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IN THE SUPREME COURT OF WISCONSIN

No. 2025XX1330

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,

Plaintiffs,

v.

WISCONSIN ELECTIONS COMMISSION, MARGE BOSTELMANN, ANN S.
JACOBS, DON MILLIS, ROBERT F. SPINDELL, JR., CARRIE RIEPL, MARK L.
THOMSEN, AND MEAGAN WOLFE,

Defendants,

GLENN GROTHMAN, BRYAN STEIL, TOM TIFFANY, SCOTT FITZGERALD,
DERRICK VAN ORDEN, TONY WEID, GREGORY HUTCHESON,
PATRICK KELLER, PATRICK MCCALVY AND MIKE MOELLER,

Intervening Defendants.

**PLAINTIFFS' RESPONSE BRIEF ADDRESSING
APPLICABILITY OF WIS. STAT. § 801.50(4m)**

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TABLE OF CONTENTS

INTRODUCTION	6
I. This miscellaneous action before the Court is purely ministerial.	8
II. Additional briefing confirms that Plaintiffs' claims constitute "an action challenging the apportionment" of Wisconsin's congressional districts, triggering this Court's statutory obligation to appoint a three-judge panel.	10
A. The additional briefs fail to refute the long line of Wisconsin authority using the terms "apportionment," "reapportionment," and "districting" synonymously.....	11
B. As Intervenor's acknowledge, § 801.50(4m) mirrors the analogous federal statute under which three-judge panels are routinely appointed to adjudicate cases like Plaintiffs'.	14
C. Intervenor's alternative explanations for why § 801.50(4m) excludes claims like Plaintiffs' are absurd and without basis in Wisconsin law.	17
CONCLUSION.....	20
CERTIFICATION OF COMPLIANCE WITH WIS. STAT. § 809.19(8g)(a)	22

TABLE OF AUTHORITIES

Cases

<i>Ariz. State Legis. v. Ariz. Indep. Redistricting Comm’n</i> , 576 U.S. 787 (2015)	18
<i>Baldus v. Members of Gov’t Accountability Bd.</i> , 862 F.Supp.2d 860 (E.D. Wis. 2012)	16, 17
<i>Branch v. Smith</i> , 538 U.S. 254 (2003)	15
<i>Carey v. Klutznick</i> , 637 F.2d 834 (2d Cir. 1980)	19
<i>Daly v. Hunt</i> , 93 F.3d 1212 (4th Cir. 1996)	13
<i>DeGrandy v. Wetherell</i> , 794 F. Supp. 1076 (N.D. Fla. 1992)	16
<i>Dep’t of Com. v. U.S. House of Representatives</i> , 525 U.S. 316 (1999)	19
<i>Diana Shooting Club v. Lamoreaux</i> , 114 Wis. 44, 89 N.W. 880 (1902)	13
<i>Hastert v. State Bd. of Elections</i> , 777 F. Supp. 634 (N.D. Ill. 1991)	16
<i>Hippert v. Ritchie</i> , 813 N.W.2d 391 (Minn. 2012)	16
<i>Jensen v. Wisconsin Elections Board</i> , 2002 WI 13, 249 Wis. 2d 706, 639 N.W.2d 537	12, 13
<i>Johnson v. Mortham</i> , 926 F. Supp. 1460 (N.D. Fla. 1996)	16
<i>League of Women Voters of Mich. v. Johnson</i> , 902 F.3d 572 (6th Cir. 2018)	11, 15

<i>League of Women Voters of Mich. v. Johnson</i> , 2017 WL 6610622 (E.D. Mich. Dec. 27, 2017).....	15
<i>Ohio A. Philip Randolph Inst. v. Smith</i> , 2018 WL 8805953 (S.D. Ohio Aug. 16, 2018).....	15
<i>Priorities USA v. WEC</i> , 2024 WI 32, 412 Wis. 2d 594, 8 N.W.3d 429	10
<i>SEIU Healthcare Wis. v. WERC</i> , 2025 WI 29, 416 Wis. 2d 688, 22 N.W.3d 876	17
<i>Shapiro v. McManus</i> , 577 U.S. 39 (2015)	14
<i>State ex rel. Kalal v. Cir. Ct. for Dane Cnty.</i> , 2004 WI 58, 271 Wis. 2d 633, 681 N.W.2d 110	12, 17, 19
<i>State ex rel. Reynolds v. Zimmerman</i> , 22 Wis. 2d 544, 126 N.W.2d 551 (1964).....	14, 16
<i>State ex rel. Reynolds v. Zimmerman</i> , 23 Wis. 2d 606, 128 N.W.2d 16 (1964).....	16
<i>State ex rel. Reynolds v. Zimmerman</i> , 23 Wis. 2d 606, 128 N.W.2d 349 (1964).....	17
<i>State v. Dorsey</i> , 2018 WI 10, 379 Wis. 2d 386, 906 N.W.2d 158	13
<i>State v. United States Dep't of Com.</i> , 315 F. Supp. 3d 766 (S.D.N.Y. 2018)	19
<i>Teigen v. WEC</i> , 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519	10
<i>Utah v. Evans</i> , 536 U.S. 452 (2002)	19
<i>Wattson v. Simon</i> , 970 N.W.2d 56 (Minn. 2022)	16
<i>Whitford v. Gill</i> , 218 F. Supp. 3d 837 (W.D. Wis. 2016).....	14, 16

<i>Wis. Just. Initiative, Inc. v. WEC</i> , 2023 WI 38, 407 Wis. 2d 87, 990 N.W.2d 122	13
<i>Wis. v. City of New York</i> , 517 U.S. 1 (1996)	19
<i>Ysleta Del Sur Pueblo v. Tex.</i> , 596 U.S. 685 (2022)	20

Statutes and Constitutional Provisions

2 U.S.C. § 2.....	15, 17, 18
28 U.S.C. § 2284.....	7, 11, 14
2011 Wisconsin Act 39.....	14, 17, 19
U.S. Const. art. I, § 2	11, 19
Wis. Const. art. I, § 9	9
Wis. Const. art. IV, § 2.....	19
Wis. Const. art. IV, § 3.....	7, 13
Wis. Stat. § 751.035	6, 8, 9
Wis. Stat. § 801.50	<i>passim</i>
Wis. Stat. § 806.04	9

Other Authorities

Black's Law Dictionary (12th ed. 2024).....	11
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INTRODUCTION

Both this miscellaneous proceeding and this Court's September 25 Order pose a narrow question: Does Plaintiffs' circuit court complaint constitute "an action to challenge the apportionment of any congressional or state legislative district" under Wis. Stat. § 801.50(4m) such that this Court must appoint a panel of three circuit court judges in accord with Wis. Stat. § 751.035, or should the Court instead remand for the appointed circuit court judge to adjudicate the case?

Rather than engage that narrow question, *amici* and Intervenor insist that this Court must dismiss Plaintiffs' circuit court case on the merits.¹ Their demands are improper, procedurally and jurisdictionally.

First, under Wisconsin's Rules of Appellate Procedure, these demands for a merits adjudication of Plaintiffs' claims are not properly before this Court because they are made in briefs, not by motion. And this Court already made clear that it would "take no action on the requests made by the Congressmen in their correspondence to this court." Order at 2 (Sept. 25, 2025).

Second, this miscellaneous action is narrow in scope. As the Attorney General, representing the Government Accountability Board, noted fourteen years ago in an action noticed to this Court under §§ 751.035 and 801.50(4m), "jurisdiction never leaves the circuit court until an appeal brings it here." (App.75; Pls.' Br. 21-22) No one has petitioned this Court to exercise appellate jurisdiction or supervisory authority over Plaintiffs' circuit court action. This Court has not done so on its own initiative. Consequently, jurisdiction currently lies with the

¹ Defendants take no position. (See Defs.' Statement of No Position as to Sept. 25, 2025, Order.)

circuit court. The only question in this Court is how many circuit court judges should preside over adjudication of the complaint.

Addressing that narrow question, Plaintiffs' opening brief explained why the circuit court action constitutes a challenge to the "apportionment" of the congressional districts this Court adopted in 2021:

- Wis. Stat. § 801.50(4m) unambiguously refers to "an action to challenge the apportionment of any congressional or state legislative district," without limiting language (Pls.' Br. 8–9);
- Wis. Const. art. IV, § 3 is titled "Apportionment" and charges the legislature to "apportion and district anew" the state legislative districts following each decennial census (*id.* 8);
- more than a century of Wisconsin authority—mostly issued by this Court—uses the terms "redistricting," "apportionment," and "reapportionment" interchangeably to mean redrawing Wisconsin's congressional and state legislative districts when they are out of compliance with state or federal law (*id.* 25–27);
- this Court repeatedly, expressly references its decisions adopting new congressional and state legislative districts as adopting "apportionment" or "reapportionment" plans (*id.* 27–28); and
- consistent application—in at least seven cases in Wisconsin—of the parallel federal statute, 28 U.S.C. § 2284, to claims like Plaintiffs', before and after § 801.50(4m)'s enactment (*id.* 28–30).

Amici and Intervenors ignore virtually all this authority, turning instead to cramped dictionary definitions and fantastical hypotheticals to which the legislature ***might possibly*** have intended § 801.50(4m) to apply, none grounded in historical or practical context. Statutory text and context, constitutional text, this Court's precedents, and an analogous federal statute all align to make clear that Plaintiffs' circuit

court complaint constitutes “an action challenging the apportionment” of the current congressional districts, triggering this Court’s obligation to appoint a three-judge panel. If the Court concludes otherwise, it must remand the case for adjudication by the appointed circuit court judge.

ARGUMENT

I. This miscellaneous action before the Court is purely ministerial.

The Court opened this miscellaneous action upon receiving notice pursuant to Wis. Stat. § 801.50(4m) of Plaintiffs’ circuit court complaint. Just as subsection (4m) obligates the circuit court clerk to notify this Court, Wis. Stat. § 751.035 requires this Court, upon receiving notice, to appoint a panel of three circuit court judges. This Court’s powers have not otherwise been invoked. This Court ***could*** assert its jurisdiction or supervisory authority to address the merits but no one has petitioned it to do so, nor has this Court *sua sponte* invoked that authority. Accordingly, the Court’s sole task is narrow and ministerial: either appoint a three-judge panel or remand for adjudication by the appointed circuit court judge.

Although *amici* and Intervenors argue extensively that this Court must dismiss Plaintiff’s complaint for various reasons (*see* Leg. Br. 11–20; Johnson Br. 3–16; Intervenors’ Br. 27; Intervenors’ Resp. 7–9), their arguments have two fatal threshold flaws. ***First***, *amici* and Intervenors have filed a bevy of motions in this special proceeding but none has moved for dismissal on the merits. The Court should disregard arguments for dismissal on this procedural basis alone, especially given the Court’s admonition, in soliciting briefing, that it would “take no

action on the requests made by the Congressmen in their correspondence.” Order at 2 (Sept. 25, 2025).

Second, as Plaintiffs’ initial brief details, the merits of Plaintiffs’ complaint are not before this Court. This miscellaneous proceeding is limited to a ministerial action to execute § 751.035(1); neither that provision nor § 801.50(4m) transfers jurisdiction over the circuit court complaint to this Court. To be sure, no one disputes that this Court **could** exercise such power, but it should not do so. All arguments that *amici* and Intervenor make for dismissal are ones they can present in the circuit court, allowing for orderly and thorough development of the law. (Pls.’ Br. 24–25) All four briefs present the same flawed theory as to why the circuit court lacks jurisdiction to adjudicate the merits, asserting that the lower court cannot entertain a claim that could potentially overturn this Court’s *Johnson II* judgment. (See Leg. Br. 11–14; Johnson Br. 6–7; Intervenor’s Br. 23–27; Intervenor’s Resp. 9.) That is balderdash, as multiple recent decisions by this Court demonstrate.

Jurisdiction properly lies in the circuit court because the underlying complaint seeks a declaratory judgment, over which the circuit court has express jurisdiction. Wis. Stat. § 806.04(1). Moreover, Plaintiffs—who were not parties to *Johnson*—assert a claim neither raised nor considered in *Johnson*. Never has this Court precluded non-parties to a prior action from bringing a new challenge advancing a new theory because the theory touches on this Court’s ruling in the prior action. Nor could it; our state constitution expressly provides a remedy for every wrong. Wis. Const. art. I, § 9. Moreover, the rule *amici* and Intervenor seek here would ossify the law, insulating this Court’s

judgments from later challenge in the circuit courts by new parties, raising new claims, based on new facts.

This Court's recent opinion in *Priorities USA v. WEC*, 2024 WI 32, 412 Wis. 2d 594, 8 N.W.3d 429, overruling *Teigen v. WEC*, 2022 WI 64, 403 Wis. 2d 607, 976 N.W.2d 519, disproves *amici's* and Intervenor's theory. *Priorities* began as a circuit court action, involving new arguments, raised by new parties, against the *Teigen* ruling. *Priorities* demonstrates that circuit courts have authority to assess and apply this Court's rulings when new parties bring new claims seeking new relief.

The law is clear: the circuit court has jurisdiction over Plaintiffs' complaint; this Court does not presently have jurisdiction beyond the ministerial bounds of this miscellaneous action; and there is no need for this Court to exercise its supervisory authority. This Court should appoint a three-judge panel to adjudicate the case, allowing the facts and arguments to develop below before potentially reaching this Court on appeal.

II. Additional briefing confirms that Plaintiffs' claims constitute "an action challenging the apportionment" of Wisconsin's congressional districts, triggering this Court's statutory obligation to appoint a three-judge panel.

Plaintiffs' initial brief identifies multiple legal bases from which to conclude that "apportionment" as used in § 801.50(4m) encompasses Plaintiffs' claims in the circuit court. Intervenor's and *amici's* contrary arguments are unavailing.

A. The additional briefs fail to refute the long line of Wisconsin authority using the terms “apportionment,” “reapportionment,” and “districting” synonymously.

For more than a century, Wisconsin law has used the terms “apportionment” and “districting” interchangeably. (Pls.’ Br. 25–27) Opposing briefs do not dispute this, even using the terms interchangeably themselves. (See Legis. Br. 15 (using “reapportionment” and “redistricting” interchangeably in first paragraph); Johnson Br. 9 (discussing “redistricting” while citing an opinion that uses “reapportionment”); see also Mot. to Intervene at 29 (identifying as “a redistricting challenge” a complaint the Sixth Circuit stated “challeng[es] the constitutionality of the apportionment of congressional districts,” *League of Women Voters of Mich. v. Johnson*, 902 F.3d 572, 576 (6th Cir. 2018) (quoting 28 U.S.C. § 2284(a)).) The four arguments Intervenor’s offer against reading “apportionment” in § 801.50(4m) as synonymous with “districting” all lack merit.

First, Intervenor’s insist (without authority) that Black’s Law Dictionary is definitive and trumps existing methods of statutory interpretation. They assert dictionary definitions limit “apportionment” to processes for ensuring districts are proportional, rather than delineating their boundaries. (Intervenor’s Br. 15) But the definition of “reapportionment” they cite identifies “redistricting” as a parallel term. REAPPORTIONMENT, Black’s Law Dictionary (12th ed. 2024) (“*realignment of a legislative district’s boundaries to reflect changes in population and ensure proportionate representation by elected officials. See U.S. Const. art. I, § 2, cl. 3. — Also termed redistricting*” (emphases added)). In this respect, Intervenor’s chosen dictionary echoes more than a century of Wisconsin precedent that has used these words

interchangeably, illustrating § 801.50(4m)'s plain meaning. *See State ex rel. Kalal v. Cir. Ct. for Dane Cnty.*, 2004 WI 58, ¶53, 271 Wis. 2d 633, 681 N.W.2d 110 (finding statutory language “clear and unambiguous” based upon “common and accepted meaning ascertainable by reference to the dictionary definition”).

Second, Intervenor place disproportionate weight on a footnote in *Jensen v. Wisconsin Elections Board* and an artificially cramped reading of the Wisconsin Constitution. (Intervenors' Br. 16; Intervenor's Resp. 11–12 (citing 2002 WI 13, ¶5 n.2, 249 Wis. 2d 706, 639 N.W.2d 537)) While there are contexts where these terms are used distinctly, the question is not whether they can *ever* have distinct meanings, but rather whether, in reading § 801.50(4m), “well-informed persons *should* have become confused,’ that is, whether the statutory ... language *reasonably* gives rise to different meanings” in the statutory context. *Kalal*, 2004 WI 58, ¶47 (emphases in original; quoted source omitted). As this Court has cautioned, “[s]tatutory interpretation involves the ascertainment of meaning, not a search for ambiguity.” *Id.* (quoted source omitted). *Jensen* does not endorse distinct definitions of the terms “apportionment” and “districting” in the way Intervenor suggest. To the contrary, *Jensen* uses the terms interchangeably throughout. It is only the single footnote on which Intervenor fixate that notes that “cases and the parties sometimes use the terms ‘reapportionment’ and ‘redistricting’ interchangeably.” *Jensen*, 2002 WI 13, ¶5 n.2. The footnote offers no explanation grounded in law for the distinction it draws, and certainly does not project that distinction forward to a statute enacted almost a decade later. This Court should adhere to its extensive precedent, including every other portion of the *Jensen* decision, that treats

“apportionment” and “districting” as analogous unless otherwise specified.

Third, Intervenor's cite another footnote, this one in a Fourth Circuit decision. (Intervenor's Br. 16; Intervenor's Resp. 12) But the Fourth Circuit case undercuts Intervenor's position, explaining that, though “[s]ome courts have made a technical distinction between the terms ‘apportionment’ and ‘districting,’” it chose, “[f]or convenience and to avoid confusion,” to “use the term ‘apportionment’ in [its] opinion as that term is ordinarily understood, to encompass the process of districting.” *Daly v. Hunt*, 93 F.3d 1212, 1214 n.1 (4th Cir. 1996) (citation omitted). Like the *Daly* plaintiffs, other than the anomalous and unexplained *Jensen* footnote, Intervenor's “do not cite any decisions that explicitly adopt their interpretation.” *Id.* at 1221. The ordinary understanding recognized by the Fourth Circuit accords with statutory text and Wisconsin precedent. Under established rules of statutory construction, that should end the debate.

Fourth, Intervenor's and *amici* improperly restrict Article IV, section 3. Though the section states that the “the legislature shall apportion and district anew the members” of the legislature, it is titled “Apportionment.” Wis. Const. art. IV, § 3. Titles have weight. *See Diana Shooting Club v. Lamoreaux*, 114 Wis. 44, 89 N.W. 880, 882 (1902) (titles of act indicate the legislative will expressed within); *Wis. Just. Initiative, Inc. v. WEC*, 2023 WI 38, ¶ 21, 407 Wis. 2d 87, 990 N.W.2d 122 (“constitutional interpretation” analogous to “statutory interpretation”). Courts consider titles to provide context or clarify ambiguity in a provision's meaning. *State v. Dorsey*, 2018 WI 10, ¶30, 379 Wis. 2d 386, 906 N.W.2d 158. Here, this title reflects the implication in our caselaw

that our Constitution considers apportionment synonymous with districting. *See, e.g., State ex rel. Reynolds v. Zimmerman*, 22 Wis. 2d 544, 554, 126 N.W.2d 551 (1964).

B. As Intervenor acknowledge, § 801.50(4m) mirrors the analogous federal statute under which three-judge panels are routinely appointed to adjudicate cases like Plaintiffs’.

Plaintiffs previously explained that the term “apportionment” in an analogous federal statute, 28 U.S.C. § 2284, has repeatedly been applied to require the appointment of three-judge panels to hear redistricting cases brought in federal courts. (Pls.’ Br. 28–30); *see, e.g., Shapiro v. McManus*, 577 U.S. 39, 41–42, 46 (2015) (reversing district court’s dismissal of complaint challenging Maryland’s congressional districts as violating plaintiffs’ First Amendment right of association and holding that a three-judge panel must be appointed). The legislature that adopted 2011 Wisconsin Act 39 was aware—and is presumed to have been aware under Wisconsin law—of 28 U.S.C. § 2284 and its application to actions challenging existing apportionment plans in the preceding decades. (Pls.’ Br. 29) Nobody disputes this.

Intervenor raise two arguments against analogizing 28 U.S.C. § 2284 here. They argue that the cases where federal panels are appointed differ from Plaintiffs’ and that § 2284 is never applied to review court-drawn maps. (Intervenor’s Resp. 17) Both arguments are wrong.

First, three-judge panels are routinely appointed to hear claims ***just like Plaintiffs’***—*i.e.*, challenges to congressional or state legislative districts based on claims of gerrymandering or Voting Rights Act violations, not merely malapportionment. *See, e.g., Whitford v. Gill*, 218 F. Supp. 3d 837, 854–55 (W.D. Wis. 2016) (alleging partisan

gerrymandering claims). Indeed, in the *very case* Intervenor describe as the “leading federal case in this area” (Mot. to Intervene 29 (citing *Johnson*, 902 F.3d at 579)), a three-judge panel was appointed under § 2284 to adjudicate **partisan gerrymandering claims** against Michigan’s congressional districts, *League of Women Voters of Mich. v. Johnson*, No. 17-14148, 2017 WL 6610622 (E.D. Mich. Dec. 27, 2017). So, too, in another partisan gerrymandering challenge to Ohio’s congressional districts Intervenor cite for the principle that “federal courts regularly permit members of Congress to intervene in **redistricting actions** related to their maps” (Intervenor’s Br. 10 (emphasis added) (citing *Ohio A. Philip Randolph Inst. v. Smith*, No. 1:18-cv-357, 2018 WL 8805953, at *1 (S.D. Ohio Aug. 16, 2018)².)

Second, federal courts consistently appoint three-judge panels to hear challenges to congressional districts, whether those districts were legislatively enacted or adopted through a previous court decision. In *Branch v. Smith*, 538 U.S. 254, 268 (2003), the U.S. Supreme Court rejected the distinction Intervenor urge here. Examining 2 U.S.C § 2c, the Supreme Court held that distinguishing between “legislative redistricting” and “judicial apportionment” is “contradicted both by the historical context of § 2c’s enactment and by the consistent understanding of all courts in the almost 40 years since that enactment.” *Id.* The same logic disproves the assertion that “apportionment does not include a court’s adoption of a redistricting map.” (Intervenor’s Br. 19; *see id.* 21; *see* Intervenor’s Resp. 17) Federal courts consistently appoint three-judge panels to hear challenges to court-drawn congressional and

² Complaint and court order appointing three-judge panel at Supp.App.4-47 and 48, respectively.

legislative districts. *See, e.g., Whitford*, 218 F. Supp. 3d 837 (challenging Wisconsin Assembly districting plan modified by federal court in *Baldus v. Members of Gov't Accountability Bd.*, 862 F.Supp.2d 860, 863 (E.D. Wis. 2012)); *Johnson v. Mortham*, 926 F. Supp. 1460 (N.D. Fla. 1996) (overturning plan drawn by federal district court in *DeGrandy v. Wetherell*, 794 F. Supp. 1076 (N.D. Fla. 1992)); *Hastert v. State Bd. of Elections*, 777 F. Supp. 634 (N.D. Ill. 1991) (redrawing court-ordered congressional district plan); *see also Wattson v. Simon*, 970 N.W.2d 56 (Minn. 2022) (opinion and order from five-judge “Special Redistricting Panel” appointed by Minnesota Supreme Court Chief Justice redrawing court-ordered congressional district plans); *Hippert v. Ritchie*, 813 N.W.2d 391 (Minn. 2012) (same).

Wisconsin law, too, is clear that a court-drawn plan is just as much an “apportionment” as a legislatively enacted plan. In February 1964, this Court invalidated the existing state legislative districts as malapportioned, and after concluding “that this court has the power to adopt on our own initiative a reapportionment plan,” it provided the legislature and governor until May 1, 1964 “to enact a valid plan.” *Zimmerman*, 22 Wis. 2d at 569–70. When the legislative process failed to adopt new districts by the deadline, on May 14, 1964, this Court adopted new districts, which it identified as an “apportionment,” and gave the legislature and governor until May 20, 1964, to object. *State ex rel. Reynolds v. Zimmerman*, 23 Wis. 2d 606, 606, 128 N.W.2d 16, 17 (1964) (“Now, Therefore, pursuant to this court’s decision of February 28, 1964, ***it is ordered and adjudged that the following legislative apportionment be effective for the 1964 legislative elections***, and thereafter until such time as the legislature and governor have enacted

a valid legislative apportionment plan.” (emphasis added)). On May 25, without the parties having objected (and rejecting four requests for changes by “others”), the Court issued a final opinion, stating:

By the judgment of May 14, 1964, Wis., 128 N.W.2d 16, *which adopted a plan of legislative apportionment*, the parties to the action were granted until May 20, 1964, in which to file objections or motions relating to such *apportionment*.

State ex rel. Reynolds v. Zimmerman, 23 Wis. 2d 606, 629, 128 N.W.2d 349 (1964) (emphases added) This Court could not have been clearer: court-drawn plans are *apportionments*.

C. Intervenor’s alternative explanations for why § 801.50(4m) excludes claims like Plaintiffs’ are absurd and without basis in Wisconsin law.

Intervenor’s brief conjures a number of possible reasons for why the legislature might have used the word “apportionment” in § 801.50(4m). All ignore the actual legal and historical context in which 2011 Wisconsin Act 39 was adopted: the pendency of the *Baldus* case, against the background of several decades in which three-judge, federal-court panels set Wisconsin’s legislative and congressional maps. Ignoring that context, Intervenor imagine a number of meanings the legislature might have intended. This approach ignores the Court’s admonitions that context matters, *see, e.g., SEIU Healthcare Wis. v. WERC*, 2025 WI 29, ¶¶10, 12, 416 Wis. 2d 688, 22 N.W.3d 876, and that legislative intent is not controlling, *Kalal*, 2004 WI 58, ¶¶44, 52. None of Intervenor’s flights of fancy hold water.

First, Intervenor invoke a federal statute, 2 U.S.C. § 2(a)(c) (delineating states’ districting roles after the federal allocation of seats in the House of Representatives), to argue that there is no overlap between the terms “apportionment” and “redistricting.” (Intervenor’s Br.

17–18; Intervenor’s Resp. 12) Intervenor’s assert that § 2(a)(c) uses the two terms to designate distinct processes. But that usage does not preclude other usages. Indeed, the leading case on § 2(a)(c)’s constitutionality uses “apportionment” in a manner consistent with Plaintiffs’ common-sense reading of § 801.50(4m) and Wisconsin caselaw. The U.S. Supreme Court notes that § 2(a)(c) provides for states redistricting “in the manner provided by the laws thereof.” *Ariz. State Legis. v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 788 (2015) (federal statute safeguards to “each state full authority to employ in the creation of congressional districts its own laws and regulations”). If, as held there, a state may by law task an independent redistricting commission with that duty, it surely follows that a state may use other statutory terms of its choice to achieve a new map. *See id.* If anything, the spirit of § 2(a)(c) suggests that state law sources should be given **additional** weight in interpreting state-law provisions regarding the creation of congressional districts. Further, echoing Wisconsin caselaw, the Supreme Court recognized that “apportionment Acts”—notably, not “redistricting Acts”—require states to redistrict in accord with federal procedures. *Id.* Such a statement undermines Intervenor’s view that the term “apportionment” cannot be used to include redistricting.

Second, as a practical matter, Intervenor’s narrow construction of § 801.50(4m) would absurdly allow only two possible challenges within that provision: (1) “actions challenging the Legislature’s failure to apportion the Assembly or Senate according to law” and (2) “actions against the Secretary of the U.S. Census Bureau challenging the Secretary’s miscalculation of Wisconsin’s population in the decennial

census.” (Intervenors’ Br. 18–19) Neither provides a plausible basis for the legislature’s use of the term “apportionment” in § 801.50(4m).

Congressional apportionment controversies would not be brought in state court because the state has no power over how many congresspeople are assigned at the federal level to Wisconsin. *See* U.S. Const. art. I, § 2; *accord, e.g., Utah v. Evans*, 536 U.S. 452, 477 (2002). Nor would it make sense to bring an action against the U.S. Census Bureau in Wisconsin state court: such a challenge would immediately and appropriately be removed to federal court. *See, e.g., Dep’t of Com. v. U.S. House of Representatives*, 525 U.S. 316, 317 (1999); *Wis. v. City of New York*, 517 U.S. 1, 14 (1996); *Carey v. Klutznick*, 637 F.2d 834, 838 (2d Cir. 1980); *State v. United States Dep’t of Com.*, 315 F. Supp. 3d 766, 785 (S.D.N.Y. 2018). Wisconsin law assumes the legislature was aware of this when it adopted Act 39. (Pls.’ Br. 29)

Similarly, it would be absurd to conclude that the legislature intended § 801.50(4m) to reach challenges to apportionment of the state Assembly and Senate but **not** to districting of those bodies. Intervenors’ theory would mean the legislature in 2011 enacted a rule just in case a future legislature decided to change the size of the Assembly or Senate within bounds **already** prescribed by the Wisconsin Constitution. Wis. Const. art. IV, § 2 (restricting the Assembly to between 54 and 100 members and the Senate’s size proportionate to the Assembly). This contorted view not only impermissibly reads § 801.50(4m) in an absurd way, *see Kalal*, 2004 WI 58, ¶46, but also rejects, *sub silentio*, over a century of precedent using “apportionment” and “districting” interchangeably and ignores the context of legislative intent to keep claims on districting and apportionment within state court.

Intervenors also cite the Supreme Court’s presumption that differences in language convey differences in meaning to support their preference for assigning categorically distinct meanings to “redistricting” and “appropriation.” (Intervenors Br. at 18 (citing *Ysleta Del Sur Pueblo v. Tex.*, 596 U.S. 685, 698 (2022))) But *Ysleta* rejected Texas’ overly broad reading of the federal statute at issue because it “render[ed the law] an indeterminate mess” “rather than supply[ing] coherent guidance.” *Id.* at 698. Plaintiffs’ reading of § 801.50(4m) does no such thing: it allows subsection (4m) to operate as its plain text suggests—and in parallel to its federal counterpart—by providing for the appointment of a three-judge panel to adjudicate a challenge to congressional district maps, whether termed a “reapportionment challenge” or a “redistricting challenge.” The “indeterminate mess,” *id.*, would result if subsection (4m) were tortuously construed to permit this Court to assign a three-judge panel only to consider cases involving the number of U.S. House seats granted to Wisconsin (the only reading of “apportionment” permitted by the *amici*).

CONCLUSION

A common-sense reading of Wis. Stat. § 801.50(4m) that comports with context, historical use of the terms “apportionment” and “districting,” and the analogous federal statute on which Wis. Stat. § 801.50(4m) was based, all point in the same direction: this Court should fulfill its ministerial obligation to appoint a three-judge panel to adjudicate Plaintiffs’ complaint in the circuit court.

Respectfully submitted this 20th day of October, 2025.

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**CERTIFICATION OF COMPLIANCE WITH
WIS. STAT. § 809.19(8g)(a)**

I hereby certify that this brief conforms to the rules contained in s. 809.19(8)(b), (bm), and (c) for a brief. The length of this brief is 3,977 words.

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