

IN THE SUPREME COURT OF WISCONSIN

No. 2021AP1450-OA

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,*Intervenor-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,*Intervenor-Respondents.*

HUNTER INTERVENOR-PETITIONERS'
RESPONSE BRIEF IN SUPPORT OF PROPOSED MAPS

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**Admitted Pro Hac Vice*

TABLE OF CONTENTS

| | |
|---|----|
| TABLE OF CONTENTS..... | 3 |
| TABLE OF AUTHORITIES..... | 4 |
| INTRODUCTION | 5 |
| ANALYSIS | 9 |
| I. The Governor’s and the Hunter Intervenors’ congressional maps make the least changes to the enacted map and comply with all relevant state and federal law. | 9 |
| II. The Governor’s legislative maps make the least changes to the enacted map and comply with all relevant state and federal law. 14 | |
| CONCLUSION..... | 21 |

TABLE OF AUTHORITIES

| | Page(s) |
|--|----------------|
| Cases | |
| <i>AFL–CIO v. Elections Bd.</i> , 543 F. Supp. 630 (E.D. Wis. 1982) | 14 |
| <i>Bethune-Hill v. Virginia State Bd. of Elections</i> , 137 S. Ct. 788 (2017)..... | 7 |
| <i>Cooper v. Harris</i> , 137 S.Ct. 1455 (2017)..... | 21 |
| <i>Miller v. Johnson</i> , 515 U.S. 900 (1995)..... | 7 |
| Statutes | |
| 52 U.S.C. § 10301..... | <i>passim</i> |

INTRODUCTION

This Court has explained that its role in this case is to “simply remedy the malapportionment claims” with a “neutral standard” that eschews “subjective preferences of judges.” Nov. 30 Order ¶¶ 76, 78, 80. Accordingly, the Hunter Intervenors and their expert, Dr. Stephen Ansolabehere, have reviewed the parties’ submissions according to neutral, objective criteria that identify each proposed plan’s adherence to the Court’s “least change” mandate, compliance with state and federal law, and consistency with traditional redistricting criteria.

The Hunter Intervenors’ analysis reveals that Governor Evers’s proposed congressional map adheres most closely to the “least change” requirement by keeping nearly 95% of Wisconsinites in their current congressional districts and retaining 98% of the geography of the current districts. The Hunter Intervenors’ congressional map is close behind, retaining approximately 93% of population and 97% of geography. Both maps also comply with federal and Wisconsin law, in addition to making significant improvements over the enacted map in the traditional redistricting criteria of municipality splits and compactness. In sharp contrast, the Congressmen’s proposed map (the same map proposed by the Legislature) has the highest percentage of population and geographic changes and splits far more municipalities than any of the other proposed maps. Objective application of the “least-change” and traditional redistricting criteria set forth in the November 30 Order plainly requires rejecting that map.

With respect to the assembly and senate maps, Governor Evers’s proposed maps again retain the highest percentages of population and geography, just ahead of the maps submitted by BLOC. Critically, the

assembly maps submitted by the Governor, BLOC, and the Hunter Intervenor create a seventh Black opportunity district in the Milwaukee area—as compared to the six in the enacted map—as is required by Section 2 of the Voting Rights Act (“VRA”). Moreover, these maps do not unlawfully pack Black voters into supermajority districts in violation of the Equal Protection Clause of the Fourteenth Amendment, which is a fatal flaw in the assembly maps submitted by the Legislature and Citizen Scientists. The Governor’s and BLOC’s legislative maps also fare well under the application of traditional redistricting principles.

The combination of compliance with the least-change mandate, the VRA, the Fourteenth Amendment, and redistricting principles establishes that the Governor’s legislative maps are most consistent with the criteria in the Court’s November 30 Order. BLOC’s legislative maps are similarly consistent and are a lawful alternative.

The Hunter Intervenor respectfully request that the Court adopt new maps consistent with the analysis that follows.

MAP COMPARISON METHODOLOGY

A. The proposed maps’ compliance with the Court’s criteria can be evaluated objectively.

Dr. Ansolabehere reviewed the parties’ submissions according to the following objective criteria and methodology¹:

1. ***Least changes.*** Justice Hagedorn’s controlling concurrence instructed parties to explain how their proposed maps “are the most consistent with existing boundaries.” Nov. 30 Order ¶ 87 (Hagedorn, J.,

¹ Figures reported in Dr. Ansolabehere’s supplemental report may differ slightly from figures reported in parties’ opening briefs and reports because of methodological differences in the treatment of Wisconsin’s water areas and how the mapping files project onto the earth’s curvature. These differences do not change the overall conclusions presented here. See Exhibit 1.

concurring). There are two main ways that consistency with existing boundaries may objectively be measured. First, maps can be compared according to the percentage of *population* that is assigned to the same district in the proposed map as in the enacted map. Second, maps can be compared according to the percentage of *geography* that is assigned to the same district in the proposed map as in the enacted map. A high population retention score establishes that a proposed map does not move more people than necessary from their current districts. A high geographic retention score, in turn, indicates that a map does not go searching for new voters any further than necessary from the current district lines. Because these two measures best capture a proposed map's consistency with existing boundaries, the average of each proposed map's population retention percentage and geographic retention percentage—a “core retention” score—is highly probative of a map's adherence to the “least change” requirement.

2. *Population equality.* The population deviation of a proposed map is measured by dividing the difference in population between the most- and least-populated district by the ideal district population.

3. *Equal Protection Clause.* The Fourteenth Amendment's “Equal Protection Clause prohibits a State, without sufficient justification, from ‘separating its citizens into different voting districts on the basis of race.’” *Bethune-Hill v. Virginia State Bd. of Elections*, 137 S. Ct. 788, 797 (2017) (quoting *Miller v. Johnson*, 515 U.S. 900, 911 (1995)).

4. *Voting Rights Act.* A proposed map must comply with Section 2 of the VRA. Section 2 prohibits “any standard, practice or procedure” that “results in a denial or abridgement of the right of any citizen of the United States to vote on account of” race, color, or membership in a

language minority group. 52 U.S.C. §§ 10301(a), 10301(f)(2). In particular, it must not deprive racial minorities of the opportunity to elect candidates of their choice by creating fewer minority opportunity districts than is necessary.

5. *Local Boundaries.* A proposed map's consistency with local boundaries can be quantified according to the number of counties, towns, and precincts that are split by district lines. Thus, a simple "boundary preservation score" can be calculated by averaging the total number of splits. Proposed maps are likely to deviate to the greatest extent in the number of times they split towns and counties, and those differences will be most apparent in the computed average. This approach is consistent with the Court's recognition that preserving the boundaries of smaller political subdivisions should be easiest to achieve. *See* Nov. 30 Order ¶ 35.

6. *Compactness.* There are two main ways of calculating a district's compactness. The Reock measure compares a district's area relative to the most compact circle that has the same length as the district. The Polsby-Popper measure, in turn, computes the area of a district relative to the area of a circle with the same perimeter. Both measures provide a score between 0 and 1, with higher scores indicating more compactness. Because these measures use the same scale, they can be averaged together to calculate a plan's overall compactness score.

7. *Delayed voting.* People who are reassigned from odd-numbered senate districts to even-numbered senate districts will have to wait an additional two years before voting in senate elections. The total number of people who will be subject to this additional wait can be divided by Wisconsin's total population to compute each plan's delayed voting score.

B. The Court should adopt the maps with the highest core retention scores that comply with all state and federal law.

Consistent with the November 30 Order, the Court should adopt the maps with the highest core retention scores that comply with the Fourteenth Amendment, Section 2 of the VRA, and Wisconsin law. Because the parties' proposed maps with the highest core retention scores also offer significant improvements on traditional redistricting principles, those maps allow maintaining the cores of districts without compromising boundary splits, compactness, and other traditional, neutral redistricting criteria.

ANALYSIS

I. The Governor's and the Hunter Intervenors' congressional maps make the least changes to the enacted map and comply with all relevant state and federal law.

The Hunter Intervenors, Governor Evers, Citizen Scientists, and Congressmen proposed congressional maps.² All four maps achieve the minimum population deviation mathematically possible, with each district within one person of the ideal population of 736,715.³ All four

² The Legislature proposed the same congressional map as the Congressmen, and it offered no separate argument or analysis in support of that map.

³ Congressional maps proposed by the Hunter Intervenors and Governor include districts that are one person below and one person above the ideal population, while the congressional maps proposed by the Citizen Scientists and Congressmen include districts that are one person below the ideal population. Because it is mathematically impossible to draw eight districts that exactly contain the ideal population, and because all proposed maps minimize deviations from the ideal to the mathematical minimum of one person, there is no basis to attach any significance to whether districts are one person above or one person below the ideal population. If the Court believes otherwise, the Hunter Intervenors respectfully request notice so they may seek leave to amend their map to make any technical change the Court believes necessary.

maps also comply with Section 2 of the VRA. The relevant differences between the four maps, then, are as follows:

A. The Governor’s and the Hunter Intervenors’ congressional maps best achieve “least change.”

As illustrated in Table 1 below, the Governor’s and the Hunter Intervenors’ proposed congressional maps achieve the least change in population and geography from the enacted map. The Governor’s map aggregate core retention score is 2.5% higher than the retention score for the Citizen Scientists’ map and a full 4.1% higher than the same score for the Congressmen’s map. The Hunter map’s aggregate core retention score is 1.4% higher than the Citizen Scientists’ score and 3.0% higher than the Congressmen’s score.

| Table 1: Congressional Map Core Retention Scores | | | | |
|---|---------------|-----------------|---------------------------|--------------------|
| | Hunter | Governor | Citizen Scientists | Congressmen |
| Pop. Retention% | 93.0% | 94.5% | 91.5% | 93.5% |
| Geo. Retention% | 97.1% | 98.5% | 95.9% | 90.6% |
| Average | 95.1% | 96.5% | 93.7% | 92.1% |

B. The congressional maps of the Governor, the Hunter Intervenors, and the Citizen Scientists best comport with traditional redistricting criteria.

1. The Citizen Scientists and Hunter congressional maps split the fewest subdivisions.

As illustrated in Table 2 below, the Hunter Intervenors, the Governor, and the Citizen Scientists each match or improve on the enacted map’s division of counties, municipalities, and precincts. The Congressmen’s map, in contrast, splits more municipalities and

precincts than the enacted map. The Citizen Scientists’ proposed map does the best overall at minimizing boundary splits, followed by the Hunter Intervenors’ proposed map.

| Table 2: Congressional Map Subdivision Splits | | | | | |
|--|----------------|---------------|-----------------|---------------------------|--------------------|
| | Enacted | Hunter | Governor | Citizen Scientists | Congressmen |
| County | 12 | 11 | 12 | 7 | 10 ⁴ |
| Municipal | 29 | 29 | 27 | 21 | 36 |
| Precinct | 42 | 19 | 33 | 13 | 50 |
| Average | 27.7 | 19.7 | 24 | 12.7 | 32 |

The Congressmen’s proposed map reduced county splits in a manner that blatantly violates the Court’s “least change” mandate. Specifically, the Congressmen’s map eliminated county splits in CD-3 and CD-7 by making changes that were not necessary to remedy any malapportionment. CD-3 is underpopulated by only 3,131 people, and the Hunter Intervenors’ map illustrates that minor tweaks to these districts can cure the deviation. The Hunter map moves 983 people out of CD-3 and 4,645 people into CD-3 to account for the district’s underpopulation. By contrast, the Congressmen’s map moves *238,929 people* – 117,899 out of CD-3 and 121,030 into CD-3. There is no legitimate justification for this massive relocation under a “least change” approach.

⁴ Technically, the Congressmen’s map splits 12 counties. Two of those splits—of Manitowoc and Ozaukee Counties—occur in water and do not divide any population. The Hunter Intervenors have decided to ignore these splits for the purposes of the calculations presented here.

The Congressmen's map takes the same approach to CD-7. That district is underpopulated by only 4,133 people, yet the Congressmen's map moves *159,361 people* out of and into the district. In comparison, the Governor's map removes three people from the district and adds 4,136. Again, this approach cannot be justified under the Court's "least change" mandate.

The most significant malapportionment in the enacted congressional map is CD-2's overpopulation and CD-4's underpopulation, but the task of transferring population from CD-2 to CD-4 does not require any changes to CDs 3 or 7, neither of which is in between CDs 2 and 4. Thus, the Congressmen's proposal to move Clark County from entirely within CD-7 to entirely within CD-3 is untethered to the "least change" mandate. The Congressmen's map also creates two additional county splits—of Dunn and Portage Counties—that are not present in the enacted map and unnecessary to remedy any malapportionment. This problem is not limited to county splits. The Congressmen's map splits more municipalities and precincts than the enacted map.

2. All four proposed congressional maps are more compact than the enacted map.

As illustrated in Table 3 below, there is substantial similarity in the compactness of the proposed congressional maps of the Congressman, the Citizen Scientists, and the Hunter Intervenors, with the Congressman's map having the highest average compactness score, followed by the Citizen Scientists and the Hunter Intervenors. While the Governor's map has the lowest compactness score, it is still more compact than the enacted map.

| Table 3: Congressional Map Compactness Scores | | | | | |
|--|----------------|---------------|-----------------|---------------------------|------------------------|
| | Enacted | Hunter | Governor | Citizen Scientists | GOP Congressmen |
| Reock | 0.453 | 0.451 | 0.449 | 0.473 | 0.483 |
| Polsby-Popper | 0.292 | 0.362 | 0.306 | 0.371 | 0.373 |
| Average | 0.373 | 0.407 | 0.378 | 0.422 | 0.428 |

C. Congressional map conclusion

The Governor’s and the Hunter Intervenors’ proposed congressional maps best minimize changes to core populations and geographies; they comply with all relevant state and federal law; and they improve upon the enacted map on subdivision splits and compactness. Based on the criteria established in the November 30 Order, the Court should select the Governor’s map based on its minimal changes or, alternatively, the Hunter map.

While the Citizen Scientists’ map scores well with splits and compactness, its relatively low core retention score makes it less compliant with the “least-change” approach than either the Governor’s or the Hunter Intervenor’s map.

The Congressmen’s map is clearly the most non-compliant with the November 30 Order of all four maps. It makes the most population and geographic changes to the enacted map, while also resulting in the highest number of splits of municipalities and precincts among the proposed maps. Objective application of the “least-change” and traditional redistricting criteria set forth in the November 30 order plainly requires rejecting the Congressman’s map.

II. The Governor’s legislative maps make the least changes to the enacted map and comply with all relevant state and federal law.

The Hunter Intervenors, BLOC, Governor Evers, Senator Bewley, the Citizen Scientists, and the Legislature proposed legislative maps. All six parties proposed assembly and senate maps that minimize total population deviations below 2%, consistent with the established standard for legislative redistricting in Wisconsin. *See AFL–CIO v. Elections Bd.*, 543 F. Supp. 630, 634 (E.D. Wis. 1982). While all six parties proposed senate maps that comply with the VRA, only the Hunter Intervenors, BLOC, and the Governor proposed assembly districts that comply with the Fourteenth Amendment and the VRA.

The relevant differences between the proposed legislative maps are as follows:

A. The Governor’s legislative maps best achieve “least-change.”

As illustrated in Table 4 below, the Governor’s proposed assembly map achieves the least change in population from the enacted map, while BLOC’s proposed assembly map achieves the least change in geography from the enacted map. The average of these two measures reveals that the Governor’s proposed assembly map narrowly achieves the least changes overall.

| Table 4: Assembly Map Core Retention Scores | | | | | | |
|--|---------------|--------------|--------------|------------------------|----------------------|--------------|
| | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Pop. Retention % | 73.1% | 84.1% | 85.8% | 83.3% | 61.0% | 84.5% |
| Geo. Retention % | 79.6% | 86.5% | 85.2% | 80.6% | 61.0% | 81.1% |
| Average | 76.4% | 85.3% | 85.5% | 82.0% | 61.0% | 82.8% |

As illustrated in Table 5 below, the Governor's proposed senate map achieves both the highest population retention (92.210% compared to the Legislature's 92.207%) and the highest geographic retention.

| Table 5: Senate Map Core Retention Scores | | | | | | |
|--|---------------|--------------|--------------|------------------------|----------------------|--------------|
| | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Pop. Retention % | 80.8% | 89.6% | 92.2% | 90.2% | 74.3% | 92.2% |
| Geo. Retention % | 87.6% | 93.9% | 94.9% | 90.1% | 71.0% | 92.7% |
| Average | 84.2% | 91.8% | 93.6% | 90.2% | 72.7% | 92.5% |

Table 6 provides the average population retention score for each party's proposed assembly and senate map and the average geographic retention score for each party's proposed assembly and senate map, which averages the score for both the senate and assembly maps proposed by each party. These averages are then averaged together to

provide an overall legislative map core retention score. As Table 6 shows, the Governor’s legislative maps do the best overall at population retention, and BLOC’s legislative maps do the best overall at geographic retention. Averaging these measures together, the Governor’s proposed legislative maps best comply with the least-change requirement, with BLOC’s maps coming in second. Because the legislative chambers are nested, wholesale adoption of one party’s assembly map necessitates choosing its companion senate map. Thus, this average measure across both chambers is the best measure of least-change, overall among all the legislative maps proposed by the parties.

| Table 6: Legislative Map Core Retention Scores | | | | | | |
|---|---------------|--------------|--------------|------------------------|----------------------|--------------|
| | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Pop. Retention % | 77.0% | 86.8% | 89.0% | 86.8% | 67.7% | 88.2% |
| Geo. Retention % | 83.6% | 90.2% | 90.1% | 85.4% | 66.0% | 86.9% |
| Average | 80.3% | 88.5% | 89.6% | 86.1% | 66.9% | 87.6% |

B. The proposed legislative maps optimize on traditional redistricting criteria to various degrees.

1. BLOC’s legislative maps best minimize subdivision splits.

As illustrated in Table 7 below, all parties proposed assembly maps that improve on the enacted map’s division of political subdivisions. BLOC’s proposed assembly map does the best overall at minimizing boundary splits.

| Table 7: Assembly Map Subdivision Splits | | | | | | | |
|---|----------------|---------------|-------------|-------------|------------------------|----------------------|-------------|
| | Enacted | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Cnty. | 58 | 50 | 53 | 53 | 55 | 40 | 53 |
| Munic. | 113 | 114 | 70 | 110 | 69 | 75 | 45 |
| Prec. | 394 | 223 | 122 | 228 | 368 | 159 | 180 |
| Avg. | 188 | 129 | 82 | 130 | 164 | 91 | 93 |

Table 8 shows that BLOC and the Citizen Scientists do the best at minimizing splits among the proposed senate maps. Again, all parties achieve significant improvements across the board relative to the enacted map.

| Table 8: Senate Map Subdivision Splits | | | | | | | |
|---|----------------|---------------|-------------|-------------|------------------------|----------------------|-------------|
| | Enacted | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Cnty. | 46 | 42 | 42 | 45 | 48 | 28 | 42 |
| Munic. | 125 | 76 | 54 | 75 | 51 | 44 | 31 |
| Prec. | 228 | 117 | 55 | 144 | 199 | 75 | 86 |
| Avg. | 133 | 78 | 50 | 88 | 99 | 49 | 53 |

Table 9 computes the average subdivision splits across parties' assembly and senate maps. BLOC's proposed legislative maps do the best overall at preserving political subdivisions.

| Table 9: Legislative Map Subdivision Splits | | | | | | | |
|--|----------------|---------------|-------------|-------------|------------------------|----------------------|-------------|
| | Enacted | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Cnty. | 52 | 46 | 48 | 49 | 52 | 34 | 48 |
| Munic. | 119 | 95 | 62 | 93 | 60 | 60 | 38 |
| Prec. | 311 | 170 | 89 | 186 | 284 | 117 | 133 |
| Avg. | 161 | 104 | 66 | 109 | 132 | 70 | 73 |

2. The Hunter Intervenors' legislative districts are the most compact.

As illustrated in Table 10 below, the Hunter Intervenors proposed the assembly map with both the most compact Reock score and the most compact Polsby-Popper score. All proposed assembly maps except the Legislature's and BLOC's achieve better compactness than the enacted map.

| Table 10: Assembly Map Compactness Scores | | | | | | | |
|--|----------------|---------------|-------------|-------------|------------------------|----------------------|-------------|
| | Enacted | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Reock | .401 | .447 | .381 | .405 | .412 | .411 | .384 |
| Pol.- Pop. | .277 | .359 | .247 | .272 | .276 | .303 | .262 |
| Avg. | .339 | .403 | .314 | .339 | .344 | .357 | .323 |

Table 11 shows that the Governor's and Legislature's proposed senate maps achieve the highest Reock score, while the Hunter Intervenors' proposed senate map does best on the Polsby-Popper measure. Overall, only the Hunter Intervenors and Citizen Scientists submitted senate maps that are more compact than the enacted map.

| Table 11: Senate Map Compactness Scores | | | | | | | |
|--|----------------|---------------|-------------|-------------|------------------------|----------------------|-------------|
| | Enacted | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Reock | .411 | .407 | .402 | .410 | .413 | .403 | .410 |
| Pol.- Pop. | .265 | .303 | .225 | .257 | .253 | .287 | .257 |
| Avg. | .338 | .356 | .314 | .334 | .334 | .345 | .334 |

The parties' combined assembly and senate compactness scores are presented in Table 12. The Hunter Intervenor's legislative maps score best on Reock compactness, best on Polsby-Popper compactness, and, thus, best on compactness overall.

| Table 12: Legislative Map Compactness Scores | | | | | | | |
|---|----------------|---------------|-------------|-------------|------------------------|----------------------|-------------|
| | Enacted | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| Reock | .405 | .428 | .393 | .408 | .415 | .409 | .399 |
| Pol.- Pop. | .271 | .332 | .236 | .265 | .265 | .295 | .260 |
| Avg. | .338 | .380 | .314 | .336 | .340 | .352 | .329 |

3. Senator Bewley's map best minimizes delayed senate voting.

A final consideration is which proposed senate map will require the fewest people to wait six years, rather than the customary four years, in between senate elections. Table 13 reports these figures as a percentage of Wisconsin's population. Senator Bewley's map performs best at minimizing the percentage of Wisconsinites who will be moved from an odd-numbered to an even-numbered district and be forced to wait six years between senate elections.

| Table 13: Senate Map Delayed Voting | | | | | |
|--|-------------|-----------------|--------------------|---------------------------|--------------------|
| Hunter | BLOC | Governor | Sen. Bewley | Citizen Scientists | Legislature |
| 4.1% | 3.0% | 2.4% | 2.3% | 7.2% | 2.4% |

C. State Assembly maps must create a seventh Black opportunity district.

Under the currently malapportioned map, there are six Black opportunity districts in the Milwaukee area. Given the shifts in Wisconsin's population over the last decade, it is now possible—and necessary—to create a seventh Black opportunity district in the Milwaukee area. The Hunter Intervenor, BLOC, and the Governor all proposed assembly maps with seven districts where Black voters can elect a candidate of their choice. In contrast, the assembly maps proposed by Senator Bewley, the Citizen Scientists, and the Legislature ignore the changes in Wisconsin's population and retain only six Black opportunity districts.

| Table 14: Black Opportunity Districts in Milwaukee | | | | | | | |
|---|------------|---------------|-------------|-------------|--------------------|------------------|-------------|
| | Now | Hunter | BLOC | Gov. | Sen. Bewley | Cit. Sci. | Leg. |
| >50% Black VAP Districts | 6 | 5 | 7 | 7 | 6 | 3 | 5 |
| Black Opp. Districts <50% BVAP | 0 | 2 | 0 | 0 | 0 | 3 | 1 |

To ensure compliance with the VRA and the Fourteenth Amendment, the Court should adopt an assembly map that creates seven

Black opportunity districts in the Milwaukee area. The assembly maps proposed by Senator Bewley, the Citizen Scientists, and the Legislature deprive Black voters in the outer lying areas of Milwaukee the opportunity to elect a candidate of their choice, in violation of Section 2. This fact alone should disqualify each of these maps from consideration.

In addition, the assembly maps proposed by the Citizen Scientists and the Legislature violate the Equal Protection Clause of the Fourteenth Amendment because they pack Black voters into a supermajority district. In the Legislature's proposed map, AD-11 has a Black voting-age population over 70%. Even worse, the Citizen Scientists proposed AD-11 has a Black voting-age population over 82%.⁵ *See, e.g., Cooper v. Harris*, 137 S.Ct. 1455, 1479 (2017) (explaining that if state officials “instruct[ed] their mapmaker to pack as many black voters as possible into a district, or t[old] him to make sure its BVAP hit 75% [...], a court could find that racial rather than political factors dominated in a district's design.”).

D. Legislative map conclusion

The Governor's legislative maps best minimize changes to existing boundaries, effectively minimize senate delayed voting, comply with all relevant state and federal law, achieve significant improvements over the enacted maps on subdivision splits, and essentially match the enacted maps on compactness.

Legislative maps proposed by the Hunter Intervenors and BLOC also deserve consideration. Both sets of proposed maps comply with all

⁵ The Citizen Scientists propose an Assembly map where two of the proposed Black opportunity districts have a Black voting-age population below 40%—Assembly District 17 has a BVAP of 39.6% and Assembly District 12 has a BVAP of only 36.3%. It is unclear whether those districts would sufficiently enable Black voters to elect a candidate of their choice.

relevant state and federal law. BLOC's maps do well on least changes, delayed voting, and subdivision splits, while the Hunter Intervenors do best among all the proposals on compactness.

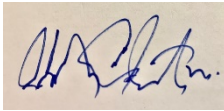
The legislative maps proposed by Senator Bewley, the Citizen Scientists, and the Legislature violate Section 2 of the VRA and the Fourteenth Amendment and must be rejected.

CONCLUSION

The Court should adopt congressional, assembly, and senate maps consistent with the foregoing analysis.

Dated this 30th day of December, 2021.

Respectfully Submitted,



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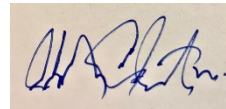
Attorneys for Hunter Intervenor-Petitioners

*Admitted *Pro Hac Vice*

FORM AND LENGTH CERTIFICATION

I certify that this brief conforms to the rules contained in Wis. Stat. § 809.19(8)(b), (bm), and (c) for a brief produced with a proportional serif font. The length of this brief is 3,883 words.

Dated: December 30, 2021

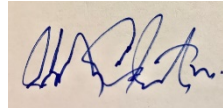
A rectangular box containing a handwritten signature in blue ink. The signature is cursive and appears to read "Charles G. Curtis, Jr.".

Charles G. Curtis, Jr.

CERTIFICATE OF SERVICE

I certify that on this 30th day of December, 2021, I caused a copy of this brief to be served upon counsel for each of the parties via e-mail.

Dated: December 30, 2021

A rectangular box containing a handwritten signature in blue ink, which appears to be "Charles G. Curtis, Jr.".

Charles G. Curtis, Jr.