

FILED

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL

September 8, 2021

OFFICE OF
APPELLATE COURTS

A21-0243
A21-0546

Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota,

Plaintiffs,

and

Paul Anderson, Ida Lano, Chuck Brusven, Karen Lane, Joel Hineman, Carol Wegner, and Daniel Schonhardt,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of Minnesota; and Kendra Olson, Carver County Elections and Licensing Manager, individually and on behalf of all Minnesota county chief election officers,

Defendants,

and

Frank Sachs, Dagny Heimisdottir, Michael Arulfo, Tanwi Prigge, Jennifer Guertin, Garrison O'Keith McMurtrey, Mara Lee Glubka, Jeffrey Strand, Danielle Main, and Wayne Grimmer,

**PLAINTIFFS PETER S. WATTSON
ET AL.'S OBJECTION TO THE
PROPOSED DATA SCIENCE
INTERVENORS' MOTION FOR
INTERVENTION**

Plaintiffs,

and

Dr. Bruce Corrie, Shelly Diaz, Alberder
Gillespie, Xiongpaoo Lee, Abdirazak
Mahboub, Aida Simon, Beatriz Winters,
Common Cause, OneMinnesota.org, and
Voices for Racial Justice,

Plaintiff-Intervenors,

vs.

Steve Simon, Secretary of State of
Minnesota,

Defendant.

Plaintiffs Peter S. Wattson, Joseph Mansky, Nancy B. Greenwood, Mary E. Kupper, Douglas W. Backstrom and James E. Hougas III, individually and on behalf of all citizens and voting residents of Minnesota similarly situated, and League of Women Voters Minnesota (“Plaintiffs”), submit this objection to the Motion for Intervention filed by Karen Saxe, Paul Zorn, Deanna Haunsperger, Stephen Kennedy, Stephen Polasky, Victor Reiner, Brianna Heggeseth, Lisa Lendway, Shilad Sen, David Van Riper, Jonathan Schroeder, and Tracy Kugler (“Proposed Data Science Intervenors”).

The Proposed Data Science Intervenors seek to intervene in this lawsuit one month after the deadline for intervention has expired, which makes their motion untimely under Minn. R. Civ. P. 24.01 and 24.02. The Proposed Data Science Intervenors claim they were not aware of the deadline in the Scheduling Order, but do not deny that they had knowledge of this lawsuit, which has been widely publicized in this state. This case was filed in Carver

County District Court on February 19, 2021. Since then, numerous articles have appeared in major newspapers and websites around the state.¹ It is all but certain that the Proposed Data Science Intervenors were aware of and had notice of this case given their proclaimed expertise in redistricting and census issues.² Further, redistricting has resulted in litigation during the previous five redistricting cycles, and the Proposed Data Science Intervenors, with their alleged expertise in redistricting and census issues, certainly had to know it would result in litigation again.

On July 22, 2021, the Minnesota Special Redistricting Panel (“Panel”) issued its first Scheduling Order which contained the deadline for intervention. “A scheduling order shall not be modified except by leave of court upon a showing of good cause.” Minn. R.

¹ Lawsuit Pushes Minnesota’s Redistricting Process Into The Courts, Where It Was Likely To End Up Anyway, Peter Callaghan, February 23, 2021, <https://www.minnpost.com/state-government/2021/02/lawsuit-pushes-minnesotas-redistricting-process-into-the-courts-where-it-was-likely-to-end-up-anyway/>; Another Lawsuit Seeks To Have Courts Take Over Minnesota Redistricting, The Associated Press, April 27, 2021; <https://www.twincities.com/2021/04/27/another-lawsuit-seeks-to-have-courts-take-over-minnesota-redistricting/>; Lawsuit: Let The Courts Draw Minnesota’s Political Maps, Briana Bierschbach, The Star Tribune, February 23, 2021, <https://www.startribune.com/lawsuit-let-the-courts-draw-minnesota-s-political-maps/600026554/>; Political Mapmaking Heads to Familiar Spot: Minnesota’s Courts, Brian Bakst, MPR News, February 22, 2021, <https://www.mprnews.org/story/2021/02/22/political-mapmaking-heads-to-familiar-spot-minnesotas-courts>.

² Dr. Karen Saxe “taught courses on electoral system design and voting theory” and “has published multiple articles on redistricting.” Proposed Complaint In Intervention By Data Science Intervenors, ¶ 8. Dr. Deanna Haunsperger has taught content related to “mathematical ways to ensure fair redistricting” and wrote her thesis on “voting theory.” *Id.*, ¶ 10. Dr. Stephen Kennedy has taught courses on “voting theory and apportionment” and the “mathematics of redistricting.” *Id.*, ¶ 11. Dr. Victor Reiner is involved in an organization in which “many math papers on redistricting and gerrymandering are submitted.” *Id.*, ¶ 13. Other Proposed Data Science Intervenors have experience related to elections and the census data. *Id.*, ¶¶ 17, 18, 19.

Civ. P. 16.02. At least one, and potentially all, of the Proposed Data Science Intervenors must have been aware of this lawsuit for some time. Failing to inquire as to the status of the redistricting lawsuit, review court filings and become apprised of scheduling deadlines does not meet the “good cause” standard.

The Proposed Data Science Intervenors attempt to create an artificial deadline for standing, August 12, 2021, in seeking to justify their untimely application for intervention. They argue, “The August 12 Redistricting Census Data Release is what ripened the Minnesota Legislature’s authority.” Memorandum of Law in Support of Motion and Application to Intervene by Proposed Data Science Intervenors (“Intervenors’ Memo”), pp. 7-8. No authority is cited for this novel proposition of legislative ripeness, and, in any event, the *Hippert* Minnesota Special Redistricting Panel previously determined, “Until February 21, 2012, the issue of the constitutionality of the current districts is not ripe for our decision.” *Hippert et al. v. Simon et al.*, A11-152, Order Stating Redistricting Principles and Requirements for Plan Submissions, November 4, 2011, p. 3. Thus, this entire case is unique in that the claims alleged by the parties will not become ripe until after principles and maps have been submitted to the Panel. *See* Minn. Stat. § 204b.14, subd. 1a. This unique procedural posture is necessary to allow time for constitutional elections to take place in 2022. The Proposed Data Science Intervenors are attempting to create a new theory and benchmark for ripeness without any legal authority to support their position.

The Proposed Data Science Intervenors want to “ensure that science and technology have a seat at the redistricting table.” Intervenors’ Memo, pp. 13-14. Science and

technology, however, will not vote in the 2022 elections. The Proposed Data Science Intervenor are seeking to claim standing and injury on the mere fact that they are alleged experts. However, experts serve as witnesses, not parties. These proposed intervenors are already adequately represented in this lawsuit and the disposition of this action will not impair or impede their interests. *See* Minn. R. Civ. P. 24.01.

If previous redistricting cases are any indication, this attempt is likely not the last untimely submission the Panel will receive in this case. Time is of the essence, and the parties and the Panel are working under significant time constraints to create and complete redistricting maps so that constitutional elections can be held. Any late intervention in this action will work to prejudice not only the parties but all voters in Minnesota, by causing harmful delay and needlessly increasing expenses for all. This lawsuit has been ongoing for close to seven months, and it is the sixth straight redistricting cycle that has been the subject of similar litigation. The existence and timing of this lawsuit can be of no surprise to alleged experts in the fields of redistricting and census data. The Proposed Data Science Intervenor's failure to inquire about the deadlines contained in a very public lawsuit does not amount to good cause to allow untimely intervention 30-days after the deadline has passed.

Plaintiffs respectfully request that the Panel deny the Proposed Data Science Intervenor's Motion for Intervention. There is nothing "unprecedented" and "manifestly unjust" about requiring highly sophisticated alleged experts to comply with the rules established by this Panel. And there is no precedent cited allowing scientists or experts to intervene as parties to a lawsuit based on their expertise.

Respectfully Submitted,

Date: September 8, 2021

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