

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ALVIN BALDUS, CINDY BARBERA, CARLENE
BECHEN, RONALD BIENDSEIL, RON BOONE, VERA
BOONE, ELVIRA BUMPUS, EVANJELINA
CLEEREMAN, SHEILA COCHRAN, LESLIE W.
DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH,
CLARENCE JOHNSON, RICHARD KRESBACH,
RICHARD LANGE, GLADYS MANZANET,
ROCHELLE MOORE, AMY RISSEEUW, JUDY
ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-
BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE
and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability
Board, each only in his official capacity:
MICHAEL BRENNAN, DAVID DEININGER, GERALD
NICHOL, THOMAS CANE, THOMAS BARLAND, and
TIMOTHY VOCKE, and KEVIN KENNEDY, Director
and General Counsel
for the Wisconsin Government Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI,
PAUL D. RYAN, JR., REID J. RIBBLE,
and SEAN P. DUFFY,

Intervenor-Defendants,

(caption continued on next page)

**PLAINTIFFS' AND INTERVENOR-PLAINTIFFS' OPPOSITION TO
MOTION TO DISMISS FOR LACK OF STANDING ALL REMAINING CLAIMS
AS TO 2011 WISCONSIN ACT 44**

Civil Action
File No. 11-CV-562

Three-judge panel
28 U.S.C. § 2284

VOCES DE LA FRONTERA, INC., RAMIRO VARA,
OLGA VARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011
JPS-DPW-RMD

Members of the Wisconsin Government Accountability
Board, each only in his official capacity:
MICHAEL BRENNAN, DAVID DEININGER, GERALD
NICHOL, THOMAS CANE, THOMAS BARLAND, and
TIMOTHY VOCKE, and KEVIN KENNEDY, Director
and General Counsel for the Wisconsin Government
Accountability Board,

Defendants.

The Intervenor-Plaintiffs have the same standing as any other citizen of Wisconsin to challenge the constitutionality of Act 44. It is true that members of Congress “have no entitlement to their current offices.” Mot. (Dkt. 198) at 2. Indeed, the Baldus plaintiffs made this precise point back in November in opposing any intervention by the congressional representatives: “Plaintiffs . . . stipulate . . . that the movants have an interest [in this litigation]—no less and no more an interest, however, than any other citizen. There is no property right in a congressional seat, nor any constitutionally-protected interest in political advantage or success.” Opp’n to Mot. to Intervene (Dkt. 41) at 3.

That very fact demonstrates why it is the Intervenor-Defendants whose argument is “ludicrous.” Mot. (Dkt. 198) at 3. Even assuming that they cannot have been harmed because “they represent themselves” (a position no plaintiffs endorse), members of Congress do not—as the Intervenor-Defendants point out—have any entitlement to their seats. They will not always be in Congress. But for now, as representatives, they are harmed because the lack of core retention and compactness, and the fracturing of communities of interest, diminishes their ability

to fulfill their duties. And if a congressional seat cannot confer standing, it certainly does not eliminate one's standing as a citizen.

The Baldus plaintiffs stipulated to dismiss their Act 44 claims in the interest of judicial economy, with the caveat that they were not speaking on behalf of the Intervenor-Plaintiffs, and the understanding that the Intervenor-Plaintiffs intended to continue pursuing these claims. The Intervenor-Plaintiffs continue to have standing to assert their Act 44 claims. To the extent the Court disagrees, the Baldus plaintiffs withdraw that stipulation.

Dated: February 24, 2012.

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Dated: February 24, 2012.

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