

Federal panel rejects GOP lawmakers' request for reimbursement of legal fees in redistricting case

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A federal three-judge panel has rejected a request from GOP lawmakers to reimburse some of the tab they charged to taxpayers for outside counsel to defend the Assembly map Republicans drew in 2011.

Thursday's decision leaves taxpayers on the hook for all of the nearly \$1.7 million private attorneys have racked up since 2017 in defending the maps after GOP leaders approved hiring them rather than solely relying on the former attorney general to handle the case.

The Dems' case fell apart after the U.S. Supreme Court ruled this summer that claims of partisan gerrymanders were beyond the reach of the federal courts.

Still, the three-judge panel overseeing the Wisconsin case noted the U.S. Supreme Court had sent signals in the past that such cases had a shot in the federal courts. What's more, the panel noted it had overturned the Assembly lines in the long-running suit only to have the U.S. Supreme Court find the original plaintiffs lacked standing to sue and sent the case back for further review.

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The GOP attorneys had previously argued the Dems should've held up the Wisconsin case after the U.S. Supreme Court agreed to hear rulings involving maps in North Carolina and Maryland that involved similar issues. They warned that put the Dems at risk of bearing the costs of the proceedings.

But the panel noted the Dems only proceeded after it had rejected a request to stay the entire suit until after the U.S. Supreme Court issued its ruling in the other cases.

Thursday's order rejected requests from the Wisconsin Elections Commission, one of the original targets of the suit, and GOP lawmakers for court costs. The court noted the WEC and GOP lawmakers were in a better position to absorb the costs of the case than the Dems who sued.

The Elections Commission was seeking \$19,309 in costs, while GOP lawmakers wanted more than \$45,000 in addition to legal fees.

"To be sure, both the WEC and the Assembly incurred substantial costs in defending against Plaintiffs' action," the ruling noted. "But Plaintiffs, or those who supported their effort, also incurred significant costs in their attempt to eliminate a practice the Court made clear it did not condone."

A spokesman for Senate Majority Leader Scott Fitzgerald, R-Juneau, said GOP leaders were still reviewing the decision and determining their next steps. A spokesman for Assembly Speaker Robin Vos, R-Rochester, indicated Republicans may consider an appeal but were still reviewing the decision.

The GOP attorneys hadn't specified how much they were seeking in legal fees, because the court had wanted to decide whether they should be awarded before hearing specifics on the tab. Still, they had urged the court to award "reasonable attorneys' fees" starting Jan. 4, when the U.S. Supreme Court ordered the Maryland and North Carolina cases for oral arguments.

A WisPolitics.com review of legal bills shows GOP attorneys racked up \$1.7 million in legal bills between early 2017 and the end of June. About half of those bills were submitted after Jan. 1, but they didn't break down activity before and after Jan. 4.

Adding in the costs stemming from an earlier lawsuit filed over the maps, the total tab to taxpayers over the maps has hit nearly \$3.8 million.

The state Legislature wasn't originally named as a party in the suit that was filed in 2015, and former Attorney General Brad Schimel took the lead in defending the maps. But GOP lawmakers approved a motion in early 2017 to hire outside counsel as they sought to intervene in the case.

Republicans then hired additional attorneys last year, bringing in the Chicago firm

Bartlit Beck. That contract included a flat fee of \$850,000 for the firm's work, not including costs such as travel.

Read the decision:

<https://www.wispolitics.com/wp-content/uploads/2019/08/190822Court.pdf>