

# Wisconsin Supreme Court and Court of Appeals Case Access

**Dennis Clinard v. Michael Brennan**

**Appeal Number 2011AP002677 - OA**

**Supreme Court**

## CASE HISTORY

Status	Court	Filing Date	Anticipated Due Date	Activity
OCCD	SC	02-18-2014		Remittitur Comment: T/J
OCCD	SC	01-13-2014		Opinion/Decision Opinion: Miscellaneous Order Decision: Dismissed Pages: 2 Order Text: ORD that the petition, along with all accompanying motions and requests for relief is dismissed. Prosser, J., did not participate.
OCCD	SC	06-18-2013		Motion to Dismiss Filed By: Maria Lazar Submit Date: 6-19-2013 Decision: (M) Dismiss Decision Date: 1-13-2014 ORD that the petition, along with all accompanying motions and requests for relief is dismissed. Prosser, J., did not participate.
OCCD	SC	11-21-2012		Attorney address updated Comment: Address changed for attorney: 33656 Joseph Louis Olson
OCCD	SC	11-20-2012		Attorney address updated Comment: Address changed for attorney: 35087 Rebecca Kathryn Mason
OCCD	SC	06-12-2012		Attorney address updated Comment: Address changed for attorney: 29403 Jeremy P. Levinson
OCCD	SC	06-11-2012		Letter/Correspondence Comment: Letter from Atty. Levinson's office advising of change of law firm; updated address accordingly.
OCCD	SC	01-26-2012		Caption Amended Comment: Added Intervornors Respondents to case per 1/18/12 CTO

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OCCD SC 01-05-2012 Motion for Miscellaneous Relief  
Filed By: Jeremy Levinson  
Submit Date: 1-5-2012  
Decision: (G) Grant  
Decision Date: 1-18-2012  
ORD that the intervenors' motion is granted, and the intervenors' reply brief is accepted for filing.  
FRO that the petitioners' motion for leave to file a surreply brief is granted. Petitioners' surreply brief shall be filed on or before January 30, 2012, and shall not exceed 20 pages in length.  
Prosser, J. Did not participate.  
Motion Response  
Filed By: Jeremy Levinson  
Submit Date: 1-17-2012  
Comment: Motion for Leave to file a Reply Brief in Support of Motion for Recusal/Disqualification

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OCCD SC 12-22-2011 Motion for Miscellaneous Relief  
Filed By: Jeremy Levinson  
Submit Date: 12-22-2011  
Decision: (D) Deny  
Decision Date: 1-20-2012  
ORD that the motion to Justice Michael J. Gableman individually is hereby denied.  
Motion Response  
Filed By: Michael Dean  
Submit Date: 12-29-2011  
Motion Response  
Filed By: Michael Dean  
Submit Date: 1-3-2012  
Motion Response  
Filed By: Michael Dean  
Submit Date: 1-6-2012  
Motion Response  
Filed By: Michael Dean  
Submit Date: 1-30-2012  
Comment: Motion for Recusal or Disqualification

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OCCD SC 12-19-2011 Letter/Correspondence  
Comment: from Attorney Dean, in response to Attorney Poland's 12/16/11 letter

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OCCD SC 12-16-2011 Letter/Correspondence  
Comment: from Attorney Douglas Poland advising court of the "Baldus" trial scheduling order issued by U.S. District Court Eastern District of Wisconsin

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OCCD SC 12-09-2011 Response

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OCCD SC 12-06-2011 Response

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OCCD SC 12-05-2011 Motion for Miscellaneous Relief  
Filed By: Eric McLeod  
Submit Date: 12-5-2011  
Decision: (G) Grant  
Decision Date: 12-6-2011

ORD that the motion for substitution of counsel is granted.  
FRO that the request for an extension of time to file memoranda is denied. The briefing schedules established by this court stand as set forth in the orders of the court. No extensions of time to file the memoranda required by this court's orders will be granted.  
Prosser, J., did not participate.  
Motion Response  
Filed By: Douglas Poland  
Submit Date: 12-6-2011  
Comment: motion for substitution of counsel

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OCCD SC 12-05-2011 Certificate of Service  
Comment: Inv. Pet. Combined Motion

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OCCD SC 12-05-2011 Motion for Miscellaneous Relief  
Filed By: Douglas Poland  
Submit Date: 12-5-2011  
Decision: (M) Dismiss  
Decision Date: 1-13-2014  
ORD that the petition, along with all accompanying motions and requests for relief is dismissed.  
Prosser, J., did not participate.  
Motion Response  
Filed By: Douglas Poland  
Submit Date: 12-6-2011  
Comment: Combined Motion to Dismiss Petition with Prejudice or, in the Alternative, to Dismiss Themselves as Parties and to Stay Petitioners' Waukesha Circuit Court Action

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OCCD SC 12-05-2011 Attorney address updated  
Comment: Address changed for attorney: 33656 Joseph Louis Olson

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OCCD SC 12-02-2011 Motion for Miscellaneous Relief  
Filed By: Eric McLeod  
Submit Date: 12-2-2011  
Decision: (M) Dismiss  
Decision Date: 1-13-2014  
ORD that the petition, along with all accompanying motions and requests for relief is dismissed.  
Prosser, J., did not participate.  
Motion Response  
Filed By: Jeremy Levinson  
Submit Date: 12-2-2011  
Motion Response  
Filed By: Douglas Poland  
Submit Date: 12-2-2011  
Motion Response  
Filed By: Maria Lazar  
Submit Date: 12-6-2011  
Motion Response  
Filed By: Douglas Poland  
Submit Date: 1-13-2014  
Motion Response  
Filed By: Maria Lazar  
Submit Date: 12-9-2011  
Motion Response  
Filed By: Jeremy Levinson

OCCD SC 12-01-2011 Court Order

ORD that the intervenors shall be subject to the same briefing schedule and obligations imposed on the respondents and the involuntary petitioners by the court's November 30, 2011 order. All other parties may respond to the intervenor's initial memorandum in their responsive memoranda to be filed on December 9, 2011.

Prosser, J., did not participate.

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OCCD SC 11-30-2011 Court Order

FRO that by 12:00 p.m. on December 6, 2011, the respondents shall file a memorandum with the clerk of this court. The memorandum shall respond generally to the petition filed in this court and shall address, inter alia, the issues identified above. A single, joint memorandum on behalf of all of the respondents in their official capacities shall be permitted but is not required. The respondents shall file an original and twelve copies of their response(s) and any supporting materials.

FRO that by 12:00 p.m. on December 6, 2011, the involuntary petitioners shall file a memorandum with the clerk of this court. The memorandum shall respond generally to the petition filed in this court and shall address, inter alia, the issues identified above. A single, joint responsive memorandum on behalf of all of the involuntary petitioners shall be permitted but is not required. The involuntary petitioners shall file an original and twelve copies of their memorandum and any supporting materials.

FRO that petitioners, respondents, and involuntary petitioners each may file a responsive memorandum by 12:00 p.m. on December 9, 2011. The parties shall file an original and twelve copies of their responsive memorandum and any supporting materials.

The listing of the issues set forth above should not be construed as an indication whether or not the court intends to appoint a panel pursuant to Wis. Stat. secs. 751.035 and 801.50(4m) or grant leave to commence an original action in this case. (PART 2.)

Prosser, J., did not participate.

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OCCD SC 11-30-2011 Court Order

ORD that the Petitioners shall file a memorandum with the clerk of this court by 12:00 p.m. on December 6, 2011. A single, joint memorandum on behalf of all of the Petitioners shall be permitted but is not required. The Petitioners shall file an original and twelve copies of their memorandum and any supporting materials.

The petitioners' memo shall address the following issues:

1. Do Wis. Stat. 751.035 and 801.50(4m) apply to an action filed originally in the SC of WI? Is receiving notice under s. 801.50(4m) a condition precedent under Wis. Stat. 751.035 to any obligation of this court to appoint a panel of circuit court judges to hear a matter involving a challenge to apportionment? Inasmuch as the language of Wis. Stat. 751.035 uses the mandatory "shall appoint," does this court have discretion not to appoint a panel under Wis. Stat. 751.035 in the action filed in this court? Does the filing of the summons and complaint in *Clinard v. Brennan*, Waukesha County Case No. 2011CV3995, affect the petition filed in this court?

2. Should the WI state courts defer from proceeding with the Pet. in this matter in light of the action already pending in the United States District Court for the Eastern District of Wisconsin (*Baldus v. Brennan*, Case No. 11-cv-562 (E.D. Wis.)) or should apportionment matters be heard in state courts despite the presence of a pending federal action on the subject? See, e.g., *Grove v. Emison*, 507 U.S. 25 (1993); *Jensen v. Wisconsin Elections Bd.*, 2002 WI 13, 249 Wis. 2d 706, 639 N.W.2d 537. What impact if any, does the language of Wis. Stat. 751.035 ("the SC shall appoint"), if it is applicable to the action filed in this court, have on the question whether this court should defer from proceeding on this matter in light of the pending federal action? (PART 1)

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OCCD SC 11-30-2011 Motion to Intervene

Filed By: Jeremy Levinson

Submit Date: 11-30-2011

Decision: (G) Grant

Decision Date: 12-1-2011

ORD that the motion to intervene is granted; FRO that by 12:00 p.m. on December 6, 2011, the petitioners, Dennis Clinard, et al., respondents, Michael Brennan, et al., and involuntary petitioners, Alvin Baldus, et al., shall file memoranda with the clerk of this court responding to the intervenors' motion to dismiss; FRO that by 12:00 pm on December 9, 2011, the intervenors shall file a single memorandum with the clerk of this court replying to the responses to the motion to dismiss filed by petitioners, respondents, and involuntary petitioners.

Prosser, J., did not participate.

Comment: 12/1/11 we received Affidavits from Randolph Brandt, John Kidd, Nancy Stencil, Rita Pachal.

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OCCD SC 11-30-2011 Motion to Dismiss

Filed By: Jeremy Levinson

Submit Date: 11-30-2011

Decision: (M) Dismiss

Decision Date: 1-13-2014

ORD that the petition, along with all accompanying motions and requests for relief is dismissed.

Prosser, J., did not participate.

Motion Response

Filed By: Maria Lazar

Submit Date: 12-6-2011

Motion Response

Filed By: Michael Dean

Submit Date: 12-6-2011

Motion Response

Filed By: Douglas Poland

Submit Date: 12-9-2011

Motion Response

Filed By: Maria Lazar

Submit Date: 12-9-2011

Motion Response

Filed By: Jeremy Levinson

Submit Date: 12-9-2011

Comment: Brief in Support of Motion to Intervene

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OCCD SC 11-21-2011 Fee Paid

Comment: Receipt No: 11R 002876

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OCCD SC 11-21-2011 Attorney address updated

Comment: Address changed for attorney: 38976 Joseph D. Brydges

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OCCD SC 11-21-2011 Petition for an Original Action

Filed By: Eric McLeod

Submit Date: 11-21-2011

Decision: (M) Dismiss

Decision Date: 1-13-2014

ORD that the petition, along with all accompanying motions and requests for relief is dismissed.

Prosser, J., did not participate.

Motion Response

Filed By: Eric McLeod

Submit Date: 11-21-2011

Motion Response

Filed By: Jeremy Levinson

Submit Date: 12-6-2011

Motion Response

Filed By: Douglas Poland

Submit Date: 12-9-2011

Motion Response

Filed By: Maria Lazar

Submit Date: 12-9-2011

Motion Response

Filed By: Jeremy Levinson

Submit Date: 12-9-2011

Comment: Sent to # 35 37 38

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