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February 21, 2024

VIA E-FILING

Samuel A. Christensen
Clerk of the Supreme Court and Court of Appeals
110 East Main Street, Suite 215
P.O Box

Re: Intervenor-Respondent Wisconsin Legislature's Position Regarding Enactment of 2023 Wisconsin Act 94; *Rebecca Clarke, et al. v. Wisconsin Elections Commission, et al.*, No. 23-AP-1399-OA.

Dear Mr. Christensen,

This Court's December 22, 2023 Decision stated "remedial maps must be drawn prior to the 2024 elections." *Clarke v. Wisconsin Elections Comm'n*, 2023 WI 79, ¶4, 410 Wis. 2d 1, 998 N.W.2d 370. It "urge[d] the legislature to pass legislation" to do so, while retaining jurisdiction only to "ensure maps are adopted in time for the 2024 election" in case the Legislature failed to enact new maps or if the governor vetoed those maps. *Id.* ¶4; *see also id.* at ¶77.

The Legislature has enacted those maps; the Governor has signed them into law. 2023 Wisconsin Act 94. This case must now be dismissed. *Johnson v. Wis. Elections Comm'n*, 2021 WI 87, ¶19, 399 Wis.2d 623, 967 N.W.2d 469 ("As should be self-evident from this court's lack of legislative power, any remedy we may impose would be in effect only 'until such time as the legislature and governor have enacted a valid legislative apportionment plan.'" (quoting *State ex rel. Reynolds v. Zimmerman*, 23 Wis. 2d 606, 606, 128 N.W.2d 16 (1964) (per curiam))); *Johnson v. Wisconsin Elections Comm'n*, No. 2021-AP1450-OA, Order at 2 (Sept. 22, 2021, amended Sept. 24, 2024) (stating judicial relief is appropriate "only when a legislature fails to reapportion according to constitutional requisites") (emphasis in original).

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In his remarks accompanying the bill signing, Governor Evers stated his position that “these maps will be in place for any special election that occur[s] between now and the fall.” Gov. Evers, *Gov. Evers’ Remarks on Keeping His Promise To Deliver Fair Maps for Wisconsin* (available at <https://content.govdelivery.com/accounts/WIGOV/bulletins/38b4d1d>). Since this Court has enjoined the Wisconsin Elections Commission from using the *Johnson* maps in future elections, the Legislature presumes that the WEC will conduct any future special election using the maps enacted by Act 94.¹ And when this action is dismissed, those maps will presumably be used for all future elections.

The Legislature and the Governor have given Wisconsin voters the certainty that they deserve. The Court should end this redistricting litigation and allow candidates and voters to move ahead to forthcoming elections.

Respectfully Submitted,

Electronically Signed by
Kevin M. St. John

BELL GIFTOS ST. JOHN LLC

cc: All counsel of record via e-filing.

¹ The Legislature notes that Senate District 4, where there is currently a vacancy, is identical under the *Johnson* map and Act 94.