

**IN THE SUPREME COURT OF WISCONSIN**

No. 2021AP001450 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,

*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.*

---

**CITIZEN MATHEMATICIANS AND SCIENTISTS' OPPOSITION TO CONGRESSMEN'S MOTION TO SUBMIT THEIR MODIFIED VERSION OF THEIR PROPOSED REMEDIAL CONGRESSIONAL MAP**

---

Michael P. May SBN: 1011610  
Sarah A. Zylstra SBN: 1033159  
Tanner G. Jean-Louis SBN: 1122401  
BOARDMAN & CLARK LLP  
1 S. Pinckney Street, Suite 410  
P.O. Box 927  
Madison, WI 53701  
Phone: (608) 257-9521  
mmay@boardmanclark.com  
szlystra@boardmanclark.com  
tjeanlouis@boardmanclark.com

David J. Bradford \*PHV  
JENNER & BLOCK LLP  
353 N. Clark Street  
Chicago, IL 60654  
Phone: (312) 923-2975  
dbradford@jenner.com

Jessica Ring Amunson \*PHV  
Sam Hirsch \*PHV  
Rebecca Fate \*PHV  
JENNER & BLOCK LLP  
1099 New York Avenue, NW  
Washington, D.C. 20001  
Phone: (202) 639-6000  
jamunson@jenner.com  
shirsch@jenner.com  
rfate@jenner.com

Elizabeth Edmondson \*PHV  
Olivia Hoffman \*PHV  
JENNER & BLOCK LLP  
1155 Avenue of the Americas  
New York, NY 10036  
Phone: (212) 891-1600  
eedmondson@jenner.com  
ohoffman@jenner.com

*Attorneys for Intervenors-Petitioners Citizen Mathematicians and Scientists Gary Krenz, et al.*

Pursuant to the Court's January 4, 2022 Order, Intervenor-Petitioners Citizen Mathematicians and Scientists respectfully submit this opposition to the motion of Congressmen Glenn Grothman, Mike Gallagher, Bryan Steil, Tom Tiffany, and Scott Fitzgerald (together, the "Congressmen") to submit their modified version of their proposed remedial congressional map (the "Motion"). For reasons set out below, the Motion should be denied.

### **ARGUMENT**

On October 14, 2021, this Court ordered all parties to brief what litigation process should be used to determine constitutionally sufficient maps for the state of Wisconsin. After receiving the briefing, this Court issued its November 17, 2021 Order ("Order"). The text of that Order is clear. It permits each party to submit a single proposed map for congressional districts. *See* Order at 2.

Now, the Congressmen seek leave to submit "an alternative" map. Mot. at 7. As the Motion makes clear, this alternative map is not intended to replace the original one. *Id.* Rather, it is offered as an additional proposal for consideration by this Court. What the Congressmen want, after reviewing maps submitted by other parties, is a second bite at the apple. *Id.*

Because the request to sponsor two congressional maps is inconsistent with the plain text of the Order, it should be denied. Order

at 2. To be sure, the Order contemplates that parties may seek leave to amend their original map, where a correction or modification is warranted. Order at 3. But the Congressmen request entirely different relief. And the Order simply does not contemplate or permit parties to submit more than one congressional map in this proceeding. *Id.* at 2-3.

In this respect, the Congressmen's request is not only impermissible under the plain meaning of the Order, but also prejudicial. Were parties permitted to offer multiple maps, they could have provided the Court with plans to address trade-offs like the one highlighted by the Congressmen's Motion, which typifies the tension between protecting county lines and minimizing the number of people who change districts. *See* Mot. at 3, 6. In fact, the Citizen Mathematicians and Scientists stood ready to do precisely that, as they noted in briefing the appropriate litigation process for this proceeding. *See* Citizen Mathematicians and Scientists Br. at 37 (October 25, 2021) (noting tension between redistricting factors and ability to provide the Court with "a set of maps based on different prioritization of the [redistricting] factors" if helpful). Particularly given that other parties in this proceeding have conformed their litigation conduct to the Court's reasonable limitation on the submission of plans, the Congressmen should not now be heard on multiple maps.

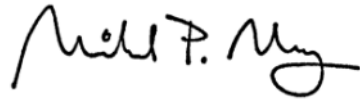
If the clear text of the Order and prejudice to other parties were not reason enough to deny the motion, its timing would offer an entirely separate and independent basis to do so. The Congressmen did not provide notice of their intent to file an alternative map until the close of business on December 29, 2021. And in providing notice, the Congressmen did not even disclose the PDF, CSV, and Shapefile formats for their new map. Instead, those materials were provided less than one hour before the deadline for responsive materials. That timing deprived other parties of a reasonable opportunity to evaluate and address the new map. It also deprives this Court of important analysis regarding the map's benefits, drawbacks, and implications. In light of those procedural and substantive concerns, the Motion should also be denied as untimely.

### **CONCLUSION**

This Court's November 17 Order does not permit parties to sponsor more than one proposed congressional map. For that reason, and others articulated in this opposition, the Motion should be denied.

BOARDMAN & CLARK LLP

By



---

Michael P. May SBN: 1011610  
Sarah A. Zylstra SBN: 1033159  
Tanner G. Jean-Louis SBN: 1122401  
BOARDMAN & CLARK LLP  
1 S. Pinckney Street, Suite 410  
P.O. Box 927  
Madison, WI 53701  
Phone: (608) 257-9521  
mmay@boardmanclark.com  
szylstra@boardmanclark.com  
tjeanlouis@boardmanclark.com

David J. Bradford \*PHV  
JENNER & BLOCK LLP  
353 N. Clark Street  
Chicago, IL 60654  
Phone: (312) 923-2975  
dbradford@jenner.com

Jessica Ring Amunson \*PHV  
Sam Hirsch \*PHV  
Rebecca Fate \*PHV  
JENNER & BLOCK LLP  
1099 New York Avenue, NW  
Washington, D.C. 20001  
Phone: (202) 639-6000  
jamunson@jenner.com  
shirsch@jenner.com  
rfate@jenner.com

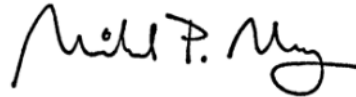
Elizabeth Edmondson \*PHV (eedmondson@jenner.com)  
Olivia Hoffman \*PHV (ohoffman@jenner.com)  
JENNER & BLOCK LLP  
1155 Avenue of the Americas  
New York, NY 10036  
Phone: (212) 891-1600

**FORM & LENGTH CERTIFICATION**

I hereby certify that this brief conforms to the rules contained in § 809.19(8)(b) and (c) for a brief produced with a proportional serif font. The length of this brief 599 words.

BOARDMAN & CLARK LLP

By

A handwritten signature in black ink, appearing to read "Michael P. May". The signature is written in a cursive style with a large initial "M" and a long horizontal stroke at the end.

---

Michael P. May SBN: 1011610

**CERTIFICATION OF COMPLIANCE WITH RULE 809.19(12)**

I hereby certify that:

I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of § 809.19(12).

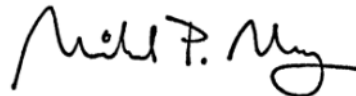
I further certify that:

This electronic brief is identical in content and format to the printed form of the brief filed as of this date.

A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all opposing parties.

BOARDMAN & CLARK LLP

By



---

Michael P. May SBN: 1011610