

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

WILLIAM WHITFORD, ROGER ANCLAM,)
EMILY BUNTING, MARY LYNNE DONOHUE,)
HELEN HARRIS, WAYNE JENSEN,)
WENDY SUE JOHNSON, JANET MITCHELL,)
ALLISON SEATON, JAMES SEATON,)
JEROME WALLACE, and DONALD WINTER,)

No. 15-cv-421-bbc

Plaintiffs,)

v.)

GERALD C. NICHOL, THOMAS BARLAND,)
JOHN FRANKE, HAROLD V. FROEHLICH,)
KEVIN J. KENNEDY, ELSA LAMELAS, and)
TIMOTHY VOCKE,)

Defendants.)

PLAINTIFFS’ SPECIAL VERDICT FORM

For our special verdict, we find as follows:

Question No. 1: Do plaintiffs, all Democrats whose legislative representation has been worsened by Act 43 (the “Current Plan”), have Article III standing to challenge the Plan in its entirety as an unconstitutional partisan gerrymander?

(Yes or No)

If your answer to Question No. 1 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 1 was “Yes,” answer Question No. 2.

Question No. 2: Is the partisan intent prong of plaintiffs’ proposed test for partisan gerrymandering—that is, whether a district plan “intentional[ly] discriminat[es] against an

identifiable political group,” *Davis v. Bandemer*, 478 U.S. 109, 127 (1986) (plurality opinion)—
judicially discernible and manageable?

(Yes or No)

If your answer to Question No. 2 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 2 was “Yes,” answer Question No. 3.

Question No. 3: Does the Current Plan intentionally discriminate against Democratic voters, and in favor of Republican ones?

(Yes or No)

If your answer to Question No. 3 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 3 was “Yes,” answer Question No. 4.

Question No. 4: Is the partisan effect prong of plaintiffs’ proposed test for partisan gerrymandering—that is, whether a district plan has exhibited a high and durable level of partisan asymmetry relative to historical norms—judicially discernible and manageable?

(Yes or No)

If your answer to Question No. 4 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 4 was “Yes,” answer Question No. 5.

Question No. 5: Has the Current Plan exhibited a high and durable level of partisan asymmetry relative to historical norms in the 2012 and 2014 elections?

(Yes or No)

If your answer to Question No. 5 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 5 was “Yes,” answer Question No. 6.

Question No. 6: Is the justification prong of plaintiffs’ proposed test for partisan gerrymandering—that is, whether a district plan’s high and durable level of partisan asymmetry can be “justified by the State,” *Brown v. Thomson*, 462 U.S. 835, 843 (1983)—judicially discernible and manageable?

(Yes or No)

If your answer to Question No. 6 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 6 was “Yes,” answer Question No. 7.

Question No. 7: Can the Current Plan’s high and durable level of partisan asymmetry be justified by the State based on Wisconsin’s political geography or legitimate redistricting objectives?

(Yes or No)

If your answer to Question No. 7 was “No,” STOP HERE and do not answer any more questions. If your answer on Question No. 7 was “Yes,” answer Question No. 8.

Question No. 8: Does the Current Plan violate the Equal Protection Clause by intentionally, severely, and unjustifiably discriminating against Democratic voters?

(Yes or No)

Question No. 9: Does the Current Plan violate the First Amendment by “burdening or penalizing citizens because of their participation in the electoral process, their voting history, their association with a political party, or their expression of political views,” *Vieth v. Jubelirer*, 541 U.S. 267, 314 (Kennedy, J., concurring in the judgment)?

(Yes or No)

Dated May 9, 2016

LAW OFFICE OF PETER G. EARLE

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