

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LISA HUNTER, JACOB ZABEL, JENNIFER
OH, JOHN PERSA, GERALDINE SCHERTZ,
& KATHLEEN QUALHEIM,

Plaintiffs,

BILLIE JOHNSON, ERIC O'KEEFE,
ED PERKINS, RONALD ZAHN,

Intervenor-Plaintiffs,

LEAH DUDLEY, SOMESH JHA, JOANNE
KANE, MICHAEL SWITZENBAUM, JEAN-
LUC THIFFEAULT, STEPHEN JOSEPH
WRIGHT,

Proposed Intervenor-Plaintiffs,

v.

MARGE BOSTELMANN, JULIE M.
GLANCEY, ANN S. JACOBS, DEAN
KNUDSON, ROBERT F. SPINDELL, JR., &
MARK L. THOMSEN, in their official capacities
as members of the Wisconsin Elections
Commission,

Defendants,

THE WISCONSIN LEGISLATURE,

Intervenor-Defendant,

CONGRESSMEN SCOTT FITZGERALD,
MIKE GALLAGHER, GLENN GROTHAM,
BRYAN STEIL, TOM TIFFANY,

Intervenor-Defendant,

GOVERNOR TONY EVERS,

Intervenor-Defendant.

No. 3:21-cv-00512-jdp-ajs-eec

BLACK LEADERS ORGANIZING FOR COMMUNITIES, VOCES DE LA FRONTERA, THE LEAGUE OF WOMEN VOTERS OF WISCONSIN, CINDY FALLONA, LAUREN STEPHENSON, & REBECCA ALWIN, MELODY McCURTIS, HELEN HARRIS, EDWARD WADE, JR., BARBARA TOLES, SEAN TATUM, WOODROW WILSON CAIN, II, TRACIE Y. HORTON, NINA CAIN,

Plaintiffs,

v.

MARGE BOSTELMANN, JULIE M. GLANCEY, ANN S. JACOBS, DEAN KNUDSON, ROBERT F. SPINDELL, JR., & MARK L. THOMSEN, in their official capacities as members of the Wisconsin Elections Commission, MEGAN WOLFE, in her official capacity as the administrator of the Wisconsin Elections Commission,

Defendants.

No. 3:21-cv-00534-jdp-ajs-eec

NOTICE BY THE WISCONSIN LEGISLATURE

The Supreme Court of Wisconsin has granted the petition for an original action filed by the *Johnson* intervenors. *See Johnson v. Wis. Elections Comm'n*, No. 2021AP1450-OA. The order granting the petition is attached as Exhibit 1. The order confirms that the Supreme Court will timely act if necessary.

Every branch of the Wisconsin government is now addressing reapportionment. Plaintiffs' allegations of possible future harm depend on conjecture that each will fail and Wisconsin's 10-year-old districts will be used in next year's elections. *See California v. Texas*, 141 S. Ct. 2104, 2114 (2021) (standing requires "an injury that is the result of the [challenged] statute's actual or threatened enforcement, whether today or in the future"); *but see* Wis. Const. art. IV, §3 (requiring reapportionment after census). Such "guesswork" is no basis for an Article III case or controversy. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409, 413-14 (2013) (Article III standing cannot rest on

“[a]llegations of a possible future injury,” entailing “speculation about the decisions of independent actors”); *Trump v. New York*, 141 S. Ct. 530, 535 (2020) (ripeness requires that a suit is not “dependent on contingent future events that may not occur as anticipated, or may not occur at all” (quotation marks omitted)). These suits should be dismissed. Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”); *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006).

Dated: September 23, 2021

Respectfully submitted,

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** Licensed in Illinois & D.C.; supervised by principals of the firm licensed in Virginia while Virginia bar application is pending.*

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2021, I served the foregoing document with the Clerk of Court using the Court's ECF system, thereby serving all counsel who have appeared in this case.

/s/ Kevin St. John

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