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CLERK OF WISCONSIN
SUPREME COURT

No. 2025AP000996-OA

IN THE SUPREME COURT OF WISCONSIN

ELIZABETH BOTHFELD, JO ELLEN BURKE, MARY COLLINS, CHARLENE GAEBLER-UHING, PAUL HAYES, SALLY HUCK, TOM KLOOSTERBOER, ELIZABETH LUDEMAN, AND LINDA WEAVER,

Petitioners,

v.

WISCONSIN ELECTIONS COMMISSION; DON MILLIS, ROBERT F. SPINDELL, MARGE BOSTELMANN, ANN S. JACOBS, MARK L. THOMSEN, CARRIE RIEPLE, 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,

Respondents.

THE WISCONSIN LEGISLATURE'S MOTION FOR LEAVE TO FILE A NON-PARTY AMICUS BRIEF

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The Wisconsin Legislature, through its counsel, moves for leave to file the attached non-party amicus brief in opposition to the petition for original action in *Bothfeld v. Wisconsin Elections Commission*, No. 2025AP996-OA.

1. This action challenges the constitutionality of Wisconsin's existing congressional districts—the result of this Court's injunction in *Johnson v. Wisconsin Elections Commission* (*Johnson II*), 2022 WI 14, 400 Wis. 2d 626, 971 N.W.2d 402. Petitioners ask the Court to declare that final judgment unconstitutional and to replace the existing districts with new ones. Pet. ¶¶14, 93.

2. The Wisconsin Legislature is the bicameral legislative branch of Wisconsin's government. Wis. Const. art. IV, §1. The federal Elections Clause provides that "the Legislature" of each State will prescribe congressional district lines. U.S. Const. art. I, §4, cl. 1.

3. This Court has allowed the Legislature and its leaders to participate in previous redistricting actions, and the Legislature has a statutory right to participate in litigation defending its laws. *See, e.g.*, *Clarke v. Wis. Elections Comm'n*, 2023 WI 70, 409 Wis. 2d 372, 375, 995 N.W.2d 779 (granting intervention by Legislature); *Johnson v. Wis. Elections Comm'n* (*Johnson I*), 2021 WI 87, ¶6, 399 Wis. 2d 623, 967 N.W.2d 469 (noting intervention by

Legislature); *State ex rel. Reynolds v. Zimmerman*, 22 Wis. 2d 544, 548, 126 N.W.2d 551 (1964) (noting intervention by the Senate President *pro tem* and Assembly Speaker); *Democratic Nat'l Comm. v. Bostelmann*, 2020 WI 80, ¶13, 394 Wis. 2d 33, 949 N.W.2d 423 (discussing Wis. Stat. §803.09(2m)).

4. This motion and the attached amicus brief satisfy the requirements of Wis. Stat. §809.19(7). The Legislature's brief explains why this Court must deny the petition for original action, which contains the extraordinary request that this Court undo *Johnson II*, redraw congressional districts anew in violation of the federal Elections Clause, embrace interpretations of constitutional provisions contrary to this Court's precedent, ignore the doctrine of laches, and raise due process questions, all with the effect of enlarging the judicial power beyond recognition.

5. The motion is timely, in compliance with the Court's order of May 15, 2025, inviting the filing of non-party amicus briefs by June 6, 2025.

WHEREFORE, the Wisconsin Legislature requests that this Court grant its request for leave to file the attached amicus brief.

Dated this 6th day of June, 2025.

Respectfully submitted,

Electronically signed by
/s/ *Marie E. Sayer*

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