



1           **1.3.** On November 18, due to the secrecy of the Commission’s procedure, this Court  
exercised its original jurisdiction to direct the Commission to explain its actions on the 15<sup>th</sup> and  
2   16<sup>th</sup> of November<sup>2</sup>. Subsequently, on December 3, 2021 this Court ruled that the plan’s adoption  
had been substantially in compliance with the Constitutional and statutory deadlines.

3           **1.4.** As this Court ruled on December 3:

4                   By voting to approve congressional and legislative redistricting plans  
before the end of the day on November 15, 2021, the Commission  
5                   complied with its obligation under article II, subsection 43(6) of the  
Washington Constitution to “complete redistricting” by that date, and  
6                   it substantially complied with the essential purpose of RCW  
44.05.100 to approve and transmit a plan to the legislature by that  
7                   date. This is not a situation in which the Supreme Court must step in  
because the Commission has failed to agree on a plan it believes  
8                   complies with state and federal requirements. The court concludes  
that the primary purpose of achieving a timely redistricting plan  
would be impeded, not advanced, by rejecting the Commission’s  
9                   completed work.

9           **1.5.** However, the December 3 Ruling contained the following caveat:

10                   The court has not evaluated and does not render any opinion on the  
plan’s compliance with any statutory and constitutional requirements  
11                   other than the November 15 deadline.

12           **1.6.** Although both Plaintiff West and the Washington Coalition for Open Government  
(WASHCOG) have filed complaints in the Thurston County Superior Court challenging the  
13           Redistricting Commission’s actions under the OPMA, this Court should exercise its original  
jurisdiction narrowly to ensure the prompt and final resolution of the issue of whether the  
14           redistricting plan should be invalid due to the failure of the Commission to comply with statutory  
and constitutional requirements other than the November 15 deadline .

15           **1.7.** Plaintiff West asserts that the prompt and final resolution of this issue is in the public  
interest and presents a justiciable controversy. The intent of this case is to encourage the  
16           Supreme Court to exercise its original jurisdiction to promptly resolve the issues it left  
17           unanswered in the Order of December 3, while allowing the Superior Court to address the rest of  
the OPMA issues raised by the parties on a less accelerated schedule.

18           \_\_\_\_\_  
19           <sup>2</sup> The sua sponte order of November 18, 2021 observed: WHEREAS it is unclear what actions the commission took  
prior to midnight on November 15, 2021;... and...WHEREAS it is unclear what actions the commission took after  
midnight on November 15, 2021,...

1           **1.8.** This action and the action filed in this Court by WASHCOG should be consolidated  
2 in the interest of judicial economy, while all other OPMA issues other than the validity of the  
3 redistricting plans should remain with the Superior Court for resolution. This is appropriate  
4 because Article II, Section 43(10) of the Washington State Constitution provides that: “The  
5 supreme court has original jurisdiction to hear and decide all cases involving congressional and  
6 legislative redistricting.” Should the Court decide to resolve all of the OPMA issues, West will  
7 seek leave to Amend this Complaint.

8                           **I. PARTIES AND JURISDICTION**

9           **2.1.** Plaintiff West is “any person” as defined in RCW 42.30.130 with standing<sup>3</sup> to seek  
10 relief. West is also a registered voter with standing to enforce the procedural checks and balances  
11 in the electoral system.

12           **2.2.** Defendant Washington State Redistricting Commissioners constitute a “governing  
13 body” as defined in RCW 42.30.020 that has violated the Open Public Meetings Act by  
14 conducting unlawful secret meetings, by failing to deliberate in public, by voting by  
15 prearrangement and by secret ballot, and by adopting redistricting plans that are potentially  
16 subject to invalidation due to their having been adopted in violation of the OPMA.

17           **2.3.** Defendants Brady Walkinshaw, Joe Fain, April Sims, Paul Graves, and Sarah  
18 Augustine are members of the Washington State Redistricting Commission, required by the  
19 intent of the People and the Legislature in amending the Constitution in 1983 and the express  
terms of RCW 44.05.080(4)<sup>4</sup> to hold open meetings pursuant to the Open Public Meetings Act.  
On November 15, and 16, 2021, the commissioners, and each of them violated the OPMA by  
conducting a series unlawful executive sessions and actual and serial meetings, by knowingly  
and deliberately conducting deliberations behind closed doors, by “secret voting” and by taking  
“actions” and “final actions” pursuant to secret ballots, prearrangement, or outside the context of  
a bona fide open public meeting<sup>5</sup>.

<sup>3</sup> See *West v. Seattle Port Commission*, 194 Wn. App. 821, 380 P.3d 82 (2016), *West v. Pierce County Council*, 197 Wn. App. 895, 391 P.3d 592 (2017).

<sup>4</sup> RCW 44.05.080 provides: In addition to other duties prescribed by law, the commission shall:... (4) Hold open meetings pursuant to the open public meetings act, chapter 42.30 RCW;...

<sup>5</sup> See *Egan v. City of Seattle*, 14 Wash. App. 2d 594, 471 P.3d 899, (2020)

1           **2.4.** Defendant Washington State Redistricting Commission is an entity required to abide  
2 by the requirements of Article II, section 43 of the Constitution of the State of Washington,  
3 Chapter 16 of the Laws of the State of Washington, 1983, RCW 44.05.080(4) and the Open  
4 Public Meetings Act, RCW 42.30.

5           **2.5.** The State of Washington is a necessary party to this action.

6           **2.6.** The Supreme Court has jurisdiction over the parties and subject matter of this claim,  
7 to the extent that they involve the validity of redistricting plans.

### 8 **III. ALLEGATIONS**

9           **3.1.** On Monday, November 15, 2021, between 7:00 P.M and 11:59:59, the Washington  
10 State Redistricting Commission Commissioners held a five-hour session.

11           **3.2.** Journalists, activists, and observers eagerly tuned in to the electronic 7:00 PM  
12 meeting being broadcast on TVW and YouTube, expecting to see the commissioners finally  
13 huddle in public and attempt to finish up their work.

14           **3.3.** However, of the entire 5 hours, only 31 minutes was actually open to the public, as  
15 the Commission repeatedly illegally closed the meeting to engage in secret deliberations in  
16 violation of the OPMA.

17           **3.4.** Instead, what viewers saw for the vast majority of nearly five hours was a “Meeting  
18 on Break” message, with commission staff claiming to reporters like Crosscut’s Melissa Santos  
19 that the commissioners were meeting in “caucus dyads” — partisan (Democratic and  
Republican) groups of two.

**3.5.** Less than 2 minutes into the “public meeting” it was suspended for secret  
deliberation by the Commissioners, the first of many such suspensions.

**3.6.** As the hours went by with nothing but occasional cameos from the staff and  
commissioners, it became apparent that the Commission would not finish its work before the  
eleventh hour, and possibly not at all. By 11:30 PM, the commissioners had still not begun any  
meaningful discussion in public on any set of proposals, despite having been publicly placed on  
notice in no uncertain terms that their actions violated the OPMA.

**3.7.** With a few minutes left to go before midnight, the commissioners belatedly appeared  
together onscreen once more, with nonvoting Chair Sarah Augustine asking them if they wanted  
to “commence” discussions.

1           **3.8.** An almost nonsensical exchange then ensued, followed by yet another “caucus dyad”  
2 break, followed by a chaotic final few minutes in which Augustine quickly entertained a set of  
3 motions that commissioners unanimously approved.

4           **3.9.** Two of the motions were to supposedly adopt new legislative and congressional  
5 district maps — phantom legislative and congressional maps, that is.

6           **3.10.** The “approved” maps were “phantoms” and the balloting and voting was “secret”  
7 because it was evident that no actual negotiated final maps existed for the commissioners to  
8 consider or approve, not even in digital form. In the absence of such maps, the commissioners  
9 suggested their final maps would be ready by sometime this morning, well after the deadline had  
10 passed, perhaps by “sunrise.”

11           **3.11.** The other motions adopted by the commissioners around midnight were to approve  
12 a resolution and letter of transmittal to the Legislature of the phantom maps.

13           **3.12.** No documents were shown onscreen prior to or during the votes, and no documents  
14 were posted by the commission immediately following the meeting. No discussion followed the  
15 votes, either. Instead, Ms. Augustine abruptly adjourned the meeting, leaving the People, and the  
16 Supreme Court, (See appended, Exhibit I) wondering what had just happened.

17           **3.13.** by so acting the defendants conducted a series of unlawful “meetings” where  
18 “action” as defined in the OPMA took place, repeatedly and unlawfully closed their meetings  
19 without compliance with the requirements of a lawful executive session, and proceeded to  
conduct a series of secret back room cabals to take action, conduct “straw polling” and to come  
to a clandestine agreement to approve phantom maps to allow them to vote to set new  
redistricting maps in secret.

**3.14.** The Washington State Redistricting Commission and each of the Commissioners  
knowingly committed multiple violations of the OPMA by repeatedly closing the November 15  
open meeting and in subsequently conducting what was, in essence, a series of unlawful de facto  
executive sessions and a series of secret actual and seriatim meetings where actions were  
covertly taken in the absence of proper notice or other lawful compliance with the OPMA  
throughout November 16.

**3.15.** The fact that the proceedings to adopt the “phantom” maps were in violation of the  
OPMA was underscored by the comments of a commission spokesperson that “Due to the late  
hour of approval of the required documents to meet the statutory deadline, the Commission is

1 unsure when/if maps will be made available to the public,” “We will inform the public further as  
2 circumstances warrant,” the Commission’s spokesperson added.

3 **3.16.** Subsequently, throughout the morning, afternoon, and evening of November 16<sup>th</sup>  
4 the Commission abandoned any pretense of complying with the OPMA, and continued to meet,  
5 confer and take “actions” and “final actions” and allow caucus staff to prepare the plan and maps  
6 in deliberate and flagrant violation of the Open Public Meetings Act and other provisions of  
7 State and Constitutional Law.

8 **3.17.** By their actions and omissions, the Washington State Redistricting Commission  
9 Commissioners violated the law, the People’s right to notice under the Open Public Meetings  
10 Act and their rights to the adoption of legitimate redistricting maps in accord with the  
11 Constitution and Laws of the United States and the State of Washington.

12 **3.18.** These violations are especially egregious in that they present a “Phantom Menace”  
13 to the checks and balances of our electoral process and voting rights, matters critical to the sound  
14 functioning of a democratic republic.

15 **3.19.** By meeting and acting in secret to come to an agreement as to how they would vote,  
16 by conducting secret “straw polls”, and by voting on secret agreements and subsequently  
17 approving redistricting maps on November 16, outside of any pretext of a public process, the  
18 Commission and the caucus staff they employed undermined the validity of their actions, and our  
19 democratic process as a whole, and this Court should determine whether their actions should be  
declared void ab initio, vacated, and set aside.

**3.20.** A present case and controversy exists, subject to adjudication under the Declaratory  
Judgments Act, concerning whether the Washington State Redistricting Commission  
Commissioners may lawfully close their meetings to confer in secret and come to agreement as  
to how they will vote in violation of the People’s right to lawful executive sessions and other  
requirements under the OPMA, and as to whether the redistricting plan and maps that were the  
product of deliberate violations of the law be should be considered to be valid by the Supreme  
Court in the due discharge of its’ duties under the Constitution and Laws.

**3.21.** Certainly, the Commission labored under significant handicaps: heightened political  
polarization, a culture of “partisan trench warfare”, a newly adopted abbreviated timeline, and  
complicated considerations under the Voting Rights Act concerning appropriate representation of  
a diverse population in Eastern Washington. However, the procedural checks and balances in our

1 redistricting system are not mere technicalities to be cast aside in the interest of transient political  
2 expediency whenever the political breezes blow; instead, they are necessary bulwarks that serve  
3 to safeguard the honesty and integrity of the redistricting process and our electoral system by  
4 ensuring that any changes be made through an open, honest, and legitimate public process  
5 subject to oversight by the People in whose interest the districts are formed to begin with.

6 **3.22.** The defendants in this case deliberately sacrificed these basic procedural safeguards  
7 in the interest of transient political expediency. In the process, they created a “Phantom Menace”  
8 to the legitimacy of our electoral system as a whole, with unknown implications in the event that  
9 someone elects to challenge the final product of the redistricting when completed by Court.

10 **3.23.** In the interest of the legitimacy of the process, and the legitimacy of the  
11 redistricting maps that will eventually be legally adopted, it is essential that the present  
12 uncertainty as to the validity of the 2021 Redistricting Plans be resolved in a final and timely  
13 manner so they will not be subject to challenge as the fruit of the Commissioners’ poisoned  
14 redistricting process.

15 **IV. CAUSES OF ACTION:**

16 **4.1. ORIGINAL JURISDICTION / OPMA CLAIM**

17 **4.1.1.** This is an action under RCW 42.30 concerning a series of violations of the Open  
18 Public Meetings Act by the Washington State Redistricting Commission, and Commission  
19 members Brady Walkinshaw, Joe Fain, April Sims, Paul Graves, and Sarah Augustine, who, on  
November 15 and 16, 2021 knowingly conducted unlawful de facto executive sessions, secretly  
deliberated, conducted ”straw polling”, voted by prearrangement or by secret ballot, and  
repeatedly took “action” and “final actions” outside the context of properly conducted open  
public meetings or executive sessions.

**4.1.2.** The plaintiff alleges that the defendants, on both November 15 and 16, 2021,  
violated the law by conducting what were, in effect, a series of unlawful back-room serial and  
actual meetings, including a series of unlawful de facto executive sessions, by repeatedly taking  
actions and final actions and conferring in private, by “straw polling”, and by conducting an  
illegal series of seriatim meetings and balloting and voting in secret.

1           **4.1.3.** The defendants also violated the terms of their enabling legislation and the OPMA  
2 by unlawfully and secretly take action to approve both “phantom” redistricting maps on  
3 November 15 and, subsequently, actual maps on November 16, and by allowing the caucus staff  
4 to actually prepare the maps and plans, and plaintiff is entitled to the relief sought below.

5           **4.1.4.** By their acts and omissions defendants created a cause of action under RCW  
6 42.30.060<sup>6</sup> for invalidating the actions of the Washington State Redistricting Commission in  
7 approving, by secret ballot and/or outside of the context of a meeting open to the public, the  
8 2021 Redistricting plan and maps, and plaintiff is entitled, under RCW 42.30, to the relief sought  
9 below. All other OPMA claims should be resolved by the Superior Court.

10  
11  
12           **4.2. ORIGINAL JURISDICTION / CONSTITUTIONAL CLAIM**

13           **4.2.1.** By their acts and omissions defendants created a cause of action under Article II,  
14 Section 43, and the laws adopted thereunder for invalidating the actions of the Washington State  
15 Redistricting Commission in approving, by secret ballot and/or outside of the context of a  
16 meeting open to the public, the 2021 Redistricting plan and maps, when such approval was  
17 contrary to the Constitution and Laws of the State of Washington, and plaintiff is entitled to the  
18 relief sought below.

19           **4.3. ORIGINAL JURISDICTION / UNIFORM DECLARATORY JUDG-MENTS ACT  
(RCW 7.24)**

**4.3.1.** By their acts and omissions defendants, and each of them, created an uncertainty in  
the conduct of public officers and compliance with the OPMA, Constitutional Article II, Section

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<sup>6</sup> (1) No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.

(2) No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot. Any vote taken in violation of this subsection shall be null and void, and shall be considered an "action" under this chapter.

1 43, and RCW 44.05.080(4)<sup>7</sup>, and a cause of action for a declaratory judgment in regard to  
2 whether the Washington State Redistricting Commission Commissioners, by deliberating in  
3 secret voting, by prearrangement and secret ballot, and by holding unlawful de facto executive  
4 sessions, rendered their redistricting maps void ab initio, or in the alternate, whether the plan and  
5 maps are valid. Such a declaration would resolve the uncertainty giving rise to this action, and  
6 would ensure that however the redistricting process moves forward, it can do so on a sound  
7 basis.

### 8 **V REQUEST FOR RELIEF**

9 Wherefore, Plaintiff respectfully requests the following relief:

10 **5.1.** That the Court exercise its original jurisdiction to render an “opinion on the  
11 (redistricting) plan’s compliance with any statutory and constitutional requirements other than  
12 the November 15 deadline” and that the Court determine the sole issue of whether the actions  
13 taken by the Commission approving and adopting redistricting maps and plans on November 15  
14 and November 16, 2021 should be invalidated for the failure of the Commission to follow  
15 statutory and constitutional requirements.

16 **5.2.** That a ruling issue under the Seal of this Court finding and declaring that the  
17 Washington State Redistricting Commission repeatedly violated the Open Public Meetings Act  
18 on November 15, and November 16, 2021 by conducting a series of closed serial meetings,  
19 unlawful de facto executive sessions, and by improperly taking “action” and “final action” as  
20 defined in the OPMA, including deliberating and conducting a series of straw polls, secret  
21 balloting and secret voting, rendering their redistricting plans and maps void.

22 **5.3.** That plaintiff be awarded any appropriate costs or such other relief as might be  
23 appropriate.

24 Done December 14, 2021, in Olympia, Washington.

25 S/ Arthur West

26 Arthur West

27  
28  
29 <sup>7</sup> RCW 44.05.080 provides: In addition to other duties prescribed by law, the commission shall:... (4) Hold open  
meetings pursuant to the open public meetings act, chapter **42.30** RCW;...

**ARTHUR WEST - FILING PRO SE**

**December 14, 2021 - 4:29 AM**

**Filing Original Action Against State Officer**

**Transmittal Information**

**Filed with Court:** Supreme Court

**Appellate Court Case Number:** Case Initiation

**The following documents have been uploaded:**

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Other - Summons  
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**Comments:**

Original Action under Article II, Section 43(10) of the Constitution of the State of Washington.

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