

## OFFICE OF THE CLERK

**Supreme Court of Wisconsin**

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August 20, 2020

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

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No. 2020AP557-OA      Jefferson v. Dane County

Disability Rights Wisconsin moves to intervene in this matter to address the third issue listed in the principal brief of the petitioners, Mark Jefferson and the Republican Party of Wisconsin. That third issue, however, was not listed in the petitioners' petition for leave to commence an original action, and therefore was not part of this court's grant of its original jurisdiction.

Nevertheless, the court having considered the petition/motion of Disability Rights Wisconsin (DRW) to intervene in this matter, and the court noting that DRW states that the existing parties to this original action do not object to the intervention of DRW in this matter;

IT IS ORDERED that the court does not reach the issue of whether to grant mandatory intervention, see Wis. Stat. § 803.09(1), but the court grants the motion of Disability Rights

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Wisconsin to intervene as a respondent in the exercise of its discretion. See Wis. Stat. § 803.09(2). Granting the motion, however, should not be considered as an indication that the court has yet decided whether it will address this listed third issue in its ultimate decision in this case.

IT IS FURTHER ORDERED that, on or before August 31, 2020, respondent Disability Rights Wisconsin shall serve and file a brief conforming to Wis. Stat. § 809.19(3), and that on or before September 11, 2020, petitioners, Mark Jefferson and the Republican Party of Wisconsin, may serve and file either a supplemental reply brief that is limited to replying to the arguments raised by the brief of Disability Rights Wisconsin or a statement that no supplemental reply brief will be filed.

IT IS FURTHER ORDERED that oral argument in this matter shall remain scheduled for 9:45 a.m. on September 29, 2020, as the second case. Respondents shall agree on a division of the argument time allotted to the respondents, and shall notify the clerk of this court, in writing, of that division of oral argument time no later than September 18, 2020.

ANNETTE KINGSLAND ZIEGLER, J. (*concurring in part, dissenting in part*). I concur in part and dissent in part. I concur in part because the issue presented is whether Disability Rights Wisconsin can intervene, and the answer to that question is yes. I respectfully dissent in part, however, because inexplicably the order approved by four members of the court does not stop with answering the question presented. Unfortunately, the order goes further and could unnecessarily create confusion or be wrongly interpreted. I clarify that nothing in the order should affect the parties' obligation to fully brief and argue the issues presented.

For the foregoing reasons, I concur in part and dissent in part.

I am authorized to state the Chief Justice PATIENCE DRAKE ROGGENSACK and Justice REBECCA GRASSL BRADLEY join this opinion.

BRIAN K. HAGEDORN, J. (*concurring*). The motion to intervene by Disability Rights Wisconsin (DRW) is premised on the notion that the third issue presented in the petitioners' opening brief encompasses a different and much broader question than the two issues this court agreed to hear by granting the petition for original action. It is unclear if the petitioners would agree with that characterization. Without full briefing and argument, I cannot yet tell whether and to what degree this third listed issue is a component of the issues we have already agreed to hear, or a different question altogether. Prudently, the court's order today neither disagrees with nor acquiesces to DRW's characterization of the third issue. I join the court's order because it does no more and no less than ensure a full and adversarial presentation of all potential issues, while not unwittingly expanding the scope of the issues we have agreed to review.

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Sheila T. Reiff  
Clerk of Supreme Court