. Wis. Elections Comm’n*, No.2021AP1450-OA (Wis. Dec. 15, 2021) (“Congressmen Br.”).

2. Among other “least changes” to correcting the malapportionment of the existing congressional districts, the Proposed Remedial Map shifts District 3’s narrow appendage into

central Wisconsin, which ends in Stevens Point, to District 7, as part of their “least change” approach. Congressmen Br.37–39. That is, the Proposed Remedial Map’s move of Stevens Point from District 3 to District 7 aids in equally apportioning these two districts, while also removing four county splits caused by District 3’s long, narrow appendage into central Wisconsin. Congressmen Br.38. Further, this change achieves population equality in a manner that best respects Wisconsin’s political geography. Congressmen Br. 37–39. As a larger municipality situated squarely in central Wisconsin, Stevens Point has more in common with nearby Wausau—located in District 7—than with District 3’s Eau Claire or La Crosse, which are firmly within Wisconsin’s west. Congressmen Br. 38–39.

3. The proposed remedial congressional maps submitted by the Governor, the Hunter Petitioners, and the Citizen Mathematicians all retain District 3’s long, narrow appendage into central Wisconsin. See Gov. Tony Evers’s Br. In Supp. Of Proposed Maps at 25, *Johnson v. Wis. Elections Comm’n*, No.2021AP1450-

OA (Wis. Dec. 15, 2021) (“Gov.Br.”); Hunter Int.-Pet’rs’ Br. In Supp. Of Proposed Maps at 14, *Johnson v. Wis. Elections Comm’n*, No.2021AP1450-OA (Wis. Dec. 15, 2021) (“Hunter Br.”); Expert Rep. of Dr. Moon Duchin On Behalf Of Int.-Pet’rs Citizen Mathematicians at 4, *Johnson v. Wis. Election*, No.2021AP1450-OA (Wis. Dec. 15, 2021) (“Duchin Expert Rep.”).

4. While the Congressmen continue to believe that the Proposed Remedial Map’s elimination of District 3’s long, narrow appendage best complies with *Johnson*, if this Court agrees with the Governor, the Hunter Petitioners, and the Citizenship Scientists that District 3’s narrow appendage should remain, then the only logical solution consistent with *Johnson* would be to adopt the Congressmen’s Proposed Remedial Map, while simply modifying it to keep this appendage in District 3—a modification reflected in the modified version of the Proposed Remedial Map that the Congressmen move for submission here.

5. Specifically, the modified version of the Proposed Remedial Map retains all of the Proposed Remedial Map’s “least

changes,” except as to District 3’s northern border. *See* Ex. A to this Motion (picture of map); Ex. A to Second Affidavit of Tom Schreibel at 19–20 (hereinafter “Schreibel Resp. Expert Rep.”); Order, *Johnson v. Wis. Elections Comm’n*, No.2021AP1450-OA, at 3 (Wis. Nov. 17, 2021) (“Nov. 17 Order”) (requiring “a description of the amendments” and “a proposed amended map”). As to that border, the modified version of the Proposed Remedial Map largely retains District 3’s long, narrow appendage into central Wisconsin, adjusting it only slightly to equalize population by shifting the southern and eastern portions of Portage County to District 8. *See* Ex. A; Schreibel Resp. Expert Rep.20. Then, the modified version of the Proposed Remedial Map marginally adjusts District 3’s already-existing split of Chippewa County with District 7 to equalize these districts. *See* Ex. A; Schreibel Resp. Expert Rep.20. These changes are generally consistent with the other parties’ treatment of District 3’s northern border, including as to its long, narrow appendage into central Wisconsin. *See* Gov.Br.25; Hunter Br.14; Duchin Expert Rep.4.

6. The modified version of the Proposed Remedial Map overall would move 226,723 people into new districts, comprising 3.84% of the population, which would be less than the number of people that the other proposed remedial maps move. Schreiber Resp. Expert Rep.19. Further, it would equally apportion the State, while remaining consistent with Wisconsin's political geography in all other respects—except as to District 3's appendage. *See* Congressmen Br.34–44. The modified version of the Proposed Remedial Map would also comply with the equal-population requirement, given that it also perfectly apportions Wisconsin's eight congressional districts. *See* Congressmen Br.28. It would adhere to the anti-racial-gerrymandering mandate since it only adjusts the existing boundary lines to reapportion the State. *See* Congressmen Br.29–30. And it would comply with the Voting Rights Act (“VRA”), as it does not make any VRA-implicating changes to the existing map. *See* Congressmen Br.30–31. Finally, the modified version of the Proposed Remedial Map splits 14 counties and 22 municipalities. Schreiber Resp. Expert Rep.22.

7. To be clear, the Congressmen believe that their original Proposed Remedial Map better complies with *Johnson* than the modified version of the Proposed Remedial Map. Thus, they are submitting the modified version of the Proposed Remedial Map for this Court's own consideration, in its remedial discretion, should this Court agree with the Governor, the Hunter Petitioners, and the Citizenship Mathematicians that District 3's narrow appendage into central Wisconsin should remain in a remedial congressional map.

8. While the Congressmen are unsure whether the submission of such an alternative (as opposed to a replacement) map, for this Court's own remedial consideration, requires them to submit a motion to put such a map before this Court, under this Court's November 17 Order, they file this Motion out of an abundance of caution.

9. The Johnson Petitioners do not oppose this Motion. The Governor, Senator Bewley, the Citizen Mathematicians, the Hunter Petitioners, and the BLOC Petitioners oppose this motion.

The Legislature and Wisconsin Elections Commission take no position on this Motion at this time. *See* Nov. 17 Order at 3.

10. Finally, Counsel for the Congressmen have disclosed today the modified version of the Proposed Remedial Map to counsel for the other parties in PDF, CSV, and Shapefile formats, consistent with the parties' Proposed Joint Discovery Plan. *See* Proposed Joint Discovery Plan at 5, *Johnson v. Wis. Elections Comm'n*, No.2021AP1450-OA (Wis. Dec. 3, 2021).

For the foregoing reasons, the Congressmen respectfully request that this Court grant this Motion.

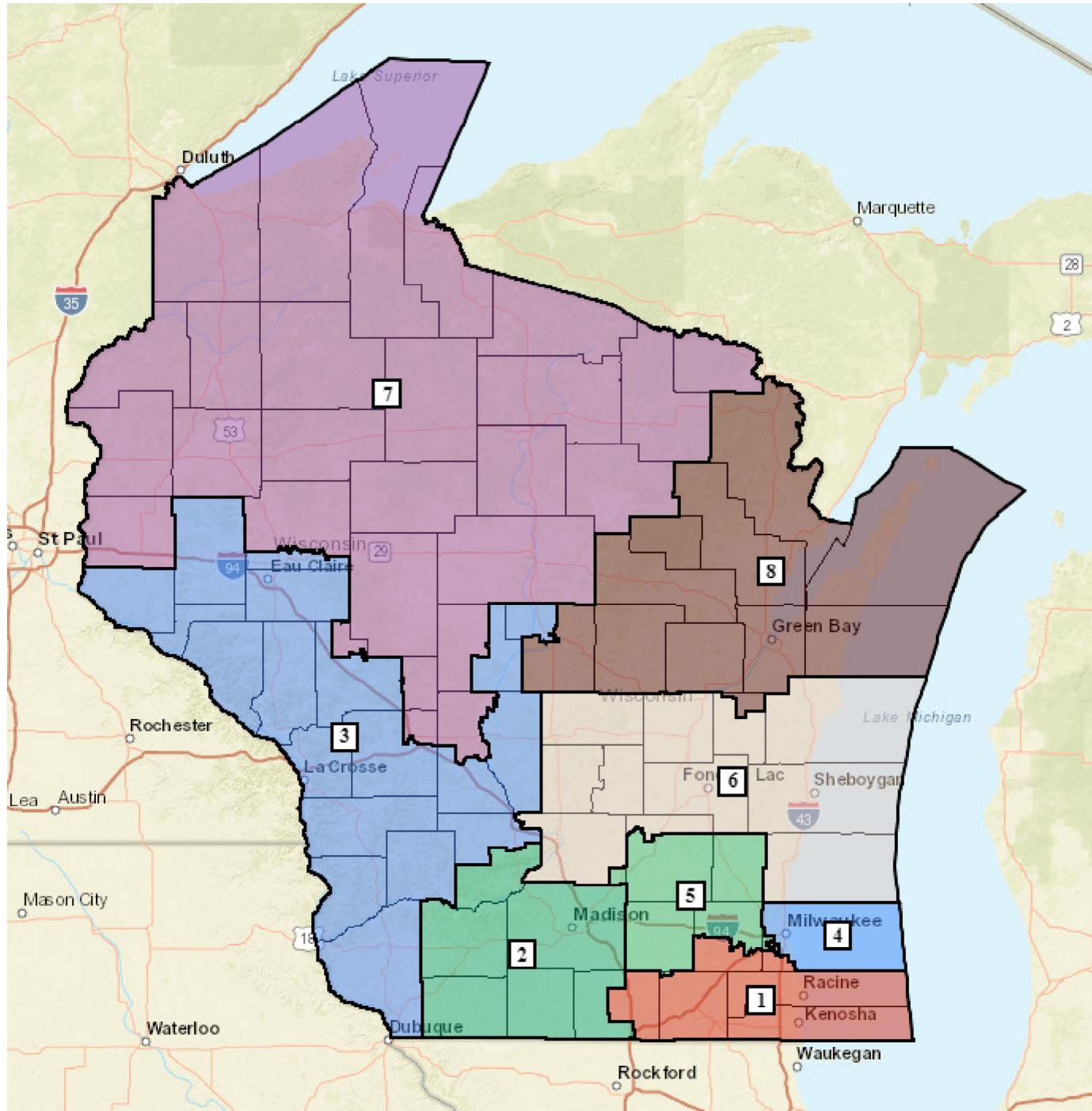
Dated: December 30, 2021.

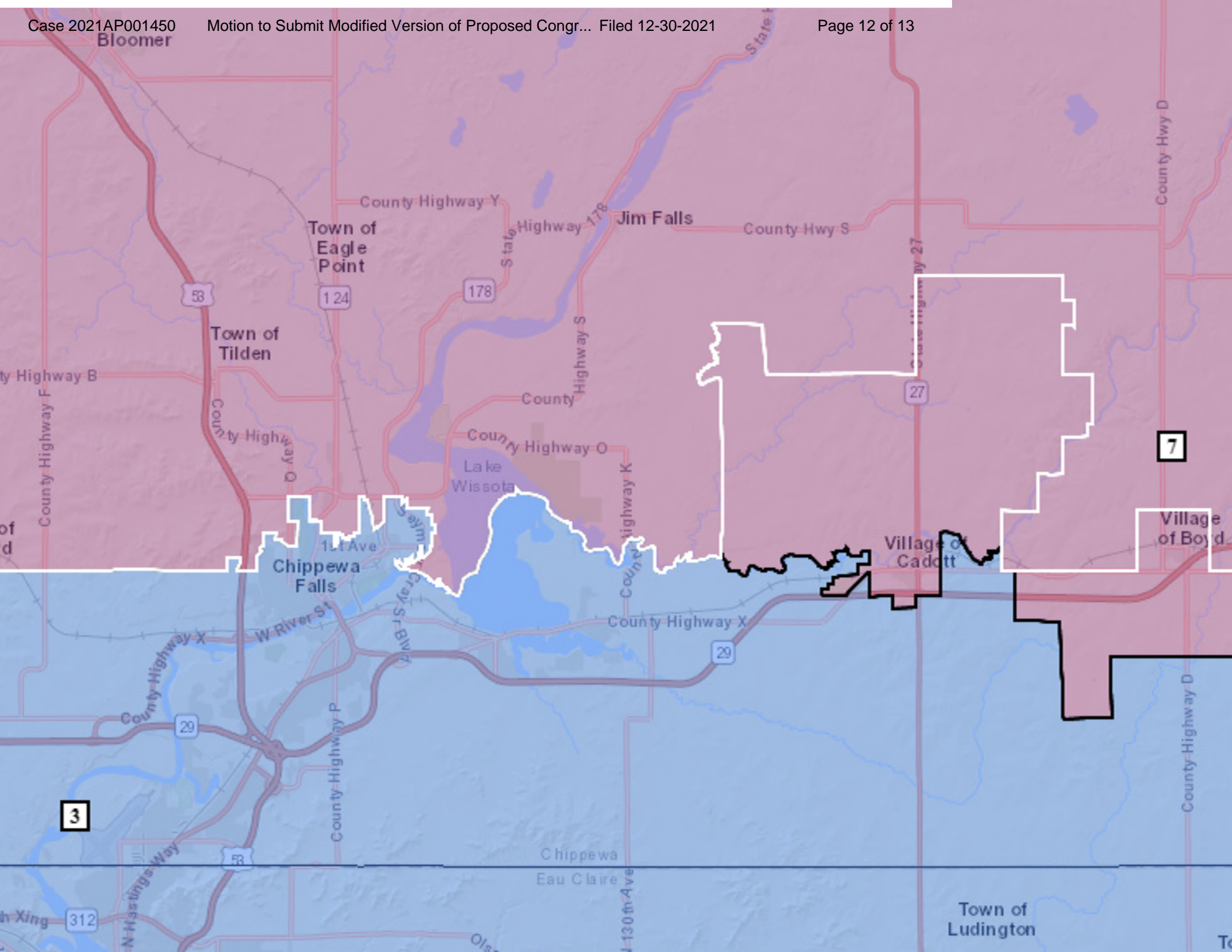


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EXHIBIT A





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