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07-08-2025
CIRCUIT COURT
DANE COUNTY, WI
2025CV002252
Honorable David Conway
Branch 17

STATE OF WISCONSIN CIRCUIT COURT DANE COUNTY

WISCONSIN BUSINESS LEADERS FOR DEMOCRACY,
333 West Estabrook Boulevard
Glendale, Wisconsin 53212,

JOHN A. SCOTT,
5333 Lathrop Avenue
Mt. Pleasant, Wisconsin 53403,

NICHOLAS G. BAKER,
2327 17th Avenue
Monroe, Wisconsin 53566,

BEVERLY JOHANSEN,
170 Preston Drive
Platteville, Wisconsin 53818,

RACHEL IDA BUFF,
2972 North Hackett Avenue
Milwaukee, Wisconsin 53211,

KIMBERLY SUHR,
602 Mt. Snowdon Road
Wales, Wisconsin 53183,

SARAH LLOYD,
W13615 Nelson Road
Newport, Wisconsin 53965,

NANCY STENCIL,
223281 Azalea Road
Wausau, Wisconsin 54401,

and

Case No.: _____

Case Code: 30701

Declaratory Judgment

VIKAS VERMA,
165 Lamp Lighter Drive
Kaukauna, Wisconsin 54130,

Plaintiffs,

v.

WISCONSIN ELECTIONS COMMISSION, MARGE BOSTELMANN,
ANN S. JACOBS, DON MILLIS, ROBERT F. SPINDELL, JR., CARRIE
RIEPL, MARK L. THOMSEN, in their official capacities as commissioners
of the Wisconsin Elections Commission; and MEAGAN WOLFE, in her
official capacity as administrator of the Wisconsin Elections Commission,
201 West Washington Avenue, 2nd floor
Madison, Wisconsin 53703,

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Wisconsin Business Leaders for Democracy, John A. Scott, Nicholas G. Baker, Beverly Johansen, Rachel Ida Buff, Kimberly Suhr, Sarah Lloyd, Nancy Stencil, and Vikas Verma bring this Complaint for Declaratory and Injunctive Relief against Defendants Wisconsin Elections Commission, Marge Bostelmann, Ann S. Jacobs, Don Millis, Robert F. Spindell, Jr., Carrie Riepl, Mark L. Thomsen, and Meagan Wolfe under Article I, §§ 1 and 22, and Article III of the Wisconsin Constitution.

Plaintiffs demand that, not more than five (5) days after this action to challenge the apportionment of congressional districts has been filed, the Clerk of Courts for Dane County notify the Clerk of the Wisconsin Supreme

Court of the filing in accordance with Wis. Stat. § 801.50(4m). Plaintiffs further demand that, upon receiving notice under Wis. Stat. § 801.50(4m), the Wisconsin Supreme Court appoint a panel consisting of three (3) circuit court judges to hear the matter in accordance with Wis. Stat. § 751.035(1) by assigning two additional circuit court judges to adjudicate this action along with the judge initially assigned, and that the Wisconsin Supreme Court assign Dane County Circuit Court as the venue for all hearings and filings in the matter.

For and in support of their Complaint, Plaintiffs allege as follows:

INTRODUCTION

1. Following each decennial census, Wisconsin must adopt new congressional districts. *See* U.S. Const. art. I, §§ 1–2; *Wesberry v. Sanders*, 376 U.S. 1, 17–18 (1964); *Dep’t of Com. v. New York*, 588 U.S. 752, 759 (2019); *Johnson v. Wis. Elections Comm’n*, 2022 WI 14, ¶1, 400 Wis. 2d 626, 971 N.W.2d 402 (*Johnson II*).

2. After the 2020 Census, the Wisconsin Legislature passed a bill delineating new congressional districts, which the Governor then vetoed. The Wisconsin Supreme Court stepped into this impasse and imposed new Wisconsin congressional districts. *See Johnson v. Wis. Elections Comm’n*, 2021 WI 87, 399 Wis. 2d 623, 967 N.W.2d 469 (*Johnson I*); *Johnson II*, 2022 WI 14; *Johnson v. Wis. Elections Comm’n*, 2022 WI 19, 401 Wis. 2d 198, 972 N.W.2d 559 (*Johnson III*).

3. In adopting that congressional map, the Supreme Court relied primarily on a “least change” criterion it has since repudiated. *See Johnson*

II, 2022 WI 19, ¶¶7, 11–15 & n.7, 19, 25 (articulating the “least change” rationale as the primary criterion in selecting a remedial congressional map); *Clarke v. Wis. Elections Comm’n*, 2023 WI 79, ¶63, 410 Wis. 2d 1, 998 N.W.2d 370 (overturning portions of all three decisions in the *Johnson* litigation to the extent that they “mandate a least change approach”).

4. The “least change” approach applied in *Johnson II* ensures that Wisconsin’s current congressional map closely resembles the congressional map from the prior decade, which was signed into law by then-Governor Scott Walker. *See* 2011 Wis. Act 44.

5. Act 44 was challenged at the time as an unconstitutional partisan gerrymander. *Baldus v. Members of Wis. Gov’t Accountability Bd.*, 849 F. Supp. 2d 840 (E.D. Wis. 2012). Act 44 suffered from another deficiency that was not separately challenged in *Baldus*: it imposed districts that were deliberately uncompetitive. In other words, the map enacted in Act 44 was intentionally designed to create districts that protected the incumbent members of Wisconsin’s delegation in the U.S. House of Representatives.

6. The drafters of Act 44 intended for it to produce uncompetitive districts, and it had precisely that effect. Over the entire, decade-long lifespan of Act 44, not a single incumbent lost. Not one district changed hands from one political party to the other. Across the forty individual district races held under Act 44, the median margin of victory was more than twenty-five percentage points—a blowout by any measure. Only one of these forty races was decided by a margin of fewer than ten percentage points.

7. In *Johnson II*, the Supreme Court replaced the Act 44 map with one chosen based on a “least change” approach. *Johnson II*, 2022 WI 14, ¶¶7, 11 & n.7. The Court had already expressly recognized that the “least change” approach would necessarily replicate the defects of the Act 44 map. *Johnson I*, 2021 WI 87, ¶76. Wisconsin’s current congressional map thus perpetuates the anti-competitive gerrymander imposed in 2011.

8. An anti-competitive gerrymander occurs when elected officials work in concert to draw district lines to suppress electoral competition, thereby benefiting incumbent politicians to the detriment of voters. The essence of anti-competitive gerrymandering is that it yields lower levels of competition than would arise under a neutral map not crafted to protect officeholders. Candidates prevail by larger margins, fewer districts are competitive, and less legislative turnover occurs, undermining core democratic values of accountability and responsiveness.

9. This claim of anti-competitive gerrymandering is distinct from a partisan gerrymandering claim in terms of how liability is determined, who is harmed, and how a violation is remedied. Partisan gerrymandering is commonly defined as “draw[ing] district lines to ‘pack’ and ‘crack’ voters likely to support the disfavored party,” thus unfairly boosting the number of seats won by the line-drawing party. *Rucho v. Common Cause*, 588 U.S. 684, 730 (2019) (Kagan, J., dissenting). An anti-competitive gerrymandering claim is similarly distinct from a racial gerrymandering claim, which asserts that “race was improperly used in the drawing of the boundaries of one or

more specific electoral districts.” *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 263 (2015) (emphasis removed).

10. Anti-competitive gerrymanders are every bit as antithetical to democracy, and to law, as partisan gerrymanders and racial gerrymanders. This is because electoral competition is as vital to democracy as partisan fairness (as our Supreme Court recognized in *Clarke*, 2023 WI 79, ¶71) and ensuring that district lines are not drawn for racial reasons (as the U.S. Supreme Court has repeatedly recognized, *see, e.g., Shaw v. Reno*, 509 U.S. 630, 644–49 (1993)). Indeed, our Supreme Court has suggested that redistricting with “a desire to preserve the political status quo” is a facet of “gerrymandering.” *State ex rel. Reynolds v. Zimmerman*, 22 Wis. 2d 544, 566, 126 N.W.2d 551 (1964).

11. Wisconsin’s current congressional plan presents a textbook example of an anti-competitive gerrymander. Across the sixteen individual district races held so far under this plan, the median margin of victory has been close to thirty percentage points, a figure even larger than that for Act 44. Only one district (District 3) has seen races decided by fewer than ten percentage points. Moreover, the level of competition would be significantly higher if a neutral line-drawing process that did not aim to suppress competition were employed. Maps created through such a process are both more competitive overall and include more individually competitive districts. Compared to such maps, Wisconsin’s current congressional plan is a stark outlier. Seven of the eight specific districts in the plan are outliers as well in their relative lack of competition.

12. Anti-competitive gerrymanders offend the Wisconsin Constitution in several respects, including by violating the state constitutional guarantees of equal protection to all citizens, the promise to maintain a free government, and the right to vote. Wis. Const. art. I, §§ 1, 22; *id.* art. III.

13. Wisconsin's constitution, through the promises of Equal Protection and Free Government, prohibits drawing district lines in ways that disadvantage certain groups of voters relative to others. Wis. Const. art. I, §§ 1, 22. Where district lines are deliberately and effectively drawn to suppress competition, voters in artificially uncompetitive districts (other than the incumbent officials themselves) are disadvantaged. Their votes are devalued because they have a smaller likelihood of proving decisive. Voters' representation is also impaired because legislators elected from these districts are less accountable and responsive to their constituents.

14. Voters in Wisconsin have a right to vote grounded in and protected by both the U.S. Constitution and our state constitution. *See* Wis. Const. art. III; *see also, e.g., State ex rel. McGrael v. Phelps*, 144 Wis. 1, 128 N.W. 1041, 1046 (1910). The Wisconsin Constitution must provide, and does provide, a remedy for the harm caused to Plaintiffs and other Wisconsin voters by the anti-competitive gerrymandering of Wisconsin's congressional districts. Wis. Const. art. I, § 9.

15. Once the Court declares that Wisconsin's current congressional map violates strictures of the state constitution, it should apply the clear guidelines established in *Clarke* for evaluating remedial maps,

supplemented by consideration of competitiveness, in fashioning relief to end this anti-competitive gerrymander. 2023 WI 79, ¶¶64–71. Many maps exist that both satisfy the *Clarke* guidelines, including partisan fairness, and do not artificially suppress competition.

PARTIES

16. Plaintiff Wisconsin Business Leaders for Democracy (WBLD) is a bipartisan, unincorporated association of Wisconsin business leaders dedicated to helping ensure equitable access to voting; non-partisan, transparent election policy and administration; and unbiased representation. WBLD understands that preserving responsive, democratic government is critical to the Wisconsin economy and touches the lives of all Wisconsinites. WBLD's mailing address is Wisconsin Business Leaders for Democracy, 333 West Estabrook Boulevard in the City of Glendale.

17. Among the core principles that WBLD supports is a commitment to increasing competitiveness in the political system to improve the quality of governance. These principles are central to WBLD's mission, and WBLD is committed to taking action in support of these principles. Over the past several years, WBLD's actions have included public education, policy advocacy, and involvement in litigation essential to Wisconsin democracy.

18. WBLD has vocally supported ending gerrymandering in Wisconsin. After the *Clarke* ruling and the adoption of 2023 Wisconsin Act 94, WBLD praised the outcome: "As business leaders, we understand that the stability of our economy hinges on the integrity of our democratic

institutions.” The statement continued by explaining that fair maps, under which fewer electoral outcomes are foregone conclusions, more voters have meaningful choices, and elected officials have incentives to be attentive to constituent concerns, “are not just political imperatives but moral imperatives that underscore our commitment to a democracy that works for all.”

19. As senior executives in several of Wisconsin’s largest and most established businesses, the members of WBLD possess unparalleled insight into the consequences of policies that have eroded Wisconsin’s traditional status as America’s most successful laboratory of democracy. Those consequences are profound, both for Wisconsin’s civil society and for Wisconsin’s business sector.

20. The members of WBLD recognize that in politics, as in business, a lack of competition locks in entrenched interests, stifles innovation and experimentation, and ultimately impairs the interests of the population at large.

21. Both WBLD as an association and its members as individuals are harmed by Wisconsin’s anti-competitive gerrymander, which makes recruiting talent to Wisconsin businesses, and therefore to membership and activism with WBLD, more difficult than it otherwise would be. WBLD and its members are further harmed by the anti-competitive gerrymander of Wisconsin’s congressional districts because it removes incentives for members of Congress to address obstacles to economic growth, and for the state to retain and recruit new businesses. These levers of growth are

uniquely in the hands of Congress, and include increased federal investment, updating outdated regulations, and reducing costs of doing business. Economic growth is thereby slower than it would be if Wisconsin were not in the grips of this anti-competitive gerrymander, which puts our state's business environment at a distinct disadvantage to neighboring states.

22. In addition, by effectively disenfranchising many Wisconsin voters in congressional elections, the anti-competitive gerrymander undermines WBLD's commitment to free, fair, and regular elections, in which every citizen has equitable access to exercise their right to vote. The anti-competitive gerrymander thus impairs WBLD's interests and renders its actions less effective.

23. The individual Plaintiffs are Wisconsin residents residing in various counties and congressional districts. They are citizens and qualified voters of the United States of America and the State of Wisconsin.

24. At least one Plaintiff resides in each of Wisconsin's congressional districts, including districts rendered unnecessarily uncompetitive by the deliberate design of Wisconsin's congressional map. Because Plaintiffs live in congressional districts crafted to be less competitive than they otherwise would be, their constitutional rights are violated and they suffer harm.

25. Plaintiff John A. Scott resides at 5333 Lathrop Avenue in the Town of Mt. Pleasant, Wisconsin. He regularly votes at this residence in Wisconsin's First Congressional District, and he intends to vote, at this

residence, in the 2026 and future congressional elections. Wisconsin's anti-competitive gerrymander effectively disenfranchises him in congressional elections.

26. Plaintiff Nicholas G. Baker resides at 2327 17th Avenue in the City of Monroe, Wisconsin. He regularly votes at this residence in Wisconsin's Second Congressional District, and he intends to vote, at this residence, in the 2026 and future congressional elections. Wisconsin's anti-competitive gerrymander effectively disenfranchises him in congressional elections.

27. Plaintiff Beverly Johansen resides at 170 Preston Drive in the City of Platteville, Wisconsin. She regularly votes at this residence in Wisconsin's Third Congressional District, and she intends to vote, at this residence, in the 2026 and future congressional elections.

28. Plaintiff Rachel Ida Buff resides at 2972 North Hackett Avenue in the City of Milwaukee, Wisconsin. She regularly votes at this residence in Wisconsin's Fourth Congressional District, and she intends to vote, at this residence, in the 2026 and future congressional elections. Wisconsin's anti-competitive gerrymander effectively disenfranchises her in congressional elections.

29. Plaintiff Kimberly Suhr resides at 602 Mt. Snowdon Road in the Village of Wales, Wisconsin. She regularly votes at this residence in Wisconsin's Fifth Congressional District, and she intends to vote, at this residence, in the 2026 and future congressional elections. Wisconsin's anti-

competitive gerrymander effectively disenfranchises her in congressional elections.

30. Plaintiff Sarah Lloyd resides at W13615 Nelson Road in the Town of Newport, Wisconsin. She regularly votes at this residence in Wisconsin's Sixth Congressional District, and she intends to vote, at this residence, in the 2026 and future congressional elections. Wisconsin's anti-competitive gerrymander effectively disenfranchises her in congressional elections.

31. Plaintiff Nancy Stencil resides at 223281 Azalea Road in the City of Wausau, Wisconsin. She regularly votes at this residence in Wisconsin's Seventh Congressional District, and she intends to vote, at this residence, in the 2026 and future congressional elections. Wisconsin's anti-competitive gerrymander effectively disenfranchises her in congressional elections.

32. Plaintiff Vikas Verma resides at 165 Lamp Lighter Drive in the City of Kaukauna, Wisconsin. He regularly votes at this residence in Wisconsin's Eighth Congressional District, and he intends to vote, at this residence, in the 2026 and future congressional elections. Wisconsin's anti-competitive gerrymander effectively disenfranchises him in congressional elections.

33. Defendant Wisconsin Elections Commission (WEC) is an administrative body created under the laws of Wisconsin. State law charges WEC with responsibility for the administration and enforcement of

Wisconsin laws “relating to elections” including Chapters 5 to 10 and 12. Wis. Stat. § 5.05(1), (2w).

34. WEC comprises six appointed members. Wis. Stat. § 15.61(1)(a). Defendants Marge Bostelmann, Ann S. Jacobs, Don Millis, Carrie Riepl, Robert F. Spindell, Jr., and Mark L. Thomsen are those members, and are named here in their official capacities.

35. WEC’s appointed Administrator, Defendant Meagan Wolfe, “serve[s] as the chief election officer of this state,” and is named here in her official capacity. Wis. Stat. §§ 5.05(3g), 15.61(1)(b)1.

36. By law, WEC’s Chairperson is responsible for certifying the state canvass, including the results of congressional elections in each of Wisconsin’s eight congressional districts. Wis. Stat. § 7.70(3). After the state canvass has been certified, Defendant WEC issues certificates of election to those individuals elected to the U.S. House of Representatives in each of Wisconsin’s eight congressional districts. Wis. Stat. § 7.70(5).

JURISDICTION AND VENUE

37. This Court has jurisdiction over the subject matter of this dispute pursuant to Article VII, Section 8 of the Wisconsin Constitution and Wis. Stat. § 753.03, which grant Wisconsin courts subject matter jurisdiction over all civil matters within this State. The claim for declaratory relief is specifically within the courts’ jurisdiction pursuant to Wis. Stat. § 806.04.

38. Jurisdiction over Defendants is conferred by Wis. Stat. § 801.05(1)(d), (3), and (4).

39. Venue is proper in Dane County because it is the county where Defendants do substantial business. Wis. Stat. § 801.50(2)(c). Alternatively, Dane County is the proper venue because it has been designated by Plaintiffs. Wis. Stat. § 801.50(2)(d).

40. Because this “action challenge[s] the apportionment of” Wisconsin’s congressional districts, within five days of this Complaint’s filing, the clerk of this Court “shall notify the clerk of the supreme court of the filing,” Wis. Stat. § 801.50(4m), and “the supreme court shall appoint a panel consisting of 3 circuit court judges to hear the matter,” Wis. Stat. § 751.035(1).

41. Plaintiffs’ claim of anti-competitive gerrymandering is justiciable. Our Supreme Court has recognized that redistricting disputes—including claims of unconstitutional gerrymandering—are justiciable because the establishment of district lines is not vested solely in one branch of government, and courts, including that Court, have played a significant role in redistricting. *See, e.g., Johnson I*, 2021 WI 87, ¶¶66; *Johnson II*, 2022 WI 14, ¶¶52; *Johnson III*, 2022 WI 19, ¶¶73; *Clarke*, 2023 WI 79, ¶¶63; *Prosser v. Elections Bd.*, 793 F. Supp. 859, 871 (W.D. Wis. 1992).

42. Justiciability is consistent with the Wisconsin Constitution’s promise that, when persons suffer a wrong, they are entitled to a day in court. *See* Wis. Const. art 1, § 9; *City of Janesville v. Carpenter*, 77 Wis. 288, 46 N.W. 128, 132 (1890) (situation that “leaves [party] no remedy whatever by which he can ... obtain redress” is “in conflict with section 9 of article 1 of the state constitution”).

43. Plaintiffs' claim of anti-competitive gerrymandering is timely as well. As explained below, this claim requires evidence that competition has indeed been (or is likely to be) artificially suppressed. The two election cycles in which Wisconsin's current congressional plan has been used (2022 and 2024) demonstrate the startlingly low level of competition under the map. This concrete proof of lack of competition would not have been available had this claim been filed earlier. *See, e.g., Davis v. Bandemer*, 478 U.S. 109, 135 (1986) ("Relying on a single election to prove unconstitutional [gerrymandering] is unsatisfactory."); *Whitford v. Gill*, 218 F. Supp. 3d 837, 910 (W.D. Wis. 2016) (ruling in favor of a partisan gerrymandering claim because the impact of the challenged map was "both intended *and likely* to persist for the life of the plan" (emphasis in original)), *vac'd on other grounds*, 585 U.S. 48 (2018).

RELEVANT CONSTITUTIONAL PROVISIONS

44. The first provision in the Wisconsin Constitution's Declaration of Rights provides: "All people are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted, deriving their just powers from the consent of the governed." Wis. Const. art. I, § 1.

45. A later provision in the Declaration of Rights provides: "The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles." Wis. Const. art. I, § 22.

46. Article III addresses suffrage and, in concert with the Wisconsin Constitution as a whole, guarantees the right to vote. *See, e.g., Phelps*, 128 N.W. at 1046 (“[T]he right to vote ... is guaranteed both by the Bill of Rights, and the exclusive instrument of voting power contained in section 1, art. 3, of the Constitution, and by the fundamentally declared purpose of government; and the express and implied inhibitions of class legislation, as well. Such declared purpose and the declaration of rights, so far as they go, and the equality clauses,—constitute inhibitions of legislative interference by implication, and with quite as much efficiency as would express limitations, as this court has often held.”).

47. The Wisconsin Constitution enumerates several bases on which voting rights in Wisconsin may be regulated. Wis. Const. art. III, § 2. None of those bases can sanction an anti-competitive gerrymander that renders the votes of many Wisconsinites, including most Plaintiffs, essentially worthless in elections for the U.S. House of Representatives. Our Supreme Court, in *Zimmerman*, “condemned gerrymandering,” which it suggested was evident in maps drawn with “a desire to preserve the political status quo.” 22 Wis. 2d at 566; *see also State ex rel. Atty. Gen. v. Cunningham*, 81 Wis. 440, 485, 51 N.W. 724 (1892) (multiple constitutional provisions “were supported and adopted upon the express ground that they would prevent the legislature from gerrymandering the state”).

WISCONSIN'S ANTI-COMPETITIVE GERRYMANDER

A. Wisconsin's 2011 congressional plan was intended to be an anti-competitive gerrymander.

48. In 2011, incumbent members of Wisconsin's delegation to the U.S. House of Representatives, Republicans and Democrats alike, worked together to update the boundaries of Wisconsin's eight congressional districts in response to the 2010 decennial census.

49. At that time, the Governor's office and both chambers of the Legislature were under Republican control. This meant that Republican officeholders had wide latitude in establishing new district maps for Wisconsin's state legislature and its congressional districts.

50. At that time, Wisconsin's congressional delegation comprised five Republican members and three Democratic members.

51. The leadership of the Wisconsin Legislature deferred to their counterparts in Wisconsin's congressional delegation on the details of Wisconsin's 2011 congressional map.

52. Then-Representative Paul Ryan's office took the lead on drawing a new congressional map for Wisconsin. Staff was assigned to collect information from the offices of all current members of the Wisconsin delegation in the U.S. House of Representatives. That information included what changes each member would like to be considered for inclusion in Wisconsin's 2011 congressional map.

53. Representative Ryan's office considered input from all then-current members of Wisconsin's U.S. House of Representatives delegation. As a federal court found, the map was drafted through "a significantly more

bipartisan process” than were Wisconsin’s 2011 state legislative maps. *Baldus*, 849 F. Supp. 2d at 854. For the congressional map, the line-drawer incorporated “all of the feedback (not just the Republican comments),” including the “preferences” of the three Democrats in the delegation. *Id.* The line-drawer also “avoided putting incumbents together in the same district, and he did not flip districts from majority-Democrat to majority-Republican or vice versa.” *Id.*

54. The changes to district boundaries in Wisconsin’s 2011 congressional map intentionally made districts less competitive. That is, the changes to the boundaries deliberately insulated each incumbent from electoral competition.

55. On August 9, 2011, the congressional map drawn by Representative Ryan’s office and adopted by the Wisconsin Legislature was signed by Governor Walker. *See* 2011 Wis. Act 44.

B. Wisconsin’s 2011 congressional plan was, in operation, an anti-competitive gerrymander.

56. After the Wisconsin Legislature adopted the 2011 congressional map, congressional races over the ensuing decade were, as intended, highly uncompetitive.

57. The median margin of victory in these races never dropped below twenty percentage points in any election. In one election (2016), the median margin of victory spiked to well above thirty percentage points. Only a single congressional race over Act 44’s entire lifespan (District 3 in 2020) was decided by fewer than ten percentage points.

58. This level of uncompetitiveness would not have arisen had a neutral line-drawing process that did not aim to suppress competition been followed. Maps created through such a process would both have been more competitive overall than Act 44 and included more individually competitive districts.

59. In the decade after Wisconsin's 2011 congressional map was adopted, no incumbent lost a U.S. House of Representatives race in Wisconsin.

C. Use of the “least change” approach carried forward Act 44’s anti-competitive intent.

60. Upon completion of the 2020 decennial census, the congressional districts enacted in Act 44 were no longer constitutionally apportioned.

61. The Legislature approved a new congressional map in the fall of 2021, but Governor Tony Evers vetoed the legislative proposal.

62. By then, our Supreme Court had accepted original jurisdiction over the *Johnson* litigation so it could ensure that Wisconsin would have properly apportioned congressional districts if the Legislature and the Governor reached an impasse.

63. In *Johnson II*, the Court imposed new congressional districts. 2022 WI 14, ¶7. The congressional map the Court adopted in *Johnson II* was based on a “least change” rationale, in that it sought to move district lines to the extent required by population shifts reflected in the 2020 decennial census while making the least change possible to the districts promulgated in 2011 Wisconsin Act 44.

64. The congressional map adopted in *Johnson II* kept 94.5% of all Wisconsinites in the congressional districts they occupied under 2011 Wisconsin Act 44. The Court's adoption in *Johnson II* of the "least change" congressional map necessarily perpetuated the essential features—and the primary flaws—of the 2011 congressional map, including the 2011 congressional map's intentional and effective effort to suppress competition.

65. At no time since *Johnson II* has the Legislature revisited Wisconsin's congressional map. The congressional map adopted in *Johnson II* remains in place to this day.

D. Wisconsin's current congressional plan is highly uncompetitive.

66. Like its predecessor, the congressional map adopted in *Johnson II* has had the effect of sharply and unnecessarily dampening competition.

67. In the 2022 and 2024 elections, the victor in each district won by a median margin of almost thirty percentage points. This margin far exceeds any threshold for competitiveness.

68. Only one district (District 3) was genuinely competitive in the 2022 and 2024 elections. Outside of District 3, every race was decided by double digits.

69. Wisconsin's current congressional map is less competitive than alternative maps created without considering election results and complying with all federal and state legal requirements. These maps tend to have a lower median margin of victory. They tend to include more

competitive districts. And specific districts in these maps tend to be more competitive than their counterparts in Wisconsin's current congressional map.

E. Wisconsin's current congressional plan violates the state constitution because of its anti-competitive gerrymandering.

70. The anti-competitive nature of Wisconsin's current congressional map is an affront to the Wisconsin Constitution and violates Plaintiffs' fundamental rights.

71. While a claim of anti-competitive gerrymandering has not yet been explicitly recognized in Wisconsin, it has strong roots in Wisconsin's constitutional text and principles, as well as our Supreme Court's precedent. *See Zimmerman*, 22 Wis. 2d at 566 ("condemn[ing] gerrymandering," which that Court suggested was evident in maps drawn with "a desire to preserve the political status quo"); *Cunningham*, 81 Wis. at 485 (expressing hope that state constitutional provisions would "prevent the legislature from gerrymandering the state").

72. The anti-competitive gerrymander embodied in Wisconsin's current congressional map renders the votes of many Wisconsinites, including most Plaintiffs, essentially worthless in elections for the U.S. House of Representatives.

73. That devaluation of some Wisconsinites' votes makes a mockery of equal protection, undermines the "fundamental principles" enshrined in Article I, § 22, and flagrantly disregards the Wisconsin Constitution's commitment to the fundamental right to vote.

74. Respecting electoral competition as a constitutional value would increase the “potential for the party affiliation of the district’s representative to change at least once between federal decennial censuses.” *In re Colo. Indep. Legislative Redistricting Comm’n*, 513 P.3d 352, 365 (Colo. 2021). In evaluating competitiveness, courts can consider “factors such as a proposed district’s past election results, a proposed district’s political party registration data, and evidence-based analyses of proposed districts.” *Id.*; see also, e.g., *Harkenrider v. Hochul*, 197 N.E.3d 437, 452–53 (N.Y. 2022) (relying on similar evidence in ruling in favor of a claim that a district plan “discourage[d] competition”).

75. Under this approach, an unconstitutional anti-competitive gerrymander exists where there is evidence (1) of an intent to suppress competition, and (2) that competition was indeed suppressed relative to alternative maps that satisfy all applicable legal requirements.

76. Both prongs of this test are satisfied in this instance.

77. *First*, as described above, there is overwhelming evidence that Wisconsin’s 2011 congressional plan had the motive of stamping out competition. In the words of a federal court, the plan’s designer “avoided putting incumbents together in the same district, and he did not flip districts from majority-Democrat to majority-Republican or vice versa.” *Baldus*, 849 F. Supp. 2d at 854. Because Wisconsin’s current congressional map was required to be prepared, and was then chosen, based on the errant “least change” criterion, it necessarily perpetuates the 2011 plan’s anti-competitive intent. See *Johnson I*, 2021 WI 87, ¶76 (expressly recognizing that

the least change approach would replicate the defects of Act 44); *see also*, e.g., *Jacksonville Branch of NAACP v. City of Jacksonville*, 635 F. Supp. 3d 1229, 1288 (M.D. Fla. 2022) (“[B]y prioritizing the maintenance of existing lines, the City adopted a criterion that would inevitably carry forward the effects of the race-based lines originally drawn in 2011.”); Robert Yablon, *Gerrylaundersing*, 97 N.Y.U. L. Rev. 985, 987 (2022) (explaining that “gerrylaundersing is an anti-competitive device—a way for those in power to remain in power”).

78. *Second*, as also explained above, Wisconsin’s current congressional plan effectively suppresses competition. The median margin of victory in races held under the plan to date has been exceptionally large. Only one district in the plan has exhibited anything approaching competitiveness. Alternative maps that satisfy all applicable legal requirements tend to be more competitive overall than the current plan. Specific districts in these other maps also tend to be more individually competitive than their analogues in the current plan. Again, this level of uncompetitiveness would not arise in a neutral line-drawing process that did not have lack of competition as its purpose.

79. Absent timely relief, this unconstitutional anti-competitive gerrymander will persist.

CLAIMS FOR RELIEF

COUNT I

The anti-competitive gerrymander of Wisconsin's congressional map violates the equal protection guarantee in Article I, Section 1 of the Wisconsin Constitution

80. Plaintiffs incorporate by reference all paragraphs above as if repeated herein.

81. The rights of each WBLD member, and every Wisconsinite on whose behalf WBLD works, to equal protection of the laws under Article I, § 1 are compromised because Wisconsin's anti-competitive gerrymander renders most of their votes essentially worthless in elections for the U.S. House of Representatives.

82. Individual Plaintiffs' rights to equal protection of the laws under Article I, § 1 are compromised because Wisconsin's anti-competitive gerrymander renders most of their votes essentially worthless in elections for the U.S. House of Representatives.

83. Moreover, all Plaintiffs' rights under Article I, § 1 are compromised because Wisconsin's anti-competitive gerrymander diminishes the incentive that congressional representatives in these unnecessarily uncompetitive districts have to represent them accountably and responsively.

84. This impairment is a violation of Plaintiffs' guarantee of equal protection, enshrined in Article I, § 1 of the Wisconsin Constitution.

85. While Article I, § 1 mirrors portions of the Fourteenth Amendment to the U.S. Constitution, our state constitution is a distinct charter.

86. Article I, § 1 represents Wisconsin's ideals of democracy and affirms our state's aspirations. While jurisprudence specific to Article I, § 1—distinct from its better-known federal analog—is sparse, “[i]t is up to us—judges, lawyers, and citizens—to give effect to the fundamental guarantees of Article I, § 1” and ensure this provision does “not receive an unduly limited construction.” *Matter of Adoption of M.M.C.*, 2024 WI 18, ¶59, 411 Wis. 2d 389, 5 N.W.3d 238 (Dallet, J., concurring) (quoting *State ex rel. Zillmer v. Kreutzberg*, 114 Wis. 530, 533–34, 90 N.W. 1098 (1902)).

87. Wisconsin “court[s] ha[ve] the power, perhaps the duty, to make sure that the protections of our state constitution remain relevant in light of changing conditions, emerging needs and acceptable changes in social values ... consistent with the clear meaning of the constitution.” *Jacobs v. Major*, 139 Wis. 2d 492, 520, 407 N.W.2d 832 (1987).

88. Article I, § 1 demands that all voters have meaningful opportunities to vote, free from the artificial suppression of electoral competition.

89. Article I, § 1 demands that voters have the opportunity to elect representatives who will represent them accountably and responsively.

90. The anti-competitive gerrymander baked into Wisconsin's current congressional map, and into all individual districts other than District 3 comprising that map, violates Article I, § 1.

91. This violation of our state constitution demands relief.

COUNT II

The anti-competitive gerrymander of Wisconsin's congressional map violates the promise of a free government in Article I, Section 22 of the Wisconsin Constitution

92. Plaintiffs incorporate by reference all paragraphs above as if repeated herein.

93. WBLD's rights under Article I, § 22, both as an association and on behalf of its members, are compromised because Wisconsin's anti-competitive gerrymander undermines the principles of democracy that WBLD advocates and that are also enshrined in Article I, § 22.

94. Individual Plaintiffs' rights under Article I, § 22 are compromised because Wisconsin's anti-competitive gerrymander renders most of their votes essentially worthless in elections for the U.S. House of Representatives.

95. Moreover, all Plaintiffs' rights under Article I, § 22 are compromised because Wisconsin's anti-competitive gerrymander diminishes the incentive that congressional representatives in these unnecessarily uncompetitive districts have to represent them accountably and responsively.

96. Wisconsin's current congressional map violates the promise of a free government that our framers embedded in Article I, § 22.

97. That promise is an "implied prohibition" against legislative excess. *State ex rel. Milwaukee Med. Coll. v. Chittenden*, 127 Wis. 468, 521, 107 N.W. 500 (1906). Such legislative excess includes the adoption of an anti-

competitive gerrymander that undermines core democratic values like the right to vote, democratic accountability, and officeholder responsiveness.

98. The anti-competitive gerrymander baked into Wisconsin's current congressional map, and into all individual districts other than District 3 comprising that map, violates Article I, § 22.

99. This violation of our state constitution demands relief.

COUNT III

The anti-competitive gerrymander of Wisconsin's congressional map violates the right to vote guaranteed by the Wisconsin Constitution.

100. Plaintiffs incorporate by reference all paragraphs above as if repeated herein.

101. While WBLD as an association does not have its own voting rights, Wisconsin's anti-competitive gerrymander violates the voting rights of WBLD's members, diminishes public faith in democracy and thereby public receptiveness to WBLD's message, and undermines WBLD's efficacy by compromising the voting rights of WBLD's members and the public as a whole.

102. Individual Plaintiffs' rights to vote protected by the Wisconsin Constitution are compromised by Wisconsin's anti-competitive gerrymander, which renders most of their votes essentially worthless in elections for the U.S. House of Representatives.

103. Wisconsin courts have offered the highest protection for the right to vote in Wisconsin. They have recognized that "[t]he right of a qualified elector to cast a ballot for the election of a public officer, which shall be free and equal, is one of the most important of the rights

guaranteed” by our state constitution. *State ex rel. Frederick v. Zimmerman*, 254 Wis. 600, 613, 37 N.W.2d 473 (1949).

104. Wisconsin’s anti-competitive gerrymander vitiates that right for many Wisconsinites by rendering the votes of many Wisconsinites, including most Plaintiffs, virtually meaningless in elections the U.S. House of Representatives.

105. Moreover, all Plaintiffs’ voting rights are compromised by Wisconsin’s anti-competitive gerrymander because it diminishes the incentive that congressional representatives in these unnecessarily uncompetitive districts have to represent them accountably and responsively.

106. This violation of our state constitution demands relief.

RELIEF SOUGHT

WHEREFORE, Plaintiffs respectfully ask that this Court:

A. Direct the Dane County Clerk of Courts, “not more than 5 days after” the filing of this Complaint, to “notify the clerk of the supreme court of the [Complaint’s] filing,” Wis. Stat. § 801.50(4m), so that “the supreme court shall appoint a panel consisting of 3 circuit court judges to hear the matter,” Wis. Stat. § 751.035(1);

B. Declare that Wisconsin’s current congressional map, imposed in the *Johnson* litigation, is an anti-competitive gerrymander that violates Wisconsin Constitution Article I, §§ 1 and 22, and Article III, that it violates Plaintiffs’ constitutional rights under these provisions, and that it is invalid;

C. Enjoin Defendants and their agents from using Wisconsin's current congressional map in any future election, including by facilitating or certifying the nomination or election of any candidate to serve Wisconsin in the U.S. House of Representatives under the current congressional map;

D. Establish a schedule that will enable the Court—in the absence of a superseding state law, adopted by the Wisconsin Legislature and signed by the Governor in a timely fashion—to adopt and implement a new congressional map with districts that are not unconstitutionally uncompetitive, and that otherwise meet all applicable legal requirements for districting, including partisan fairness;

E. Award Plaintiffs costs, disbursements, and reasonable fees incurred in bringing this action, pursuant to Wis. Stat. § 814.01; and

F. Grant such other relief as the Court deems proper.

Dated: July 8, 2025.

Electronically signed by Jeffrey A. Mandell

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* *Pro hac vice* applications forthcoming

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