

SUPREME COURT OF WISCONSIN

Appeal No. 2021AP1450–OA

BILLIE JOHNSON, et al.,

Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION, et al.,

Respondents.

Original Action in the Supreme Court of Wisconsin

**CITIZEN MATHEMATICIANS AND SCIENTISTS’
RESPONSE TO MOTIONS TO INTERVENE**

Gary Krenz, Sarah J. Hamilton, Stephen Joseph Wright, Jean-Luc Thiffeault, and Somesh Jha (collectively, “Citizen Mathematicians and Scientists”) respectfully submit this response to the pending motions to intervene.

Citizen Mathematicians and Scientists do not oppose any of the pending motions to intervene. Indeed, granting all the motions would comport with established precedent broadly permitting intervention in redistricting cases. *See, e.g., Prosser v. Elections Bd.*, 793 F. Supp. 859, 862 (W.D. Wis. 1992) (three-judge court) (permitting intervention by state legislators, associations and other groups, as well as various individuals); *Wisconsin State AFL-CIO v. Elections Bd.*, 543 F. Supp. 630, 632 (E.D. Wis. 1982) (three-judge court) (granting all seven timely pending motions to intervene); *see also* Note, *Federal Court Involvement in Redistricting Litigation*, 114 HARV. L. REV. 878, 900 (2001) (in redistricting cases, applauding courts’ “more permissive approach to intervention” because it “open[s] up participation—as the political branches would—to incorporate more of the diverse interests that have a stake in the outcome” (footnotes omitted)).

Given that the Court’s October 6 deadline for seeking intervention has now passed, granting all the pending motions will not invite a flood of additional motions or otherwise delay the case or prejudice the parties.

While Rule 803.09 considers only the interests of the *existing* parties—who already have stated through counsel that they do not oppose intervention here—Citizen Mathematicians and Scientists note that none of the other potential intervenors adequately represents their interest. All the other movants represent—and, predictably, seek to maintain or enhance the political power of—incumbent officeholders and their political supporters (*e.g.*, the five Members of Congress, the Senate Democrats, the Legislature, and the Governor) or discrete segments of the electorate, such as Democratic voters (Hunter *et al.*) or minority voters (the BLOC intervenors). By contrast, Citizen Mathematicians and Scientists are not looking to enhance the voting strength of mathematicians and scientists at the expense of anyone else. Citizen Mathematicians and Scientists’ interest is in an empirical and neutral approach to redistricting that relies on cutting-edge data science and high-speed computers to develop districting plans based on traditional districting criteria that result in fair and balanced representation of all constituencies and thus redound to the benefit of all Wisconsinites.

Furthermore, Citizen Mathematicians and Scientists are United States citizens and registered Wisconsin voters who live and vote in different parts of the state from the other movants and petitioners and therefore have distinct geographic interests and distinct malapportionment claims as well. For example, if Citizen Mathematicians and Scientists are not permitted to intervene, there will be no individual from Milwaukee County among petitioners and intervenors.

Because all the proposed intervenors—including the Citizen Mathematicians and Scientists—are so situated that the disposition of this action may impair or impede their ability to protect their constitutional rights to vote, and because each movant's interest is unique and cannot be adequately represented by other parties, the Citizen Mathematicians and Scientists respectfully ask this Court to grant all pending motions to intervene.¹

Dated: October 13, 2021

Respectfully submitted,



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¹ Citizen Mathematicians and Scientists' Complaint in Intervention claims that the current congressional plan is malapportioned in violation of the United States Constitution and that the current legislative plan is malapportioned in violation of both the United States and the Wisconsin Constitutions. Petitioners and other proposed intervenors have pled their congressional and legislative malapportionment claims as arising solely under the Wisconsin Constitution. If any party objects to Citizen Mathematicians and Scientists' Complaint in Intervention on the ground that it raises federal claims, and the Court wishes to streamline this action by confining it to state-law issues, Citizen Mathematicians and Scientists respectfully seek leave to amend their Complaint accordingly.