

Wisconsin Supreme Court and Court of Appeals Case Access

Tony Evers v. Howard Marklein

Appeal Number 2023AP002020 - OA

Supreme Court

CASE HISTORY

| Status | Court | Filing Date | Anticipated Due Date | Activity |
|--------|-------|-------------|----------------------|--|
| PEND | SC | | | Awaiting Opinion/Decision |
| PEND | SC | | 04-17-2024 | Hold Status |
| OCCD | SC | 04-17-2024 | | Oral Argument Comment: 9:30 a.m. (State Capitol, Supreme Court Hearing Room). Colin Roth for Petitioners. Erin Deeley for Intervenor-Petitioner. Misha Tseytlin for Respondent. |
| OCCD | SC | 03-28-2024 | | Brief of Amicus Curiae Amicus Brief of WILL Filed By: Skylar Croy Comment: WILL |
| OCCD | SC | 03-28-2024 | | Brief of Amicus Curiae Amicus Brief of Legal Scholars Filed By: Bryna Godar Comment: Amicus Brief of Legal Scholars |
| OCCD | SC | 03-27-2024 | | Motion to File Amicus/Non-Party Brief Filed By: Skylar Croy Submit Date: 3-28-2024 Decision: (G) Grant Decision Date: 3-28-2024 IT IS ORDERED that the motions are granted. The proposed briefs submitted with the motions are accepted as filed as of the date of this order. Comment: WILL |
| OCCD | SC | 03-27-2024 | | Reply Brief-Supreme Court Reply Brief of Intervenor-Petitioner Gathering Waters, Inc. Comment: Intervenor-Petitioner |
| OCCD | SC | 03-27-2024 | | Motion to File Amicus/Non-Party Brief Motion of Legal Scholars to File Amicus Brief |

Filed By: Bryna Godar
Submit Date: 3-28-2024
Decision: (G) Grant
Decision Date: 3-28-2024

IT IS ORDERED that the motions are granted. The proposed briefs submitted with the motions are accepted as filed as of the date of this order.

Comment: Legal Scholars

OCCD SC 03-27-2024

Reply Brief-Supreme Court
[Petitioners' Reply Brief](#)

Comment: Petitioners

OCCD SC 03-26-2024

Motion to File Amicus/Non-Party Brief

Filed By: Tamara Packard
Submit Date: 3-26-2024
Decision: (D) Deny
Decision Date: 4-2-2024

IT IS ORDERED that the motion is denied.

REBECCA FRANK DALLET, J., dissents.

Comment: National Association of Social Workers

OCCD SC 03-25-2024

Brief of Amicus Curiae
[SOH2O and WCV Non-Party Brief](#)

Filed By: Tony Wilkin Gibart

Comment: Save Our Water and Wisconsin Conservation Voters (SOH2O and WCV)

OCCD SC 03-22-2024

Motion to File Amicus/Non-Party Brief

Filed By: Tony Wilkin Gibart
Submit Date: 3-22-2024
Decision: (G) Grant
Decision Date: 3-25-2024

IT IS ORDERED that the motion is granted. The proposed brief submitted with the motion is accepted as filed as of the date of this order.

Comment: Amicus motion of Save Our Water and Wisconsin Conservation Voters (SOH2O and WCV)

OCCD SC 03-20-2024

Brief of Amicus Curiae
[Amicus Brief of Clean Wisconsin, Inc.](#)

Filed By: Evan Feinauer

Comment: Clean Wisconsin, Inc. Amicus Brief of Clean Wisconsin, Inc.

OCCD SC 03-20-2024

Brief of Amicus Curiae
[Amicus Brief of Former Wisconsin Judges](#)

Filed By: Christine Donahoe

Comment: Former Wisconsin Judges

OCCD SC 03-13-2024

Motion to File Amicus/Non-Party Brief
[03-20-2024 Court Order](#)
[Former Wisconsin Judges Motion to File Non Party Brief](#)

Filed By: Christine Donahoe

Submit Date: 3-13-2024

Decision: (G) Grant

Decision Date: 3-20-2024

IT IS ORDERED that the motions are granted. The proposed briefs submitted with the motions are accepted as filed as of the date of this order.

Comment: Former Wisconsin Judges (Richard J. Sankovitz, Richard G. Neiss, John A. Markson, Paul Lundsten)

OCCD SC 03-13-2024

Motion to File Amicus/Non-Party Brief

[Clean Wisconsin Motion for Leave to File Non-party Brief](#)

Filed By: Evan Feinauer

Submit Date: 3-13-2024

Decision: (G) Grant

Decision Date: 3-20-2024

IT IS ORDERED that the motions are granted. The proposed briefs submitted with the motions are accepted as filed as of the date of this order.

Comment: Clean Wisconsin

OCCD SC 03-13-2024

Response Brief-Supreme Court

[Brief Of Respondents And Intervenor-Respondent Wisconsin State Legislature](#)

[Appendix to Respondents, Intervenor Respondent](#)

[Acknowledgement of Filing of Supreme Court Brief](#)

Filed By: Misha Tseytlin

Comment: Respondents and Intervenor Respondent

OCCD SC 03-04-2024

Notice of Appearance

[Notice of Appearance - Gerads](#)

Comment: Gerads for Intervenor-Petitioner Gathering Waters, Inc.

OCCD SC 03-04-2024

Notice of Appearance

[Notice of Appearance - Snyder](#)

Comment: Snyder for Intervenor-Petitioner Gathering Waters, Inc.

OCCD SC 03-04-2024

Notice of Appearance

[Notice of Appearance - Mandell](#)

Comment: Mandell for Intervenor-Petitioner Gathering Waters, Inc.

OCCD SC 02-28-2024

Other Brief

[Brief of Intervenor-Petitioner Gathering Waters, Inc.](#)

[Appendix to Brief of Intervenor-Petitioner Gathering Waters, Inc.](#)

Filed By: Erin Deeley

Comment: Brief and Appendix of Intervenor-Petitioner Gathering Waters, Inc. Brief of Intervenor-Petitioner Gathering Waters, Inc. Appendix to Brief of Intervenor-Petitioner Gathering Waters, Inc.

OCCD SC 02-26-2024

Assigned-Oral Argument

[April Oral Argument Calendar \(02-26-2024\)](#)

OCCD SC 02-22-2024

Motion to Intervene

[02-28-2024 Court Order](#)
[Gathering Waters, Inc. Notice of Motion and Motion to Intervene](#)
[Brief in Support of Motion to Intervene of Gathering Waters, Inc.](#)
[Affidavit of Michael Carlson in Support of Motion to Intervene of](#)
[Gathering Waters, Inc.](#)

Filed By: Erin Deeley
Submit Date: 2-23-2024
Decision: (G) Grant
Decision Date: 2-28-2024

IT IS ORDERED that the motion is granted. The opening merits brief and appendix accompanying the motion are accepted as filed.

Comment: Gathering Waters, Inc.

OCCD SC 02-22-2024

First Brief-Supreme Court
[Petitioners' Opening Brief](#)
[Acknowledgement of Filing of Supreme Court Brief](#)

Filed By: Charlotte Gibson

OCCD SC 02-22-2024

Response

Comment: Petitioner Brief to issue 1 < 50 pages/11,000 words

OCCD SC 02-01-2024

Letter/Correspondence
[Response to 1-29-24 Correspondence From Respondents and](#)
[Proposed Intervenor](#)

Comment: Response to 1-29-24 Correspondence From Respondents and Proposed Intervenor

OCCD SC 01-29-2024

Letter/Correspondence
[Respondents and Proposed Intervenor Letter to the Court](#)

Comment: Respondents and Proposed Intervenor Letter to the Court

OCCD SC 11-21-2023

Brief of Amicus Curiae
[Amicus Brief of Wisconsin Manufacturers & Commerce](#)

Filed By: Nathan Kane
Comment: Amicus Brief of Wisconsin Manufacturers & Commerce

OCCD SC 11-21-2023

Motion to File Amicus/Non-Party Brief
[12-15-2023 Court Order](#)
[Motion to File Amicus Brief of Wisconsin Manufacturers &](#)
[Commerce](#)

Filed By: Nathan Kane
Submit Date: 11-21-2023
Decision: (G) Grant
Decision Date: 12-15-2023
IT IS ORDERED that the motion is granted. The brief accompanying the motion is accepted as filed.
Comment: Wisconsin Manufacturers & Commerce

OCCD SC 11-21-2023

Motion to Intervene
[Letter Response: Leg intervention and request to dismiss](#)
[legislators](#)
[Motion to Intervene of the Wisconsin Legislature](#)

[Brief in Support of Motion to Intervene of The Wisconsin Legislature](#)

Filed By: Misha Tseytlin
Submit Date: 11-21-2023
Decision: (G) Grant
Decision Date: 2-2-2024

IT IS ORDERED that the petition for leave to commence an original action is granted solely with respect to the first issue set forth in the petition for leave to commence an original action, and this court assumes jurisdiction over this action; and IT IS FURTHER ORDERED that the second and third issues set forth in the petition for leave to commence an original action are held in abeyance pending further order of the court; and IT IS FURTHER ORDERED that the Wisconsin Legislature's motion to intervene as a respondent is granted; and IT IS FURTHER ORDERED that within 20 days of the date of this order the petitioners shall file a brief in this court that shall not exceed 50 pages if a monospaced font is used or 11,000 words if a proportional serif font is used; that within 20 days of the filing of the petitioner's brief, the respondents and intervenor-respondent shall file a single, combined responsive brief that shall not exceed 50 pages if a monospaced font is used or 11,000 words if a proportional serif font is used; and within 10 days of filing of the responsive brief, the petitioners may file a reply brief that shall not exceed 13 pages if a monospaced font is used or 3,000 words if a proportional serif font is used or a statement that no reply brief shall be filed; and IT IS FURTHER ORDERED that the court will not entertain motions to extend the briefing time or to increase page/word limitations for the briefs; and IT IS FURTHER ORDERED that oral argument in this matter will occur on April 17, 2024, at 9:30 a.m.

REBECCA GRASSL BRADLEY, J; dissenting
ANNETTE KINGSLAND ZIEGLER, C.J., joins dissent
BRIAN HAGEDORN, J., dissenting
ANNETTE KINGSLAND ZIEGLER, C.J., joins dissent
Motion Response
Filed By: Colin Roth
Submit Date: 12-4-2023
Comment: Wisconsin Legislature

OCCD SC 11-21-2023 Response
Comment: Response to the Petition (see 11/7/23 cto)

OCCD SC 11-20-2023 Notice of Appearance
[Notice of Appearance - Tseytlin \(Respondents\)](#)
Comment: Appearance of Attorney Tseytlin for Respondents

OCCD SC 11-20-2023 Notice of Appearance
[Notice of Appearance - Dutton \(Respondents\)](#)
Comment: Appearance of Attorney Dutton for Respondents

OCCD SC 11-20-2023 Notice of Appearance
[Notice of Appearance - LeRoy \(Respondents\)](#)
Comment: Appearance of Attorney LeRoy for Respondents

OCCD SC 11-07-2023 Court Order
[11-07-2023 Court Order](#)

IT IS ORDERED that respondents, Senator Howard Marklein et al., shall file one or more responses to the petition by November 21, 2023; and
IT IS FURTHER ORDERED that any non-party that wishes to file a non-party brief amicus curiae in

support of or in opposition to the petition must file a motion for leave of the court to file a non-party brief pursuant to the requirements of Wis. Stat. (Rule) 809.19(7). Non-parties should also consult this court's Internal Operating Procedure concerning the nature of non-parties who may be granted leave to file a non-party brief. A proposed non-party brief must accompany the motion for leave to file it. Any proposed non-party brief shall not exceed 20 pages if a monospaced font is used or 4,400 words if a proportional serif font is used. Any motion for leave with the proposed non-party brief attached shall be filed no later than November 21, 2023. Any submission by a non-party that does not comply with Wis. Stat. (Rule) 809.19(7) and any proposed non-party brief for which this court does not grant leave will not be considered by the court; and IT IS FURTHER ORDERED that each Wisconsin attorney participating in this case must opt in to this case in the appellate court electronic filing system. All Wisconsin attorneys who are not already opted in for this case are hereby ordered to do so as soon as possible and no later than November 20, 2023.

OCCD SC 10-31-2023

Certificate of Service
[Certificate of Efile and Service](#)

Comment: Certificate of Efiling and Service

OCCD SC 10-31-2023

Petition for an Original Action
[02-02-2024 Court Order](#)
[Response to 12/19/2023 Correspondence From the Petitioners](#)
[Petitioner's Letter re: UW pay adjustments](#)
[Response in Opposition to Petition for Original Action](#)
[Petition for Original Action](#)
[Supporting Memorandum to Petition for Original Action](#)
[Exhibit A to Petition for Original Action](#)
[Acknowledgement of Filing of Writ/Petition](#)
[Corrected Acknowledgement of Filing of Writ/Petition](#)

Filed By: Charlotte Gibson
Submit Date: 10-31-2023
Decision: (G) Grant
Decision Date: 2-2-2024

IT IS ORDERED that the petition for leave to commence an original action is granted solely with respect to the first issue set forth in the petition for leave to commence an original action, and this court assumes jurisdiction over this action; and IT IS FURTHER ORDERED that the second and third issues set forth in the petition for leave to commence an original action are held in abeyance pending further order of the court; and IT IS FURTHER ORDERED that the Wisconsin Legislature's motion to intervene as a respondent is granted; and IT IS FURTHER ORDERED that within 20 days of the date of this order the petitioners shall file a brief in this court that shall not exceed 50 pages if a monospaced font is used or 11,000 words if a proportional serif font is used; that within 20 days of the filing of the petitioner's brief, the respondents and intervenor-respondent shall file a single, combined responsive brief that shall not exceed 50 pages if a monospaced font is used or 11,000 words if a proportional serif font is used; and within 10 days of filing of the responsive brief, the petitioners may file a reply brief that shall not exceed 13 pages if a monospaced font is used or 3,000 words if a proportional serif font is used or a statement that no reply brief shall be filed; and IT IS FURTHER ORDERED that the court will not entertain motions to extend the briefing time or to increase page/word limitations for the briefs; and IT IS FURTHER ORDERED that oral argument in this matter will occur on April 17, 2024, at 9:30 a.m.

REBECCA GRASSL BRADLEY, J; dissenting
ANNETTE KINGSLAND ZIEGLER, C.J., joins dissent
BRIAN HAGEDORN, J., dissenting
ANNETTE KINGSLAND ZIEGLER, C.J., joins dissent
Motion Response
Filed By: Misha Tseytlin
Submit Date: 11-21-2023
Motion Response

Filed By: Misha Tseytlin
Submit Date: 2-2-2024
