

**SUPREME COURT OF THE STATE OF WASHINGTON**

WASHINGTON COALITION  
FOR OPEN GOVERNMENT,  
a non-profit, nonpartisan  
Washington organization,  
  
Petitioner,

v.

THE STATE OF  
WASHINGTON, a state  
government; THE  
WASHINGTON STATE  
REDISTRICTING  
COMMISSION, a Washington  
State Agency; and SARAH  
AUGUSTINE, APRIL SIMS,  
PAUL GRAVES, BRADY  
PIÑERO WALKINSHAW, and  
JOE FAIN, in their individual  
capacities as Commissioners of  
the Washington State  
Redistricting Commission,  
  
Respondents.

STATE OF  
WASHINGTON'S  
STATEMENT REGARDING  
ORIGINAL JURISDICTION  
AND CONSOLIDATION OF  
CASES

## **I. INTRODUCTION**

Respondent State of Washington submits this Statement in support of the Court’s assertion of original jurisdiction in this matter and in the related original action filed by Petitioner Arthur West. The State further agrees that this Court should transfer both Petitioners’ parallel Thurston County actions to this Court, consolidate the four actions in this Court, and, to the extent claims not subject to the Court’s original jurisdiction remain, stay further proceedings of the actions in Thurston County Superior Court pending this Court’s decision.

## **II. BACKGROUND**

Petitioner Washington Coalition for Open Government (WACOG) filed an original action titled “Complaint for Declaratory Relief; Washington’s Open Meetings Act (‘OPMA’) Violations; and Constitutional Error” in the Washington State Supreme Court. WACOG asks the Court to void the votes of the Commissioners adopting the congressional and legislative redistricting plans (“Plan”). *Wash. Coal. for Open Gov’t v. State*

*of Washington, et al.*, No. 100483-4 (Wash. Sup. Ct.). A second petitioner, Arthur West, has also filed an original action in this Court titled “Original Action to Determine the Validity of the 2021 Washington Redistricting Plan.” *See West v. Wash. State Redistricting Comm’n, et al.*, No. 100469-9 (Wash. Sup. Ct.).<sup>1</sup> West asks the Court to determine whether the Plan is invalid, alleging the Commission did not follow certain statutory and constitutional requirements.

Separately, WACOG and West have filed parallel lawsuits in Thurston County Superior Court. *See Wash. Coal. for Open Gov’t v. State of Washington, et al.*, No. 21-2-02069-34 (Thurston Cnty. Super. Ct.); *West v. Wash. State Redistricting Comm’n, et al.*, No. 21-2-01949-34 (Thurston Cnty. Super Ct.).<sup>2</sup> These actions also ask the Thurston County Superior Court to invalidate the Plan.

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<sup>1</sup> The State of Washington is not a respondent in the original action filed by West.

<sup>2</sup> WACOG has also filed a petition with the Washington State Redistricting Commission.

In all cases but one, the defendants are the Washington State Redistricting Commission; Commissioners Augustine, Fain, Graves, Sims, and Walkinshaw; and the State of Washington.

### **III. ARGUMENT**

#### **A. The Court Should Assume Original Jurisdiction of the Actions Under Const., art. II, § 43**

Washington's Constitution provides that this Court "has original jurisdiction to hear and decide all cases involving congressional and legislative redistricting." Const. art. II, § 43(10). Petitioners WACOG and West have collectively filed *five* separate actions seeking to invalidate the Plan adopted by Respondent Washington State Redistricting Commission. While some of these actions also seek additional relief, the beating heart of each is a challenge to the Commission's Plan, which falls squarely within this Court's original jurisdiction. Moreover, Petitioners' challenges could jeopardize legislative and congressional redistricting in Washington and require the quick and final resolution that only this Court can provide.

Accordingly, the State agrees with every other party to these actions that this Court should assume original jurisdiction over Petitioners' challenges.

**B. Consolidation of the Cases is Appropriate Because They Involve Substantially Similar Claims and Parties.**

The State also agrees that Petitioners' multiple suits challenging the Plan should be consolidated in one proceeding before this Court. This means two things. First, this case should be consolidated with *West v. Washington State Redistricting Commission, et al.*, No. 100469-9 (Wash. Sup. Ct.). Second, this Court should transfer each Petitioner's pending superior court actions into the new consolidated suit.

All four actions involve substantially similar defendants: The Washington State Redistricting Commission, individual commissioners, and the State of Washington. All four actions allege the same course of conduct and substantially similar—if not identical—claims and requests for relief. Leaving these cases to proceed piecemeal in different venues is a waste of judicial time and resources, particularly because this Court's disposition

of certain issues may effectively decide or even moot Petitioner's Thurston County actions in whole or in part. This Court should therefore order the transfer of *Washington Coalition for Open Government v. State of Washington, et al.*, No. 21-2-02069-34 (Thurston Cnty. Super. Ct.) and *West v. Wash. State Redistricting Commission, et al.*, No. 21-2-01949-34 (Thurston Cnty. Super. Ct.) to this Court, and consolidate those cases with this case and *West v. Washington State Redistricting Commission, et al.*, No. 100469-9 (Wash. Sup. Ct.).<sup>3</sup>

#### IV. CONCLUSION

For the foregoing reasons, the State of Washington respectfully requests that this Court assert its original jurisdiction over this and related proceedings, and consolidate all related proceedings into a single action.

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<sup>3</sup> To the extent Petitioners bring any claims or seek any relief beyond this Court's original jurisdiction, those claims or requests for relief should be stayed in superior court pending this Court's decision and can be addressed on remand following disposition of this action.

RESPECTFULLY SUBMITTED this 22nd day of  
December 2022.

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## DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed in the Washington State Supreme Court, which will serve a copy of this document upon all counsel of record, as well as a copy being served via electronic mail, on the following:

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DATED this 22nd day of December 2022, at Seattle,  
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*/s/ Andrew R.W. Hughes*  
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**WA STATE ATTORNEY GENERAL'S OFFICE, COMPLEX LITIGATION DIVISION**

**December 22, 2021 - 11:27 AM**

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