

Case 2025CV002432

Document 48

Filed 09-23-2025

Page 1 of 2

FILED  
09-23-2025  
CIRCUIT COURT  
DANE COUNTY, WI  
2025CV002432

BY THE COURT:

DATE SIGNED: September 23, 2025

Electronically signed by Julie Genovese  
Circuit Court Judge

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH 13

DANE COUNTY

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ELIZABETH BOTHFELD, et al.

Plaintiffs,

v.

Case No. 2025CV2432

WISCONSIN ELECTIONS COMMISSION, et al.,

Defendants.

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**ORDER DENYING REQUEST FOR BRIEFING SCHEDULE**


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On July 21, 2025, plaintiffs brought this declaratory judgment action seeking declaratory and injunctive relief regarding the constitutionality of the congressional districting maps. Plaintiffs claim that these maps constitute unlawful partisan gerrymandering. Pursuant to Wis. Stat. §801.50(4m), the Dane County Clerk of Court notified the Clerk of the Supreme Court of this action.<sup>1</sup>

Under Wis. Stat. §751.035, the Wisconsin Supreme Court “shall appoint a panel consisting of 3 circuit court judges to hear the matter. The supreme court shall choose one judge from each of 3 circuits and shall assign one of the circuits as the venue for all hearing and filings in the matter.”

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<sup>1</sup> Section 801.50(4m) provides: Venue of an action to challenge the apportionment of any congressional or state legislative district shall be as provided in s. [751.035](#). Not more than 5 days after an action to challenge the apportionment of a congressional or state legislative district is filed, the clerk of courts for the county where the action is filed shall notify the clerk of the supreme court of the filing.

A gray rectangular stamp with rounded corners and a black border, containing the text "EXHIBIT A" in bold, black, sans-serif capital letters.

Case 2025CV002432 Document 48 Filed 09-23-2025 Page 2 of 2

The Wisconsin Supreme Court has not yet taken any action. Plaintiffs now bring this motion for judgment on the pleadings and ask for a briefing schedule. Defendants object, asking this court not to take any action until the Wisconsin Supreme Court acts.

I agree with the Defendants. As Plaintiffs concede, the Wisconsin Supreme Court is statutorily obligated to appoint a panel of 3 circuit court judges. It is not even clear whether I will be one of those three judges or whether Dane County will be the venue. Until the Wisconsin Supreme Court appoints the panel, any actions that I would take as a sole circuit court judge would contravene the statutory scheme developed in these cases. Accordingly, the request for a briefing schedule is denied.

Case 2025CV002432

Document 45

Filed 09-16-2025

Page 1 of 5

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FILED  
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CIRCUIT COURT  
DANE COUNTY, WI  
2025CV002432

Misha Tseytlin  
misha.tseytlin@troutman.com

## VIA ELECTRONIC FILING

September 16, 2025

Jeff Okazaki  
Dane County Clerk of Courts  
Dane County Circuit Court  
215 S. Hamilton Street, Room 1000  
Madison, Wisconsin 53703-3285

**Re: *Elizabeth Bothfeld v. Wisconsin Elections Commission*, No.2025CV2432**

Dear Clerk Okazaki,

I represent Congressmen Glenn Grothman, Bryan Steil, Tom Tiffany, Scott Fitzgerald, Derrick Van Orden, and Tony Wied and individual Wisconsin voters Gregory Hutcheson, Patrick Keller, Patrick McCalvy, and Mike Moeller—all of whom were permitted to intervene as Respondents in *Bothfeld v. Wisconsin Elections Commission* (“WEC”), No.2025AP996-OA (Wis.). Plaintiffs in the present case alleged that the map that the Supreme Court adopted in *Johnson v. WEC*, 2022 WI 14, 400 Wis. 2d 626, 971 N.W.2d 402, violates the Wisconsin Constitution, while raising identical theories to those that these Plaintiffs raised in their unsuccessful original action in *Bothfeld*, No.2025AP996-OA. I write to this Court with regard to Plaintiffs’ recently filed Motion For Judgment On The Pleadings. See Dkts.43, 44.

As this Court knows, the issue of whether to grant Plaintiffs’ request to appoint a three-judge panel to hear this case under Wis. Stat. § 751.035(1) is pending before the Wisconsin Supreme Court. See *Bothfeld v. WEC*, No.2025XX1438 (Wis.). As part of its consideration as to whether to appoint the three-judge panel, the Supreme Court also has before it our suggestion that the Court should dismiss this case as an unconstitutional request that an inferior tribunal invalidate a map adopted by the State’s highest court (or at least order briefing on this issue before deciding whether to appoint a three-judge panel). See Letter from Misha Tseytlin to Samuel A. Christensen, Clerk of the Sup. Ct. & Ct. of Appeals, *Bothfeld v. WEC*, No.2025XX1438 (Wis. July 23, 2025) (attached hereto as Exhibit A); Order, *Clinard v. Brennan*, No.2011XX1409 (Wis. Jan. 13, 2014) (dismissing prior action filed under Wis. Stat. § 751.035(1) without appointing a three-judge panel). Accordingly, we respectfully request that this Court not take any action on Plaintiffs’ Motion For Judgment On The Pleadings, including setting a briefing schedule or hearing date, in order to await the Supreme Court’s decision on how this case should

Exhibit B

Case 2025CV002432

Document 45

Filed 09-16-2025

Page 2 of 5

September 16, 2025  
Page 2



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proceed. *See Hefty v. Strickhouser*, 2008 WI 96, ¶ 31, 312 Wis. 2d 530, 752 N.W.2d 820 (“Circuit Courts have discretion to control their dockets,” including by setting “scheduling order[s]” and determining when to dispose of pending motions); Wis. Stat. § 802.10.

Respectfully submitted,

Electronically signed by Misha Tseytlin  
Misha Tseytlin

cc: All Counsel of Record (via Electronic Filing)

# **EXHIBIT A**

Case 2025CV002432

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Page 4 of 5

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**Misha Tseytlin**  
misha.tseytlin@troutman.com

## VIA ELECTRONIC FILING

July 23, 2025

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 v. Wisconsin Elections Commission*, No.2025XX001438 (Wis.)**

Dear Clerk Christensen,

We represent Congressmen Glenn Grothman, Bryan Steil, Tom Tiffany, Scott Fitzgerald, Derrick Van Orden, and Tony Wied and individual Wisconsin voters Gregory Hutcheson, Patrick Keller, Patrick McCalvy, and Mike Moeller. This Court permitted us to intervene as Respondents in *Bothfeld v. Wisconsin Elections Commission* (“WEC”), No.2025AP996-OA (Wis.). As with the *Bothfeld* original action, which this Court denied, this case challenges under the Wisconsin Constitution the map that this Court adopted in *Johnson v. WEC*, 2022 WI 14, 400 Wis. 2d 626, 971 N.W.2d 402 (“*Johnson II*”), raising identical theories to those that these same plaintiffs raised in their unsuccessful original action. We respectfully submit that this Court dispose of this case in the same manner that we suggested that this Court handle the recently filed *Wisconsin Business Leaders for Democracy v. WEC*, No.2025XX001330 (Wis.), case. Specifically, before this Court considers Plaintiffs’ request to appoint a three-judge panel under Wis. Stat. § 751.035(1), this Court should set a briefing schedule that allows this Court to consider whether to dismiss this case, including because Plaintiffs in this case—just like the plaintiffs in *Wisconsin Business Leaders for Democracy*—ask this Court to appoint an inferior tribunal to violate the Wisconsin Constitution by adjudicating the constitutionality of the relief that this Court issued in *Johnson II*. See Wis. Const. art. VII, § 3.\*

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\* Further, as we did in *Wisconsin Business Leaders for Democracy*, we respectfully request that this Court consider streamlining these initial proceedings in two respects. First, this Court should deem all parties that this Court already permitted to intervene in the *Bothfeld* original action to also be intervenors in this case, without the need to refile motions and supporting memoranda. Second, this Court should provide that our motion to recuse Justice Protasiewicz filed in *Bothfeld* be deemed filed and denied in this case as well, again, without the need to refile a motion making the same arguments that Justice Protasiewicz already rejected, so as to preserve these parties’ rights.

Case 2025CV002432

Document 45

Filed 09-16-2025

Page 5 of 5

July 23, 2025  
Page 2



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Respectfully submitted,

Electronically signed by Misha Tseytlin  
Misha Tseytlin

cc: All Counsel of Record (via Electronic Filing)