

## SUPREME COURT OF WISCONSIN

Appeal No. 2021AP001450 - OA

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BILLIE JOHNSON, et al.

*Petitioners,*

v.

WISCONSIN ELECTIONS COMMISSION, et al.

*Respondents.*

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Original Action in the Wisconsin Supreme Court

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**BRIEF IN SUPPORT OF UNOPPOSED MOTION TO INTERVENE OF  
PROPOSED INTERVENORS BLACK LEADERS ORGANIZING FOR  
COMMUNITIES, VOCES DE LA FRONTERA, LEAGUE OF WOMEN VOTERS OF  
WISCONSIN, CINDY FALLONA, LAUREN STEPHENSON, AND REBECCA ALWIN**

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*TABLE OF CONTENTS*

INTRODUCTION.....	1
STATEMENT OF INTERESTS .....	3
LEGAL STANDARD FOR INTERVENTION.....	5
ARGUMENT .....	6
I. Proposed INTERVENORS SATISFY All of THE CRITERIA FOR MANDATORY INTERVENTION. ....	6
A. This Motion to Intervene is Both Timely and Unopposed. ....	7
B. Proposed Intervenors’ Interests Are Sufficiently Related to Redistricting...	8
C. The Disposition of this Case May Impair Proposed Intervenors’ Ability to Protect Their Interests. ....	12
D. No Parties Adequately Represent Proposed Intervenors’ Interests. ....	14
II. Proposed INTERVENORS Also MEET All of THE CRITERIA FOR PERMISSIVE INTERVENTION.....	15
CONCLUSION .....	16

*TABLE OF AUTHORITIES*

**Cases**

<i>Ariz. State Legislature v. Ariz. Independent Redistricting Comm’n</i> , 576 U.S. 787 (2015) .....	1
<i>Armada Broad., Inc. v. Stirn</i> , 183 Wis. 2d 463, 516 N.W.2d 357 (1994) .....	17
<i>Baker v. Carr</i> , 369 U.S. 186 (1962) .....	4
<i>Baldus v. Members of Wisconsin Gov’t Accountability Bd.</i> , 849 F. Supp. 2d 840 (E.D. Wis. 2012) .....	13
<i>Black Leaders Organizing for Communities, et al. v. Robert F. Spindell, et al.</i> , No. 21-cv-534-jdp-ajs-eeec (W.D. Wis) .....	3, 16
<i>City of Madison v. Wis. Emp’t Relations Comm’n</i> , 2000 WI 39, 234 Wis. 2d 550, 610 N.W.2d 94 .....	7, 10, 18
<i>Colleton Cty. Council v. McConnell</i> , 201 F. Supp. 2d 618 (D.S.C. 2002) .....	2
<i>Gill v. Whitford</i> , 138 S. Ct. 1916 (2018) .....	2
<i>Gray v. Sanders</i> , 372 U.S. 368 (1963) .....	14
<i>Helgeland v. Wis. Municipalities</i> , 2008 WI 9, 307 Wis. 2d 1, 745 N.W.2d 1 .....	passim
<i>Jensen v. Wisconsin Elections Bd.</i> , 2002 WI 13, 249 Wis. 2d 706, 639 N.W.2d 537 .....	1, 13, 14, 15
<i>Johnson v. Wisconsin Elections Commission</i> , No. 2021AP1450-OA (Wis. Aug. 26, 2021) .....	9
<i>Olivarez v. Unitrin</i> , 296 Wis. 2d 337, 723 N.W.2d 131 (Ct. App. 2006) .....	8
<i>Prosser v. Elections Bd.</i> , 793 F. Supp. 859 (W.D. Wis. 1992) .....	13
<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964) .....	4, 14
<i>Roth v. LaFarge Sch. Dist. Bd. of Canvassers</i> , 247 Wis. 2d 708, 634 N.W.2d 882 (Ct. App. 2001) .....	9
<i>State ex rel. Bilder v. Delavan Twp.</i> , 112 Wis. 2d 539, 334 N.W.2d 252 (1983) .....	8, 9
<i>Trbovich v. United Mine Workers</i> , 404 U.S. 528 (1972) .....	17
<i>Whitford v. Gill</i> , 218 F. Supp. 3d 837 (W.D. Wis. 2016) .....	1
<i>Wisconsin State AFL-CIO v. Elections Bd.</i> , 543 F. Supp. 630 (E.D. Wis. 1982) .....	13

*Wisconsin’s Env’tal Decade, Inc. v. Pub. Serv. Comm’n of Wisconsin,*  
 69 Wis. 2d 1, 230 N.W.2d 243 (1975) ..... 12

**Statutes**

Wis. Stat. § 803.09 ..... 6, 7, 15, 19

**Other Authorities**

Wis. Prac., Civil Procedure (4th ed.) § 309.2 ..... 24

## INTRODUCTION

The decennial process of drawing legislative districts, also known as redistricting, “determines the political landscape for the ensuing decade and thus public policy for years beyond.” *Jensen v. Wisconsin Elections Bd.*, 2002 WI 13, ¶10, 249 Wis. 2d 706, 639 N.W.2d 537. This politically charged process necessarily implicates a wide range of interests and goals that often conflict. This round of redistricting is no different.

Petitioners allege that Wisconsin’s current legislative districts are unlawful and ask this Court to draw Wisconsin’s legislative districts in the event the Governor and Legislature cannot reach a legislative solution, and to make the “least changes” possible to the existing plan when doing so. In effect, they ask this Court to judicially bless one of the most extreme partisan gerrymanders in recent U.S. history—and to do so after Wisconsin’s political process, via the Governor’s likely veto—will have just *rejected* that approach. This Court has no authority to judicially entrench the egregious 2011 gerrymander. “[P]artisan gerrymanders . . . [are incompatible] with democratic principles.” *Ariz. State Legislature v. Ariz. Independent Redistricting Comm’n*, 576 U.S. 787, 791 (2015); *see Whitford v. Gill*, 218 F. Supp. 3d 837, 890 (W.D. Wis. 2016) (“We conclude [] that the evidence establishes that one of the purposes of Act 43 was to secure Republican control of the Assembly under any likely future electoral scenario for the remainder of the decade, in other words to entrench the Republican Party in power.”), *vacated on other grounds Gill v. Whitford*, 138 S. Ct. 1916 (2018); *see also, e.g., Colleton Cty. Council v. McConnell*, 201 F. Supp. 2d 618, 629 (D.S.C. 2002) (“[I]t is inappropriate for the court to engage in political gerrymandering.”). That gerrymander – to which the Petitioners urge this Court

to make the “least changes” -- was accomplished through a redistricting plan that was the *opposite* of the “least changes” approach Petitioners now urge. Rather, that plan, 2011 Wisconsin Act 43, was the most disruptive redistricting in modern Wisconsin history. As a three-judge federal court observed after a trial on the merits in 2012, Act 43 “move[d] more than seven times” the number of people that needed to be moved to “equalize the populations numerically.” *Baldus v. Members of Wisconsin Gov’t Accountability Bd.*, 849 F. Supp. 2d. 840, 849, 860 (E.D. Wis. 2012) (stating that Act 43 “needlessly moved more than a million Wisconsinites and disrupted their long-standing political relationships...”).

While Proposed Intervenors agree that Wisconsin’s existing legislative districts are unlawful, they view redistricting not as a mechanism for cementing in place for another decade of entrenched, largely uniform political interests, but instead as an opportunity to revise legislative districts in order to ensure not only that new districts comply with state and federal legal requirements, but also that the diversity of political interests and voices that comprise the Wisconsin electorate are fairly represented and heard in government through the application of traditional redistricting criteria. To ensure that their perspective on redistricting is taken into consideration by this Court, Black Leaders Organizing for Communities (“BLOC”), Voces de la Frontera (“Voces”), League of Women Voters of Wisconsin (“LWVWI”) (collectively, “Organizational Intervenors”), Cindy Fallona, Lauren Stephenson, and Rebecca Alwin (collectively, “Individual Intervenors”) have filed

a complaint in federal court,<sup>1</sup> and now move to intervene as Petitioners in this case (collectively “Proposed Intervenors”) and submit this brief in support of their request.

### STATEMENT OF INTERESTS

Organizational Intervenors are nonprofit organizations that invest significant time, money, and volunteer hours in registering, educating, and mobilizing their members, constituents, and the general public to participate in local, state, and national elections. Exhibit 1, Affidavit of Debra Cronmiller (“Cronmiller Aff.”), ¶¶3-4; Exhibit 2, Affidavit of Angela Lang (“Lang Aff.”), ¶¶3-4; Exhibit 3, Affidavit of Christine Neumann-Ortiz (“Neumann-Ortiz Aff.”), ¶¶3-5. They also have an interest in representation in the Wisconsin Legislature, which directly impacts whether the policy interests of their members and constituents are represented by state legislators who speak for them. Ex. 1, Cronmiller Aff., ¶7; Ex. 2, Lang Aff., ¶¶4-5; Ex. 3, Neumann-Ortiz Aff., ¶6. Organizational Intervenors’ members and constituents include voters who reside in various State Senate and Assembly districts across Wisconsin, including districts that are now over-populated. Ex. 1, Cronmiller Aff., ¶8; Ex. 2, Lang Aff., ¶7; Ex. 3, Neumann-Ortiz Aff., ¶8. Because those members and constituents live in state legislative districts that were approximately equal in population with the other state legislative districts at the time the current districts were configured in 2011, but that are now over-populated as a result of the state population

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<sup>1</sup> See *Black Leaders Organizing for Communities, et al. v. Robert F. Spindell, et al.*, No. 21-cv-534-jdp-ajs-eec (W.D. Wis) (“*BLOC*”). A second action challenging state legislative and congressional districts is pending before the same three-judge federal court, *Hunter, et al. v. Bostelmann, et al.*, No. 21-cv-512-jdp-ajs-eec (W.D. Wis.) (“*Hunter*”). These cases have been consolidated, and Petitioners here are included in the group of nonparties that have either intervened (Petitioners, the Wisconsin Legislature, and current Wisconsin Republican Congressional Representatives) or moved to intervene (a group of Citizen Data Scientists) in that case.

count released by the Census Bureau on April 26, 2021, their votes are now diluted compared with voters in districts that are now under-populated. This vote dilution constitutes a specific and personal injury to each voter in an over-populated district that can be addressed by this Court. *See Reynolds v. Sims*, 377 U.S. 533, 561 (1964); *Baker v. Carr*, 369 U.S. 186, 206 (1962).

Because Organizational Intervenors collectively seek to maximize voter participation and fair and equal representation in government, they have a strong interest in ensuring that Wisconsin's legislative districts are apportioned as equally as possible. To promote and protect their interests, all three organizations have actively engaged in litigation, Ex. 1, Cronmiller Aff., ¶¶5, 9; Ex. 2, Lang Aff., ¶6; Ex. 3, Neumann-Ortiz Aff., ¶¶4, 7, and seek to do so again here.

Individual Intervenors are Wisconsin voters who now live in over-populated districts and whose votes are consequently diluted. Cindy Fallona resides in Wisconsin Assembly district 5 and State Senate district 2. Ex. 4, Affidavit of Cindy Fallona ("Fallona Aff."), ¶4. Fallona has lived at this residence for over three decades and is a regular voter in Wisconsin elections. *Id.*, ¶2. Fallona intends to vote in 2022 and is registered at this residence, with no plans to register at a different residence. *Id.*, ¶¶2-3. Lauren Stephenson resides in Wisconsin Assembly district 76 and State Senate district 26. Ex. 5, Affidavit of Lauren Stephenson ("Stephenson Aff."), ¶4. Stephenson has lived at this residence for over 6 years and is a regular voter in Wisconsin elections. *Id.*, ¶2. Stephenson intends to vote in 2022 and is registered at this residence, with no plans to register at a different residence. *Id.*, ¶¶2-3. Rebecca Alwin resides in Wisconsin Assembly district 79 and State Senate



district 27. Ex. 6, Affidavit of Rebecca Alwin (“Alwin Aff.”), ¶4. Alwin has lived at this residence for over 25 years and is a regular voter in Wisconsin elections. *Id.*, ¶2. Alwin intends to vote in 2022 and is registered at this residence, with no plans to register at a different residence. *Id.*, ¶¶2-3.

Thus, like the Organizational Intervenors, Individual Intervenors have a strong interest in ensuring that the results of the redistricting process are fair, nonpartisan legislative districts that facilitate fair and equal representation in state government.

### **LEGAL STANDARD FOR INTERVENTION**

This Court may permit intervention in this case if Proposed Intervenors demonstrate that they meet certain criteria, as provided under Wis. Stat. § (Rule) 803.09. State law provides two avenues for intervention: meeting the standard for mandatory intervention under subdivision (1) or the standard for permissive intervention under subdivision (2).

To intervene as a matter of right under Wis. Stat. § 803.09(1), Proposed Intervenors must show that:

- (A) their petition to intervene is timely;
- (B) they claim an interest sufficiently related to the subject of this action;
- (C) disposition of this action may as a practical matter impair or impede their ability to protect that interest; and
- (D) the existing parties do not adequately represent their interest.

*See Helgeland v. Wis. Municipalities*, 2008 WI 9, ¶38, 307 Wis. 2d 1, 745 N.W.2d 1. Courts take a “flexible and pragmatic approach to intervention as of right.” *Id.*, ¶40 n.30. “[T]here is interplay between the requirements,” which “must be blended and balanced to determine whether [Proposed Intervenors] have a right to intervene.” *Id.*, ¶39 (footnote omitted). “The analysis is holistic, flexible, and highly fact-specific.” *Id.*, ¶40.

The test for permissive intervention is even more flexible. A court may grant permissive intervention to anyone who would be a proper party. *See, e.g., City of Madison v. Wis. Emp't Relations Comm'n*, 2000 WI 39, ¶11 n.11, 234 Wis. 2d 550, 610 N.W.2d 94. The court “shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.” Wis. Stat. § 803.09(2). Section 803.09(2) makes clear that allowing Proposed Intervenors to intervene here is within the Court’s discretion as long as Proposed Intervenors’ position and the main action share a common question of law or fact. *Helgeland*, 2008 WI 9, ¶120.

## ARGUMENT

Proposed Intervenors qualify for both mandatory and permissive intervention. Thus, whichever avenue the Court follows, intervention is appropriate here, and this Motion should be granted.

### I. PROPOSED INTERVENORS SATISFY ALL OF THE CRITERIA FOR MANDATORY INTERVENTION.

Proposed Intervenors meet all four requirements for mandatory intervention. Moreover, Wisconsin courts view intervention favorably as a tool for “disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process,” *Helgeland*, 2008 WI 9, ¶44 (quoting *State ex rel. Bilder v. Delavan Twp.*, 112 Wis. 2d 539, 548-49, 334 N.W.2d 252 (1983)). Together, these facts militate strongly in favor of intervention here. The four statutory requirements must be “blended and balanced to determine whether [a party has] the right to intervene.” *Id.*, ¶39 (footnote omitted). The “holistic, flexible” analysis that the Wisconsin Supreme Court has

prescribed, *id.* ¶40 (footnote omitted), makes clear that this Motion satisfies the legal standard and must be granted.

**A. This Motion to Intervene is Both Timely and Unopposed.**

There is “no precise formula to determine whether a [petition] to intervene is timely,” but the critical factor is whether the proposed intervenor acted “promptly.” *Bilder*, 112 Wis. 2d at 550. Whether an intervenor acted promptly is determined by “when the proposed intervenor discovered its interest was at risk and how far litigation has proceeded.” *Olivarez v. Unitrin*, 296 Wis. 2d 337, 348, 723 N.W.2d 131 (Ct. App. 2006) (citing *Roth v. LaFarge Sch. Dist. Bd. of Canvassers*, 247 Wis. 2d 708, 634 N.W.2d 882 (Ct. App. 2001)). The Court also should consider whether intervention will prejudice the original parties. *Bilder*, 112 Wis. 2d at 550.

Petitioners initiated this suit on August 23, 2021 with a petition for leave to commence original action. The very same day, the *BLOC* Plaintiffs commenced their federal court action. Three days later, on August 26, 2021, Petitioners here moved to intervene in the *Hunter* case in federal court. On the same day, August 26, this Court issued an order setting a briefing schedule in this proceeding. *Johnson v. Wisconsin Elections Commission*, No. 2021AP1450-OA, Order (Wis. Aug. 26, 2021). Pursuant to that order, Proposed Intervenors, joined by additional proposed plaintiffs named in the *BLOC* action, filed a brief *amici curiae* in opposition to the petition for original action on September 7, 2021. This Court granted the petition for original action on September 22, 2021. *Johnson v. Wisconsin Elections Comm’n*, No. 2021AP1450-OA, Order (Wis. Sept. 22, 2021). In its order granting the petition for original action, the Court further set October 6, 2021 as the

deadline to file motions to intervene. *Id.* at 3. This Motion is filed within two days after entry of this Court's order, and twelve days before the October 6 deadline. Moving to intervene two days after the Court accepted jurisdiction over the case and before any further substantive action has occurred undoubtedly satisfies the timeliness element of mandatory intervention.

Nor would there be any prejudice to the original parties by granting this Motion. As detailed in Intervenor-Petitioners' contemporaneously filed Motion, the parties to this action do not oppose their intervention. *See* Intervenor-Petitioners' Unopposed Motion To Intervene at 5.

**B. Proposed Intervenors' Interests Are Sufficiently Related to Redistricting.**

No specific test exists for determining whether interests are sufficient to warrant intervention. Instead, a court is tasked with analyzing the facts and circumstances in light of the "policies underlying the intervention statute." *Helgeland*, 2008 WI 9, ¶¶43-44 (footnotes omitted). A proposed intervenor's interest must be of "direct and immediate character" such that "the intervenor will either gain or lose by the direct operation of the judgment." *Id.*, ¶45 (quoting *City of Madison*, 2000 WI 39, ¶11 n.9). An interest "too remote and speculative" will not "support a right of intervention." *Id.*, ¶53.

Proposed Intervenors' interests in the outcome of the redistricting process are direct and immediate. As described above, Organizational Intervenors have an interest in securing fair and equal representation in government for their members and constituents. Specifically, LWVWI's mission is to empower voters and defend democracy. Ex. 1,

Cronmiller Aff., ¶3. In pursuit of this mission, LWVWI works to affect public policies, promote citizen education, and make democracy work by removing unnecessary barriers to full participation in the electoral process. *Id.* LWVWI seeks to expand informed, active participation in state and local government, in order to give a voice to all Wisconsinites. *Id.*, ¶2. LWVWI wants government at every level to work as effectively and fairly as possible, so its work includes continual attention to and advocacy concerning issues of transparency, a strong and diverse judiciary, fair and equal nonpartisan redistricting, and appropriate government oversight. *Id.*, ¶4. LWVWI believes that Petitioners' proposed "least changes" approach to redistricting will negatively impact its members' representation in state government and will, thereby, reduce its members and its own ability to influence public policy through the legislative process. *Id.*, ¶7.

BLOC is a civic-engagement organization that has a robust field program to get out the vote and do civic education work door-to-door with community members. Ex. 2, Lang Aff., ¶3. BLOC trains its constituents, primarily Black residents in the Milwaukee area, on the civics process and on different ways to make their voices heard, including by voting in each election. *Id.*, ¶4. BLOC is regarded and used by members of the African-American community in Milwaukee as a resource and conduit through which they can become more engaged in the political process and advocate for rights and political representation for members of their community. *Id.* BLOC is concerned that adoption of Petitioners' proposed "least changes" approach to redistricting will harm its constituents by solidifying unequal and unfair representation for another decade. *Id.*, ¶¶8-9.

Voces advocates on behalf of immigrant and low-income workers. Ex. 3, Neumann-Ortiz Aff., ¶3. It is dedicated to educating and organizing its membership and community members to exercise their right to vote. *Id.*, ¶4. Voces seeks to maximize eligible-voter participation through its voter registration efforts and to encourage civic engagement through registration and voting. *Id.*, ¶5. Like BLOC, Voces fears that a Petitioners’ “least changes” approach will harm, rather than help, their efforts to ensure that legislative districts are reapportioned in a way that offers fair and equal representation for their members in state government. *Id.*, ¶6.

Organizational Intervenors, on behalf themselves and their members who now reside in malapportioned legislative districts, have a concrete interest in the outcome of any redistricting litigation. See *Wisconsin’s Env’tl Decade, Inc. v. Pub. Serv. Comm’n of Wisconsin*, 69 Wis. 2d 1, 20, 230 N.W.2d 243, 253 (1975) (an organization has “standing to sue in its own name if it alleges facts sufficient to show that a member of the organization would have had standing to bring the action in his own name”). Collectively, Organizational Intervenors maintain extensive voter-registration-and-engagement programs and devote significant staff time, volunteer time, and monetary resources to educating members, constituents, and the general public about voting and to working with the state and local government, partner organizations, and election officials across the state to ensure that all Wisconsinites are able to cast ballots for the candidates of each voter’s choice. Ex. 1, Cronmiller Aff., ¶4; Ex. 2, Lang Aff., ¶¶3-4; Ex. 3, Neumann-Ortiz Aff., ¶4. These interests are directly related to redistricting, which establishes the legislative districts in which individuals vote. Organizational Intervenors’ participation is necessary to

advance their organizational missions of advocating for expanding voting access and representation, as well as to ensure that their members' interests are given a voice during any reapportionment.

Previous redistricting cases underscore the breadth of interests that reapportionment touches. *Baldus v. Members of Wisconsin Gov't Accountability Bd.*, 849 F. Supp. 2d 840 (E.D. Wis. 2012), *Jensen v. Wisconsin Elections Bd.*, 2002 WI 13, 249 Wis. 2d 706, 639 N.W.2d 537, *Prosser v. Elections Bd.*, 793 F. Supp. 859 (W.D. Wis. 1992), and *Wisconsin State AFL-CIO v. Elections Bd.*, 543 F. Supp. 630 (E.D. Wis. 1982) all involved nonprofit interest groups participating in redistricting litigation. Organizational Intervenors have identical interests in the outcome of this case.

Individual Intervenors' currently reside in overpopulated senate and assembly districts. Ex. 4, Fallona Aff., ¶4; Ex. 5, Stephenson Aff., ¶4; Ex. 6, Alwin Aff., ¶4. As a result, their votes under the existing legislative districts are diluted. It follows that Individual Intervenors have a clear interest in ensuring that their respective legislative districts are reapportioned equally and fairly so as to give their votes proper weight in the electoral process.

The importance of voting and holding true to the "one person, one vote" maxim is continually reiterated as a substantial interest. "[T]he right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *Reynolds*, 377 U.S. at 555. "Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote—whatever their race, whatever their

sex, whatever their occupation, whatever their income, and wherever their home may be in that geographical unit.” *Gray v. Sanders*, 372 U.S. 368, 379 (1963). As this Court previously recognized, drawing of legislative maps affects “public policy for years beyond” the redistricting process. *Jensen v. Wisconsin Elections Bd.*, 2002 WI 13, ¶10, 249 Wis. 2d 706, 639 N.W.2d 537. *Jensen* further establishes that “[t]he people of this state have a strong interest in a redistricting map drawn by an institution of state government—ideally and most properly, the legislature, secondarily, this court.” *Jensen* 202 WI 113, ¶17. Proposed Intervenors, on behalf of themselves, their members, and their constituents undoubtedly have interests in this case.

Protecting these interests clearly outweighs any interest the original parties may have in excluding others from this lawsuit, especially given the fact that, as described above, granting permission to intervene at this early stage in the proceedings will in no way unduly complicate or delay the litigation. Allowing intervention now strikes the appropriate balance between the original parties’ interests and “allowing persons to join a lawsuit in the interest of the speedy economical resolution of controversies without rendering the lawsuit fruitlessly complex or unending.” *Helgeland*, 2008 WI 9, ¶44. Granting this Petition will thus uphold, rather than contravene, the policies underlying Wis. Stat. § 803.09.

**C. The Disposition of this Case May Impair Proposed Intervenors’ Ability to Protect Their Interests.**

The outcome of this litigation “may, as a practical matter, impair or impede [the] ability to protect interests that may be related to the subject of [the] action.” *Helgeland*,



2008 WI 9, ¶75 (footnote omitted). Just as a court should “approach intervention as of right generally,” this inquiry is taken under a “pragmatic approach ... focus[ed] on the facts of each case and the policies underlying the intervention statute.” *Id.*, ¶79.

This litigation addresses redistricting—a process that occurs only once each decade and the outcome of which determines whether and to what extent varied perspectives are represented in state government. As a result, redistricting has public policy ramifications that resonate far beyond a single decade. The outcome of this litigation could not have a more direct impact on Proposed Intervenors’ ability to advocate for their interests in the future.

Petitioners ask this Court to adopt a “least changes” approach to the redrawing of Wisconsin’s legislative districts. If Petitioners’ approach is adopted, Proposed Intervenors will not obtain the equal representation in government, and the corresponding political voice, they seek. And, given the decennial timeline of redistricting, Proposed Intervenors’ only opportunity to advocate for and protect their interests in fair and equal representation in government through nonpartisan legislative districts is now. In fact, they have already acted to protect their interests by commencing federal litigation. *See BLOC*, No. 21-cv-534-jdp-ajs-ec (W.D. Wis.). As this Court has accepted jurisdiction over this matter, intervention by Proposed Intervenors is necessary to protect their rights and meaningfully advocate for their current interests in fair representation in government, and their ability to protect their public-policy interests in the future. *See* Ex. 1, *Cronmiller Aff.*, ¶11; Ex. 2, *Lang Aff.*, ¶9; Ex. 3, *Neumann-Ortiz Aff.*, ¶10.

**D. No Parties Adequately Represent Proposed Intervenors' Interests.**

“[T]he showing required for providing inadequate representation ‘should be treated as minimal.’” *Helgeland*, 2008 WI 9, ¶85 (quoting *Armada Broad., Inc. v. Stirn*, 183 Wis. 2d 463, 476, 516 N.W.2d 357 (1994) (quoting in turn *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972))). “If the interest of the proposed intervenor is not represented at all, or if all existing parties are adverse to the proposed intervenor, the proposed intervenor is not adequately represented.” Jay E. Grenig, 3 Wis. Prac., Civil Procedure (4th ed.) § 309.2.

The Wisconsin Elections Commission (“WEC”) and other respondents do not adequately represent Proposed Intervenors’ interests. Proposed Intervenors seek to intervene as petitioners. By definition, they are adverse to the WEC and other respondents who represent the interests of the State of Wisconsin and are bound to conduct elections using the current legislative districts unless prohibited from doing so by a court or until new legislative districts are adopted. The WEC has no duty to advocate for the redistricting methodology advanced by Proposed Intervenors.

Neither do Petitioners adequately represent Proposed Intervenors’ interests. As discussed above, although Proposed Intervenors agree with Petitioners that the current legislative districts are unlawful, they disagree with Petitioners’ proposed remedy. In the event the Legislature and Governor cannot reach a legislative compromise, Petitioners propose maps based on the “least changes” method. Pet., ¶35. Proposed Intervenors disagree with this method of reapportionment and intend to submit their own legislative maps that are substantially equal in population and that otherwise meet the requirements

of the U.S. Constitution and statutes and the Wisconsin Constitution and statutes, but using a different methodology. *See* Ex. 1, Cronmiller Aff., ¶10; Ex. 2, Lang Aff., ¶8; Ex. 3, Neumann-Ortiz Aff., ¶6; Ex. 4, Fallona Aff., ¶8; Ex. 5, Stephenson Aff., ¶8; Exhibit 6, Alwin Aff., ¶8.

Because no parties represent Proposed Intervenors' interests, all four criteria for mandatory intervention are satisfied. Accordingly, the Court should grant the Petition to Intervene.

## **II. PROPOSED INTERVENORS ALSO MEET ALL OF THE CRITERIA FOR PERMISSIVE INTERVENTION.**

Alternatively, Proposed Intervenors should be allowed to intervene with this Court's permission. A court may grant permissive intervention to anyone who would be a proper party. *See, e.g., City of Madison*, 2000 WI 39, ¶11 n.11. In considering a request for permissive intervention, the Court shall "consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties." Wis. Stat. § 803.09(2). Absent prejudice, intervention is within the Court's discretion, as long as the movant's claim or defense and the main action share a common question of law or fact. *Helgeland*, 2008 WI 9, ¶120.

On behalf of themselves and the members, constituencies, and voters they represent, Proposed Intervenors have a significant stake in the make-up of legislative districts. They have already taken affirmative steps to protect their interests by filing a federal redistricting lawsuit, which includes malapportionment claims as well as a claim under Section 2 of the Voting Rights Act, 52 U.S.C. § 10301. It only makes sense that they be allowed to

participate here. To conclude otherwise would prevent Proposed Intervenors from both objecting to Petitioners' proposed reapportionment plan and from proposing their own, thereby impeding Proposed Intervenors' ability to advocate for their interests both here and in the future.

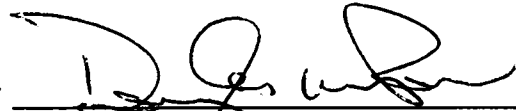
Allowing Proposed Intervenors to participate would not prejudice any party to this proceeding nor cause any delay. The action has been pending for only short period of time. Except for the petition for original action, no pleadings or responsive briefs have been filed. Including the Proposed Intervenors would only benefit the Court as it would allow for any maps proposed to be truly tested through the crucible of adversarial litigation. Therefore, inclusion of Proposed Intervenors is proper. Should the Court find that they do not meet the standards for intervention as of right, Proposed Intervenors respectfully request that it grant permissive intervention.

### **CONCLUSION**

For the foregoing reasons, Proposed Intervenor Petitioners Black Leaders Organizing for Communities, Voces de la Frontera, League of Women Voters of Wisconsin, Cindy Fallona, Lauren Stephenson, and Rebecca Alwin respectfully request that this Court grant this Motion to Intervene.

Dated: September 24, 2021.

By



Douglas M. Poland, SBN 1055189  
Jeffrey A. Mandell, SBN 1100406  
Rachel E. Snyder, SBN 1090427  
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\*Admitted *pro hac vice*

*Attorneys for Proposed Intervenors*

# EXHIBIT 1

**SUPREME COURT OF WISCONSIN**

**Appeal No. 2021AP001450 - OA**

---

**BILLIE JOHNSON, et al**

*Petitioners,*

v.

**WISCONSIN ELECTIONS COMMISSION, et al**

*Respondents.*

---

**Original Action in the Wisconsin Supreme Court**

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**AFFIDAVIT OF DEBRA CRONMILLER**

---

STATE OF WISCONSIN        )  
  )  
COUNTY OF DANE            )

I, Debra Cronmiller, being first duly sworn on oath, depose and state as follows:

1. I am the Executive Director for the League of Women Voters of Wisconsin (“LWVWI”). I have personal knowledge and belief as to the matters set forth below.

2. LWVWI is a nonpartisan, nonprofit, non-stock corporation organized under the laws of the State of Wisconsin with its principal office located at 612 West Main St., Suite 200, in the City of Madison, Dane County, Wisconsin. LWVWI is part of the League of Women Voters of the United States, which has 700 state and local Leagues in all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Hong Kong. LWVWI works to expand informed, active participation in state and local government, giving a voice to all Wisconsinites.

3. LWVWI, a nonpartisan community-based organization, was formed in 1920, immediately after the enactment of the Nineteenth Amendment granting women's suffrage. The LWVWI is dedicated to encouraging its members and the people of Wisconsin to exercise their right to vote as protected by the Constitution and the Voting Rights Act of 1965. The mission of LWVWI is to empower voters and defend democracy. LWVWI does this by promoting political responsibility through informed and active participation in government and by acting on selected governmental issues. The LWVWI impacts public policies, promotes citizen education, and makes democracy work by, among other things, removing unnecessary barriers to full participation in the electoral process. Currently, LWVWI has 20 local leagues and approximately 2,800 members, the vast majority of whom, I believe, are registered to vote in Wisconsin. LWVWI is affiliated with the League of Women Voters of the United States, which was also founded in 1920. LWVWI began as an organization focused on the needs of women and training women voters. It has evolved into an organization concerned about educating, advocating for, and empowering all Wisconsinites.

4. With members throughout the State, the LWVWI's local leagues are engaged in numerous activities, including hosting public forums and open discussions on issues of importance to the community. Individual league members invest substantial time and effort in voter training and civic engagement activities, including voter registration and get-out-the-vote ("GOTV") efforts. LWVWI has developed the statewide Election Observation Program and the Vote411 voter guide. LWVWI also devotes substantial time and effort to ensuring that government at every level works as effectively and fairly as possible. This



work involves continual attention to and advocacy concerning issues of transparency, a strong and diverse judiciary, fair and equal nonpartisan redistricting, and appropriate government oversight.

5. LWVWI also actively participates in litigation to protect its interests and the interests of its members and the general public. For example, LWVWI recently engaged in litigation to protect voting rights. *See Gear, et al. v. Bostelmann, et al.*, No. 20-cv-278-wmc and *Lewis, et al. v. Bostelmann, et al.*, No. 20-cv-284-wmc.

6. LWVWI is the umbrella organization for 20 local Leagues across Wisconsin, and works with and through these 20 local Leagues. Members of the local Leagues are members of LWVWI, as well as the national League of Women Voters, and their efforts and work are part of local, state, and national operations done on behalf of the state and national Leagues. LWVWI offers guidance, resources, materials, trainings, and financing in support of the local Leagues and their activities, which include absentee voting outreach, voter registration drives, and other voter outreach activities.

7. I became aware that LWVWI's interests will be affected by resolution of this case shortly after it was filed in the Supreme Court of Wisconsin. Neither the Petitioners nor the Wisconsin Elections Commission are positioned to advocate for legislative maps consistent with LWVWI's mission and policy goals. Instead, the Petitioners intend to promote a "least changes" method of reapportionment, which will negatively affect representation of LWVWI's members, and the LWVWI's ability, and their member's ability, to influence public policy through the legislative process. For these reasons, I

determined that it is both appropriate and necessary to LWVWI's mission for LWVWI to seek intervention in this case.


8. LWVWI's members and constituents include voters who reside in various State Senate and Assembly districts across Wisconsin, including districts that are now overpopulated.

9. LWVWI is a named plaintiff in a federal lawsuit challenging Wisconsin's current legislative districts. *See Black Leaders Organizing for Communities v. Spindell, et al*, No. 21-cv-00534 (W.D. Wis. Aug. 23, 2021). The Members of the Wisconsin Elections Commission, in their official capacities, are listed as defendants in that case. LWVWI prefers to litigate its claims in the federal forum, and the lawsuit filed by the Petitioners is in direct conflict with, and impedes, that preference.

10. In the event that the Supreme Court of Wisconsin accepts the Petitioner's case, and the Legislature and Governor are unable to agree on new legislative districts, LWVWI disagrees with the Petitioner's "least changes" method of drawing legislative districts and believes that legislative maps should not be constrained by pre-existing maps. LWVWI would vehemently oppose any map based on the "least changes" method.

11. Without intervention in this case, LWVWI will be unable to protect its interests as well as those of the local Leagues and their members in the creation of fair and equal legislative maps and influencing public policy through the legislative process.

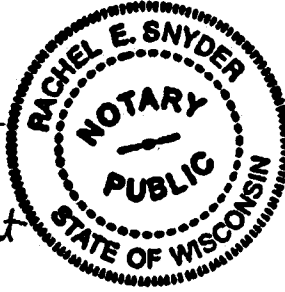
[signature page follows]

  
\_\_\_\_\_  
Debra Cronmiller

Subscribed and sworn to before me  
this 15 day of September, 2021.

  
\_\_\_\_\_

Notary Public, State of Wisconsin  
My commission expires permanant



# EXHIBIT 2



## Lang Affidavit .pdf

DocVerify ID: 6C3608CD-2EE0-4655-BC4D-813944A951EA  
Created: September 15, 2021 15:42:30 -6:00  
Pages: 3  
Remote Notary: Yes / State: WI

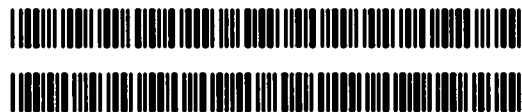
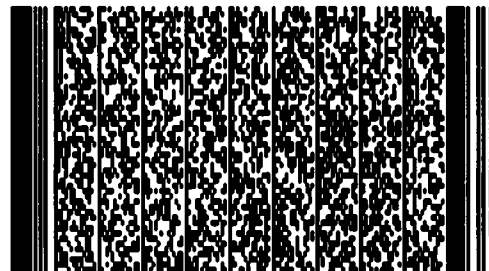
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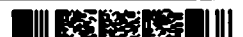
### E-Signature Summary

**E-Signature 1: Angela Marie Lang (AML)**  
September 16, 2021 11:59:43 -6:00 [774DC412AB2F] [184.58.206.239]  
angela@blocbybloc.org (Principal) (ID Verified)

**E-Signature Notary: Alex M. Becker (AMB)**  
September 16, 2021 11:59:43 -6:00 [EB1E9F44C9AA] [208.66.133.94]  
abecker@staffordlaw.com  
I, Alex M. Becker, did witness the participants named above electronically sign this document.



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SUPREME COURT OF WISCONSIN

Appeal No. 2021AP001450 - OA

BILLIE JOHNSON, et al

*Petitioners,*

v.

WISCONSIN ELECTIONS COMMISSION, et al

*Respondents.*

Original Action in the Wisconsin Supreme Court

AFFIDAVIT OF ANGELA LANG

STATE OF WISCONSIN )
COUNTY OF MILWAUKEE )

I, Angela Lang, being first duly sworn on oath, depose and state as follows:

1. I am the Executive Director of Black Leaders Organizing for Communities ("BLOC"). I have personal knowledge and belief as to the matters set forth below.

2. BLOC is a nonprofit project established in 2017 to ensure a high quality of life and access to opportunities for members of the Black community in Milwaukee and throughout Wisconsin. BLOC is a fiscally sponsored project of Tides Advocacy, a California nonprofit public benefit corporation.

3. BLOC is a year-round civic-engagement organization that has a robust field program to get out the vote and do civic education work door-to-door with community members and through its fellowship program. During 2018, BLOC made 227,000 door

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attempts in Milwaukee, targeting Black residents to exercise their right to engage in civic participation including voting.

4. BLOC trains its constituents on the civics process and on different ways to make their voices heard, including (but not limited to) voting in each election. BLOC is regarded and used by members of the African-American community in Milwaukee as a resource and conduit through which they can become more engaged in and advocate for rights and political representation for members of their community.

5. I became aware that BLOC's interests will be affected by resolution of this case shortly after it was filed in the Supreme Court of Wisconsin. Neither the Petitioners nor the Wisconsin Elections Commission are positioned to advocate for legislative maps consistent with BLOC's mission and policy goals. Instead, the Petitioners intend to promote a "least changes" method of reapportionment, which will negatively affect representation of BLOC's constituents, as well as BLOC's ability, and its constituents' ability, to influence public policy through the legislative process. For these reasons, I determined that it is both appropriate and necessary to BLOC's mission for BLOC to seek intervention in this case.

6. BLOC is a named plaintiff in a federal lawsuit challenging Wisconsin's current legislative districts. *See Black Leaders Organizing for Communities, et al. v. Spindell, et al.*, No. 21-cv-00534 (W.D. Wis. Aug. 23, 2021). The Members of the Wisconsin Elections Commission, in their official capacities, are listed as defendants in that case. BLOC prefers to litigate its claims in the federal forum, and the lawsuit filed by the Petitioners is in direct conflict with, and impedes, that preference.



7. BLOC’s constituents include voters who now reside in overpopulated State Senate and Assembly districts.

8. In the event that the Supreme Court of Wisconsin accepts the Petitioner’s case, and the Legislature and Governor are unable to agree on new legislative districts, BLOC disagrees with the Petitioner’s “least changes” method of drawing legislative districts and believes that legislative maps should not be constrained by pre-existing maps. BLOC would vehemently oppose any map based on the “least changes” method.

9. Without intervention in this case, BLOC will be unable to protect its interests as well as those of its constituents in the creation of fair and equal legislative maps and influencing public policy through the legislative process.

Angela Marie Lang

Angela Lang

Subscribed and sworn to before me  
this 09/16/2021

Alex M. Becker

Alex M. Becker  
Notary Public, State of Wisconsin  
My commission expires: July 24, 2024.

Alex M. Becker  
Notary Public - State of Wisconsin  
My Commission Expires Jul 24, 2024

This notarial act involved the use of communication technology.





# EXHIBIT 3



### Neumann-Ortiz Affidavit.pdf

DocVerify ID: EDE2F021-99EB-4157-9409-E182EA52AC8A  
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#### E-Signature Summary

**E-Signature 1: Christine Irma Neumann (CN)**  
 September 16, 2021 15:49:01 -6:00 [6EBC598D78A6] [174.192.135.157]  
 christine@vdlf.org (Principal) (ID Verified)

**E-Signature Notary: Alex M. Becker (AMB)**  
 September 16, 2021 15:49:01 -6:00 [5550719415AE] [208.66.133.94]  
 abecker@staffordlaw.com  
 I, Alex M. Becker, did witness the participants named above electronically sign this document.



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SUPREME COURT OF WISCONSIN

Appeal No. 2021AP001450 - OA

BILLIE JOHNSON, et al

*Petitioners,*

v.

WISCONSIN ELECTIONS COMMISSION, et al

*Respondents.*

Original Action in the Wisconsin Supreme Court

AFFIDAVIT OF CHRISTINE NEUMANN-ORTIZ

STATE OF WISCONSIN )  
 )  
COUNTY OF MILWAUKEE )

I, Christine Neumann-Ortiz, being first duly sworn on oath, depose and state as follows:

1. I am the Executive Director of Voces de la Frontera (“Voces”). I have personal knowledge and belief as to the matters set forth below.

2. Voces de la Frontera (“Voces”) is a nonpartisan, nonprofit, non-stock corporation organized under the laws of the State of Wisconsin with its principal office located at 515 S. 5th St., in the City of Milwaukee, Milwaukee County, Wisconsin.

3. Voces, a community-based organization currently with over one thousand dues-paying members, was formed in 2001 to advocate on behalf of the rights of immigrant and low-income workers. Voces currently has chapters in Milwaukee, Racine, Waukesha, Sheboygan, Walworth County, Madison, West Bend, Manitowoc, and Green Bay.

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4. Voces is dedicated to educating and organizing its membership and community members to exercise their right to vote as protected by the Constitution and the Voting Rights Act of 1965. Voces has sought legal redress in multiple cases to protect the voting rights of Wisconsin's Latino voters, including challenging discriminatory legislative districts (as recently as in *Baldus* in 2011) and voter registration and photo ID requirements.

5. Voces seeks to maximize eligible-voter participation through its voter-registration efforts and encourage civic engagement through registration and voting.

6. I became aware that the interests of Voces will be affected by resolution of this case shortly after it was filed in the Supreme Court of Wisconsin. Neither the Petitioners nor the Wisconsin Elections Commission are positioned to advocate for legislative maps consistent with the mission and policy goals of Voces. Instead, the Petitioners intend to promote a "least changes" method of reapportionment, which will negatively affect representation of Voces members, as well as the ability of Voces and its members to influence public policy through the legislative process. For these reasons, I determined that it is both appropriate and necessary to its mission for Voces to seek intervention in this case.

7. Voces is a named plaintiff in a federal lawsuit challenging Wisconsin's current legislative districts. *See Black Leaders Organizing for Communities v. Spindell, et al*, No. 21-cv-00534 (W.D. Wis. Aug. 23, 2021). The Members of the Wisconsin Elections Commission, in their official capacities, are listed as defendants in that case. Voces prefers to litigate its claims in the federal forum, and the lawsuit filed by the Petitioners is in direct conflict with, and impedes, that preference.



8. Voces has members and constituents who are voters that now reside in overpopulated State Senate and Assembly Districts.


9. In the event that the Supreme Court of Wisconsin accepts the Petitioner’s case, and the Legislature and Governor are unable to agree on new legislative districts, Voces disagrees with the Petitioner’s “least changes” method of drawing legislative districts and believes that legislative maps should not be constrained by pre-existing maps. Voces would vehemently oppose any map based on the “least changes” method.

10. Without intervention in this case, Voces will be unable to protect its interests as well as those of its members in the creation of fair and equal legislative maps and influencing public policy through the legislative process.

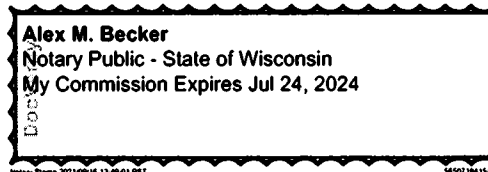
Christine Irma Neumann  
Signed on 20210916 15:49:01 -0500

Christine Neumann-Ortiz

Subscribed and sworn to before me  
this 09/16/2021.

  
Signed on 20210916 13:49:01 -0500

Alex M. Becker  
Notary Public, State of Wisconsin  
My commission expires: July 24, 2024.

  
Alex M. Becker  
Notary Public - State of Wisconsin  
My Commission Expires Jul 24, 2024  
Notary Stamp 20210916 13:49:01 PST 5650718415A2

This notarial act involved the use of communication technology.



# EXHIBIT 4



## Fallona Affidavit.pdf

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### E-Signature Summary

**E-Signature 1: Cindy Beckwith Fallona (CBF)**  
September 15, 2021 13:04:46 -6:00 [5622094BD979] [174.242.78.130]  
cbfallona@hotmail.com (Principal) (ID Verified)

**E-Signature Notary: Alex M. Becker (AMB)**  
September 15, 2021 13:04:46 -6:00 [9CF7D0BA2F0D] [208.66.133.94]  
abecker@staffordlaw.com  
I, Alex M. Becker, did witness the participants named above electronically sign this document.



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SUPREME COURT OF WISCONSIN

Appeal No. 2021AP001450 - OA

BILLIE JOHNSON, et al

Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION, et al

Respondents.

Original Action in the Wisconsin Supreme Court

AFFIDAVIT OF CINDY FALLONA

STATE OF WISCONSIN )
COUNTY OF DANE )

I, Cindy Fallona, being first duly sworn on oath, depose and state as follows:

- 1. I am an adult resident of the State of Wisconsin, residing at 301 West Morningside Drive, in Kaukauna, Wisconsin, and am registered to vote at this address.
2. I have resided at this address for over thirty years, and voted in Wisconsin elections during that time. I intend to vote in Wisconsin elections in 2022.
3. I have no plans to move before the August Primary Election in 2022.
4. I reside in State Senate District 2 and Assembly District 5. I understand both districts in which I reside and vote to be overpopulated based on the 2020 Census data.
5. I am one of the plaintiffs in the currently-pending federal suit, BLOC et al v. Spindell et al, No. 21-cv-524 (W.D. Wis. Aug. 23, 2021). In that case I seek an injunction against members and staff of the Wisconsin Elections Commission (WEC) to prevent the

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WEC from holding future elections using Wisconsin’s current state legislative maps, as well as other relief.

6. I became aware that my interests as a voter, and as a litigant in the pending federal case, will be affected by resolution of this state action shortly after it was filed in the Supreme Court of Wisconsin. Neither the Petitioners nor the Respondents are positioned to advocate for my interests.

7. I seek to advance claims related to state legislative districts in the federal forum and the lawsuit filed by the Petitioners impedes that preference.

8. My interests also diverge from Petitioners because I understand they intend to promote a “least changes” method of reapportionment, which I oppose.

9. Neither are my interests adequately represented by Respondents, the WEC, who are adverse to me in the federal suit.

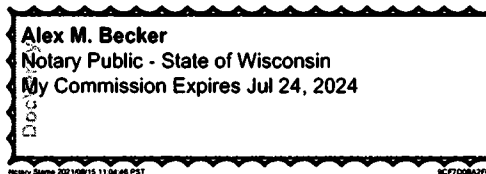
*Cindy Fallona*  
Signed on 20210915 11:04:46 -0700

Cindy Fallona

Subscribed and sworn to before me  
this 09/15/2021.

*Alex M. Becker*  
Signed on 20210915 11:04:46 -0700

Alex M. Becker  
Notary Public, State of Wisconsin  
My commission expires: July 24, 2024.



This notarial act involved the use of communication technology.

71608BA2-428D-427D-BE07-DE078C94EEE3 --- 2021/09/15 10:50:31 -6:00 --- Remote Notary



# EXHIBIT 5

SUPREME COURT OF WISCONSIN

Appeal No. 2021AP001450 - OA

BILLIE JOHNSON, et al

*Petitioners,*

v.

WISCONSIN ELECTIONS COMMISSION, et al

*Respondents.*

Original Action in the Wisconsin Supreme Court

AFFIDAVIT OF LAUREN STEPHENSON

STATE OF WISCONSIN )  
 )  
COUNTY OF DANE )

I, Lauren Stephenson, being first duly sworn on oath, depose and state as follows:

1. I am an adult resident of the State of Wisconsin, residing at 1342 East Dayton Street, in Madison, Wisconsin and am registered to vote at this address.

2. I have resided at this address for over six years, and voted in Wisconsin elections during that time. I intend to vote in Wisconsin elections in 2022.

3. I have no plans to move before the August Primary Election in 2022.

4. I reside in State Senate District 26 and State Assembly District 76. I understand both districts in which I reside and vote to be overpopulated based on the 2020 Census data.

5. I am one of the plaintiffs in the currently-pending federal suit, *BLOC et al v. Spindell et al*, No. 21-cv-524 (W.D. Wis. Aug. 23, 2021). In that case I seek an injunction

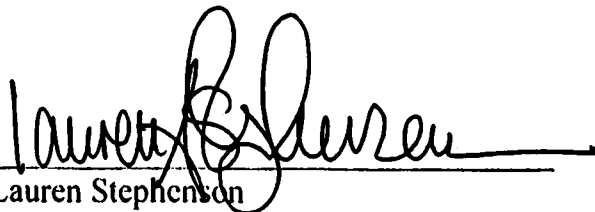
against members and staff of the Wisconsin Elections Commission (WEC) to prevent the WEC from holding future elections using Wisconsin’s current state legislative maps, as well as other relief.

6. I became aware that my interests as a voter, and as a litigant in the pending federal case, will be affected by resolution of this state action shortly after it was filed in the Supreme Court of Wisconsin. Neither the Petitioners nor the Respondents are positioned to advocate for my interests.

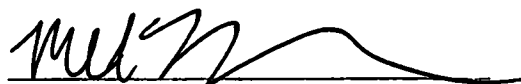
7. I seek to advance claims related to state legislative districts in the federal forum and the lawsuit filed by the Petitioners impedes that preference.

8. My interests also diverge from Petitioners because I understand they intend to promote a “least changes” method of reapportionment, which I oppose.

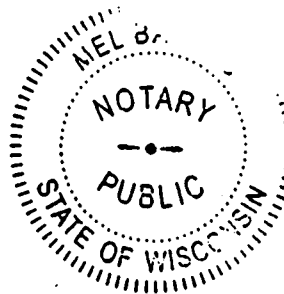
9. Neither are my interests adequately represented by Respondents, the WEC, who are adverse to me in the federal suit.

  
Lauren Stephenson

Subscribed and sworn to before me  
this 15<sup>th</sup> day of September, 2021.



Notary Public, State of Wisconsin  
My commission expires: never



# EXHIBIT 6

SUPREME COURT OF WISCONSIN

Appeal No. 2021AP001450 - OA

BILLIE JOHNSON, et al

*Petitioners,*

v.

WISCONSIN ELECTIONS COMMISSION, et al

*Respondents.*

Original Action in the Wisconsin Supreme Court

AFFIDAVIT OF REBECCA ALWIN

STATE OF WISCONSIN )  
 )  
COUNTY OF DANE )

I, Rebecca Alwin, being first duly sworn on oath, depose and state as follows:

1. I am an adult resident of the State of Wisconsin, residing at 1422 North Westfield Road in Middleton, Wisconsin and am registered to vote at this address.

2. I have resided at this address for over twenty-five years, and voted in Wisconsin elections during that time. I intend to vote in Wisconsin elections in 2022.

3. I have no plans to move before the August Primary Election in 2022.

4. I reside in State Senate District 27 and State Assembly District 79. I understand both districts in which I reside and vote to be overpopulated based on the 2020 Census data.

5. I am one of the plaintiffs in the currently-pending federal suit, *BLOC et al v. Spindell et al*, No. 21-cv-524 (W.D. Wis. Aug. 23, 2021). In that case I seek an injunction

against members and staff of the Wisconsin Elections Commission (WEC) to prevent the WEC from holding future elections using Wisconsin’s current state legislative maps, as well as other relief.

6. I became aware that my interests as a voter, and as a litigant in the pending federal case, will be affected by resolution of this state action shortly after it was filed in the Supreme Court of Wisconsin. Neither the Petitioners nor the Respondents are positioned to advocate for my interests.

7. I seek to advance claims related to state legislative districts in the federal forum and the lawsuit filed by the Petitioners impedes that preference.

8. My interests also diverge from Petitioners because I understand they intend to promote a “least changes” method of reapportionment, which I oppose.

9. Neither are my interests adequately represented by Respondents, the WEC, who are adverse to me in the federal suit.

*Rebecca Alwin*  
\_\_\_\_\_  
Rebecca Alwin

Subscribed and sworn to before me  
this 16 day of September, 2021.

*Mel Barnes*  
\_\_\_\_\_

Notary Public, State of Wisconsin  
My commission expires: never

