



Arnold & Porter



For Immediate Release
November 21, 2023

Contact: Stephanie Miller
media@lawforward.org

Wisconsin Voters Fight for Fair Legislative Maps in Oral Argument at Wisconsin Supreme Court

Today, attorneys representing Petitioners in *Clarke v. Wisconsin Elections Commission*, a legal team which includes Law Forward, Stafford Rosenbaum, Election Law Clinic at Harvard Law School, Campaign Legal Center and Arnold & Porter argued before the Wisconsin Supreme Court to continue their efforts to get fair state legislative maps in Wisconsin. The Petitioners, Intervenors, Respondents, and friends of the court have filed hundreds of pages of briefs leading up to today's oral arguments

"To be a named plaintiff in this groundbreaking lawsuit is profoundly significant, marking the culmination of my 12 years of advocacy," said Petitioner Rebecca Clarke. "Through my experiences in public service and as a State Assembly candidate, I witnessed the detrimental effects of gerrymandering on our democracy. Gerrymandered districts fracture communities, dilute voters' voices, and undermine the principles of fair representation. This legal challenge is a crucial step toward dismantling a system that prioritizes political interests over the fundamental democratic right of every citizen to be heard and represented equitably."

In the oral argument, Mark Gaber from Campaign Legal Center focused on Wisconsin Constitution Article IV, sections 4 and 5 which explicitly require districts to be contiguous, meaning they cannot be made up of separate pieces of detached territory. Over half of Wisconsin's current assembly districts, and

two-thirds of our senate districts, violate this basic provision. [Mark Gaber](#), a native Wisconsinite, is senior director of redistricting at [Campaign Legal Center](#), where he manages CLC's redistricting litigation and policy program. Mark has litigated numerous major redistricting cases -- including *Johnson v. Wisconsin Elections Commission*, *League of Women Voters of Utah v. Utah Legislature*, *Abbott v. Perez*, *Petteway v. Galveston County*, *Alabama Legislative Black Caucus v. Alabama*, and *Texas v. United States* -- in federal and state courts over the past 10 years.

For the past 12 years, Wisconsin voters have endured legislative maps designed to insulate one political party from accountability and undermine democratic representation. Despite winning as much as 53% of the statewide vote, Democrats have held no more than 39 of the 99 Assembly seats, while Republicans, with as little as 44.8% of the vote, have controlled no fewer than 60 Assembly seats.

“Gerrymandered maps have distorted the political landscape, stifling the voice of the voters,” said Dan Lenz, Staff Counsel Law Forward. “It challenges the very essence of fair representation and the erosion of confidence in our political system. The outcome will have far-reaching consequences for Wisconsin's democracy.”

Previous briefs filed by Petitioners include criteria for how the court should draw new fair maps. The maps must comply with federal law, be contiguous, compact, have districts with equal populations, and, importantly, must not undermine the Court’s role as a nonpartisan body by, intentionally or not, creating a partisan skew. From the October 16th brief: “Under relevant state and federal law, in evaluating or creating new state legislative districts, the Court must consider (1) population equality, (2) compactness, (3) contiguity, (4) preservation of the unity of political subdivisions, (5) partisan neutrality, and (6) compliance with the federal Equal Protection Clause and Voting Rights Act. Persuasive authority also instructs that the Court may—and should here—consider so-called “traditional redistricting criteria,” including preservation of communities of interest.”

Additionally, the Petitioners have laid out a fair and efficient process to draw nonpartisan legislative maps. They argue that the Court must enjoin the existing maps, appoint a referee, and take submissions from all parties, including Intervenors. The referee would then make recommendations to the Court to assist them in making the final determination. And, as Petitioners explain in their briefs, and consistent with previous cases, there is ample time for the Court to select constitutionally compliant maps before the 2024 election.

“Voters, local electeds, advocacy groups, and legal scholars all agree that these maps are unconstitutional,” said TR Edwards, Staff Counsel Law Forward. “In friend of the court briefs groups argued that the current maps stifle fair representation and innovation, block popular policies, have caused

a lack of support for local municipalities and disempower vulnerable communities. The court needs to do its job and throw these maps out without delay.”

Given the substantial briefing and work which has already occurred since August 2nd, and based on previous cases both here and in other states, there is more than adequate time to have new maps in place ahead of the 2024 elections. For example in 2021, the Wisconsin Supreme court ordered parties to proceed on November 30, 2021 which was sufficient time to have new maps by April 2022 in place for the November 2022 election and August primary. Given the blatant constitutional problems with the existing legislative maps, we expect the Court will act expeditiously to have lawful maps in place in time for 2024 so Wisconsin voters will finally have constitutionally compliant maps.

###

Law Forward is a nonprofit, nonpartisan organization that uses impact litigation to protect and advance democracy. Law Forward stands for a commitment to fair, transparent and representative government; where Wisconsinites can participate in free, fair elections where their vote counts.

Stafford Rosenbaum LLP is a full-service law firm with two convenient office locations in Madison and Milwaukee, Wisconsin. Over 140 years of dedication to businesses, governments, nonprofits, and individuals has proven that effective client communication continues to be the heart of our practice.

The nonpartisan *Campaign Legal Center* advances democracy through law at the federal, state and local levels, fighting for every American's rights to responsive government and a fair opportunity to participate in and affect the democratic process.

The *Election Law Clinic at Harvard Law School (ELC)* is a nonpartisan law firm that works to train the next generation of election lawyers through litigation and advocacy that bring novel academic ideas to the practice of election law. It aims to build power for voters, not politicians, and recognizes that the struggle for voting rights is a struggle for racial justice. ELC is led by an experienced team of voting rights attorneys and includes around 30 students each year.

Arnold & Porter combines sophisticated regulatory, litigation, and transactional capabilities to resolve clients' most complex issues. With over 1,000 lawyers practicing in 14 offices worldwide, we offer deep industry experience and an integrated approach that spans more than 40 practice areas. Through multidisciplinary collaboration and focused industry experience, we provide innovative and effective solutions to mitigate risks, address challenges, and achieve successful outcomes.