

**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,*

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.*

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

**RESPONSE BY THE WISCONSIN LEGISLATURE ON CONSOLIDATION**

On September 9, 2021, this Court issued an order stating that the parties had until September 13, 2021 “to provide additional responses on the question of consolidation with case no. 21-cv-534 in light of the proposed amended complaint filed in the ’534 case.” Dkt. 46. The Legislature’s position remains that the cases should be consolidated for purposes of dismissing them both.

Plaintiffs in the related case of *BLOC v. Spindell*, No. 3:21-cv-534 (W.D. Wis.) have filed a motion to amend their complaint to add additional plaintiffs and a Voting Rights Act claim. Even if Plaintiffs’ motion to amend were granted, the addition of new parties or a new claim does not change the fact that the nature of the relief requested by all Plaintiffs relates to ongoing reapportionment. And there can be “only one set of legislative districts.” *Grove v. Emison*, 507 U.S. 25, 35 (1993). The

cases should be consolidated on that basis alone. And they should then both be dismissed. Adding plaintiffs or adding another claim cannot fix the shared flaw of both complaints: They are premature and lack any Article III case or controversy. They are an attempt to obstruct and interfere with ongoing redistricting efforts. The *BLOC* plaintiffs' proposed Voting Rights Act claim is no different than the malapportionment claims, insofar as both ask this Court to address the legality of existing districts that the Legislature is actively working to redraw. *Cf. id.* at 34-35 (explaining that federal courts must defer to state court reapportionment proceedings even if only the federal case case involved a Voting Rights Act claim). Both cases should therefore be consolidated so that the Legislature's motions to dismiss can be fully briefed and the cases dismissed.<sup>1</sup>

Dated: September 13, 2021

Respectfully submitted,

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<sup>1</sup> If the cases were consolidated and the *BLOC* plaintiffs' motion to amend granted, the Legislature would revise and renew its motion to dismiss and address the *BLOC* plaintiffs' new claim.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 13, 2021, I served the foregoing document using the Court's ECF system, thereby serving all counsel who have appeared in this case.

/s/ Kevin St. John

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