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July 25, 2025

VIA E-FILING ONLY

Samuel A. Christensen
Clerk of the Supreme Court and Court of Appeals
Wisconsin Supreme Court
110 East Main Street, Suite 215
Madison, Wisconsin 53701-1688

Re: *Elizabeth Bothfeld, et. al., v. Wisconsin Elections Commission*
No. 2025XX001438

Dear Mr. Christensen:

We represent the Plaintiffs in *Bothfeld v. Wisconsin Elections Commission*, No. 2025XX001438, commenced earlier this week in the Dane County Circuit Court under Wis. Stat. sec. 801.50(4m) as Case # 2025CV2432, which is before this Court for the appointment of a judicial panel and assignment of venue pursuant to Wis. Stat. § 751.035(1). We oppose the unprecedented relief requested in the July 23rd letter to this Court from attorney Misha Tseytlin on behalf of his clients, the six Republican members of the U.S. House of Representatives from Wisconsin districts (the “Non-Party Republican Congressmen”).

Attorney Tseytlin requests that the Court deem the Non-Party Republican Congressmen to be intervenors in this action without the need to move to intervene, and he further requests, *inter alia*, that this Court set a briefing schedule on a motion that has not been filed to dismiss before appointing the three-judge panel required by Wis. Stats. Secs. 801.50(4m) and 751.035. As Attorney Douglas Poland explained in his July 14 response to this Court to an identical request in *Wisconsin Business Leaders for Democracy v. Wisconsin Elections Commission*, No. 2025XX001330, attorney Tseytlin’s requests disregard Wisconsin procedural rules.

There is no authority for letter requests by non-parties, for automatic intervention, or for dispositive briefing in this Court before the appointment of the circuit court panel. If the members of Congress desire to participate in this case, they must seek intervention before the circuit court panel set by this Court, which, if granted, will afford them an opportunity to brief their arguments for dismissal or other relief in due course. Attorney Tseytlin may consider it a chore to persuade the circuit court of his clients’ qualifications for intervention and to litigate in the lower court before this Court decides whether to accept any appeal under Wis. Stat. sec. 751.035(3). But Wisconsin’s legal system does not prioritize the convenience of litigants (or



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aspiring litigants) over the rules of civil procedure. If interested observers could parachute into this Court to demand immediate and final resolution of any controversy presented below, then this Court's resources would be needlessly taxed and the value of lower courts' initial review would be lost.

This Court's recent denial of Plaintiffs' petition for an original action confirms the point. Plaintiffs took their claims to the circuit court because they respect this Court's decision to decline their invitation to adjudicate those claims in the first instance. Mr. Tseytlin's clients, it appears, do not—by asking this Court to resolve Plaintiffs' claims before the three-judge panel required by Sec. 751.035 weighs in, they are effectively seeking reconsideration of this Court's decision on the original action petition, again without following the proper procedures.

The relief sought by the Non-Party Republican Congressmen is not supported by *Clinard v. Brennan*, No.2011XX1409, a case with dispositive procedural complications that are not present here. In *Clinard*, plaintiffs filed a circuit court complaint requesting the appointment of a three-judge panel. After the circuit court mailed notice of that request to this Court—but before this Court received that notice—the plaintiffs amended their complaint and dropped their request for a three-judge panel. In those unusual circumstances, it was unclear whether the request for a three-judge panel had been superseded by the amended complaint, or, alternatively, whether the circuit court lacked jurisdiction to accept the amended complaint while the request for the panel appointment was pending in this Court. It was therefore necessary for this Court to solicit briefing on which complaint was operative. Here, in contrast, there is no question that a timely, procedurally proper request for panel appointment remains before this Court. Plaintiffs respectfully request that this Court appoint the panel and assign venue as Wisconsin law instructs.

Very truly yours,

DeWitt LLP

A handwritten signature in blue ink, appearing to read "Barret V. Van Sicklen". The signature is stylized with a large "B" and a long, sweeping underline.

Barret V. Van Sicklen
BVV:emh