

No. \_\_\_\_\_

**IN THE  
SUPREME COURT OF THE UNITED STATES**

---

LEAGUE OF WOMEN VOTERS OF MICHIGAN, *et al.*,  
*Plaintiffs,*

v.

JOCELYN BENSON,  
in her official Capacity as Michigan Secretary of State,  
*Defendant,*

and

LEE CHATFIELD,  
in his official capacity as Speaker of the Michigan House  
of Representatives and Aaron Miller, *et al.*,  
*Intervenor-Defendants.*

---

**CONGRESSIONAL AND STATE HOUSE INTERVENORS' APPLICATION FOR AN  
EXTENSION OF TIME IN WHICH TO FILE A JURISDICTIONAL STATEMENT**

---

**Holtzman Vogel Josefiak  
Torchinsky PLLC**  
Jason B. Torchinsky  
*Counsel of Record*  
Shawn T. Sheehy  
Phillip M. Gordon  
45 North Hill Drive, S 100  
Warrenton, Virginia 20106  
(540) 341-8800  
JTorchinsky@hvjt.law  
ssheehy@hvjt.law  
pgordon@hvjt.law  
*Attorneys for Applicants*

**Clark Hill PLC**  
Charles R. Spies  
Brian D. Shekell (P75327)  
David M. Cessante (P58796)  
212 E. Cesar Chavez Ave.  
Lansing, MI 48906  
(517) 318-3100  
cspies@clarkhill.com  
bshekell@clarkhill.com  
dcessante@clarkhill.com

Peter B. Kupelian (P31812)  
Kevin A. Fanning (P57125)  
151 S. Old Woodward, Suite 200  
Birmingham, MI 48009  
(248) 642-9692  
pkupelian@clarkhill.com  
kfanning@clarkhill.com  
*Attorneys for Applicants*

**Consovoy McCarthy  
Park, PLLC**  
William Consovoy  
3033 Wilson Boulevard  
Suite 700  
Arlington, VA 22201  
(703) 243-9423  
will@consovoymccarthy.com  
*Attorneys for Speaker Chatfield  
and Representative Aaron Miller*

*Collectively, counsel for Applicants/Defendants Lee Chatfield, in his official capacity as Speaker of the Michigan House of Representatives; Representative Aaron Miller, in his official capacity; and Congressmen Fred Upton, Jack Bergman, Tim Walberg, Bill Huizenga, John Moolenaar, and Paul Mitchell in their official capacities as Members of the Michigan Congressional Delegation.*

TO THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE JUSTICE OF THE UNITED STATES  
SUPREME COURT AND CIRCUIT JUSTICE FOR THE SIXTH CIRCUIT:

Congressional and State House Intervenors (“Applicants”) respectfully request an extension of time to file a jurisdictional statement. Sup. Ct. R. 18.3. The earliest deadline for Applicants to file their jurisdictional statement is Monday, July 1, 2019, which is sixty days<sup>1</sup> from Tuesday, April 30, 2019, the date when the Applicants filed their notice of appeal, (App. A), of the opinion and final judgment, (App. B), of the United States District Court for the Eastern District of Michigan (“District Court”) in *League of Women Voters of Michigan, et al. v. Benson*, Case No. 2:17-cv-14148, which invalidated portions of Michigan’s redistricting plan and ordered that special elections be held in 2020 for any state senate district either enjoined by the decision or modified by the remedial plan. That decision was stayed by this Court on May 24, 2019. *See Lee Chatfield, et al. v. League of Women Voters of Michigan, et al.*, No. 18A1171 (stay granted May 24, 2019). For good cause set forth herein, Applicants ask that this deadline be extended by forty-five days so that the new deadline to file Applicants’ jurisdictional statement would be August 15, 2019.<sup>2</sup>

---

<sup>1</sup> Pursuant to Supreme Court Rule 30.1, two days were added to this calculation to move the due date from Saturday, June, 29, to the “next day that is not a Saturday, Sunday, federal legal holiday, or day on which the Court building is closed,” namely, Monday, July 1, 2019.

<sup>2</sup> Applicants previously stated that they intended to file their forthcoming jurisdictional statement no later than June 3, 2019. Applicants’ Emergency Mot. Stay at n.2. However, because this Court has alleviated the danger of imminent irreparable harm to the State of Michigan, its citizens, and the Applicants by granting Applicants’ application for a stay of the District Court’s order, Applicants now, for the reasons set forth herein, respectfully request additional time to file the jurisdictional statement.

## BACKGROUND

This case arises from the District Court’s invalidation of 34 congressional, state house, and state senate districts included within Michigan’s legislative and congressional districting plan that was signed into law on August 9, 2011 (the “Current Apportionment Plan”) and challenged by the League of Women Voters of Michigan and individually named Plaintiffs (“Respondents”). Respondents brought claims alleging that Michigan’s congressional, state senate, and state house districts violated the United States Constitution. *See* App. B at 1. Respondents requested that the District Court permanently enjoin 34 challenged districts. *Id.* at 2; *see also* 28 U.S.C. § 2284(a).

After a four-day bench trial, and after receiving post-trial briefing, the District Court granted Respondents’ requested relief and enjoined all the challenged congressional and legislative districts. App. B at 144. The District Court found that the Current Apportionment Plan violates Plaintiffs’ First and Fourteenth Amendment rights because it deliberately dilutes the power of their votes by placing them in districts that were intentionally drawn to ensure a particular partisan outcome in each district. App B at 3. The District Court also found that the Current Apportionment Plan injures Plaintiffs’ First Amendment right to association by discriminating against them and their political party and subjecting them to “disfavored treatment by reason of their views.” *Id.*

## **OPINIONS BELOW**

Applicants appeal the judgment and opinion from the three-judge court of the Eastern District of Michigan. The opinion is reproduced fully in the Appendix and is reported at *League of Women Voters of Mich., et al. v. Benson, et al.*, No. 17-14148, 2019 U.S. Dist. LEXIS 70167, \_\_ F.Supp. 3d \_\_, 2019 WL 1856625 (E.D. Mich. April 25, 2019) (three-judge court).

## **JURISDICTION**

This Court has jurisdiction under 28 U.S.C. § 1253.

## **REASONS EXTENSION IS JUSTIFIED**

Supreme Court Rule 18.3 provides that “[a]n application to extend the time to file a jurisdictional statement shall set out the basis for jurisdiction in this Court; identify the judgment sought to be reviewed; include a copy of the opinion, any order respecting rehearing, and the notice of appeal; and set out specific reasons why an extension of time is justified.” Sup. Ct. R. 18.3. The specific reasons why an extension of time is justified are as follows:

1. Prior to this Court granting a stay of the District Court’s order on May 24, 2019, the schedule of the remedial phase in this case was extremely compressed. The District Court issued its order on April 25, 2019, requiring that new maps be drawn, proposed, and passed by the legislature no later than August 1, 2019. In order to accomplish this, the legislature would have had to transmit legislation approved by both chambers to the Governor by July 18, 2019. This tight and demanding schedule meant that Applicants necessarily were occupied with complying with the

heavy demands of the compressed legislative timeframe while pursuing all legal options including an appeal and stay the order of the District Court.

2. The Michigan Legislature has been in session each week since the District Court issued its order on April 25, 2019, and will be in session each week in June. During this time, the legislature has been faced with a number of competing legislative priorities including, *inter alia*, passing a budget, and considering important legislation on gas taxes to pay for infrastructure repairs, and water quality. See Applicants' Emergency Mot. Stay at 22-23, No. 18A1171 (filed May 10, 2019). The legislature has also passed important legislation during this time; for example, on May 24, 2019, it passed a "landmark bill that would cut the country's highest auto insurance premiums by letting drivers forego a one-of-a-kind requirement to buy unlimited medical coverage for crash injuries." Dave Eggert, *Bill to Cut Auto Insurance Premiums Passed by Michigan Legislature*, INSURANCE JOURNAL (May 28, 2019).<sup>3</sup> This means that, in addition to Applicants' efforts to address the order, they have been, and will be, occupied with the everyday work necessary to participate in, and prepare for, legislative sessions.

3. Similarly, the United States House of Representatives has been in session nearly continuously since the District Court's ruling, and the time and attention of the congressional delegation has been focused on pending matters in Washington.

---

<sup>3</sup> <https://www.insurancejournal.com/news/midwest/2019/05/28/527583.htm>

4. In sum, the heavy demands of complying with, and seeking an appeal and stay of the opinion challenged in this appeal; and the regularly scheduled workload of state legislative leadership and the House of Representatives; and the demands of other cases before this Court, have will occupy much of the sixty days afforded by the rules to applicants considering an appeal. Applicants seek a forty-five day extension to cope with these demands.

5. The requested extension also is necessary to accommodate pressing deadlines in Applicants' counsel's other matters.

6. In addition to the extraordinary burdens that District Court's order has placed on the Applicants' competing priorities over the past month, the requested extension would allow Applicants the opportunity to review and consider the impact of this Court's forthcoming rulings in *Rucho*, No. 18-422 and *Benisek*, No. 18-726, which will be issued within weeks. The dispositive issues common to both *Rucho* and *Benisek*, standing and justiciability, are the same dispositive issues Congressional and State House Intervenors bring to this Court and the rulings from the Court in *Rucho* and *Benisek*, unless those decisions are affirmed in all regards, will necessarily impact the legal analysis of this matter. *See* Applicants' Emergency Mot. Stay at 7-8, No. 18A1171 (filed May 10, 2019). For this reason, Applicants' jurisdictional statement will necessarily benefit from this Court's rulings in those matters and the time to incorporate analysis of the impact of those cases.

7. The District Court's decision warrants this Court's review because the issues in this case—whether Plaintiffs have standing to bring their claims, whether

Plaintiffs' claims are justiciable, and, if those claims are justiciable, whether the standards adopted by the District Court are manageable—remain open questions and are the same issues that this Court is currently considering in *Rucho* and *Benisek*. The reasons meriting this Court's review are further detailed in the Congressional and State House Intervenors' Emergency Application For Stay Of Appeal To This Court (18A1171) filed with this Court on May 10, 2019.

### **CONCLUSION**

For the foregoing reasons and good cause shown, Applicants respectfully request that this Court grant this application for a 45-day extension of time to file a jurisdictional statement.

**Holtzman Vogel Josefiak  
Torchinsky PLLC**



Jason B. Torchinsky  
*Counsel of Record*  
Shawn Sheehy  
Phillip Gordon  
45 North Hill Drive, Suite 100  
Warrenton, Virginia 20186  
(540) 341-8800  
[JTorchinsky@hvjt.law](mailto:JTorchinsky@hvjt.law)  
[ssheehy@hvjt.law](mailto:ssheehy@hvjt.law)  
[pgordon@hvjt.law](mailto:pgordon@hvjt.law)  
*Attorneys for Applicants*

**Consovoy McCarthy Park, PLLC**

William Consovoy  
3033 Wilson Boulevard, Suite 700  
Arlington, VA 22201  
(703) 243-9423  
[will@consovoymccarthy.com](mailto:will@consovoymccarthy.com)  
*Attorneys for Applicants Speaker Chatfield  
and Representative Aaron Miller*

**Clark Hill PLC**

Charles R. Spies  
Brian D. Shekell (P75327)  
David M. Cessante (P58796)  
212 E. Cesar Chavez Ave.  
Lansing, MI 48906  
(517) 318-3100  
[cspies@clarkhill.com](mailto:cspies@clarkhill.com)  
[bshekell@clarkhill.com](mailto:bshekell@clarkhill.com)  
[dcessante@clarkhill.com](mailto:dcessante@clarkhill.com)  
*Attorneys for Applicants*

Peter B. Kupelian (P31812)  
Kevin A. Fanning (P57125)  
151 S. Old Woodward, Suite 200  
Birmingham, MI 48009  
(248) 642-9692  
[pkupelian@clarkhill.com](mailto:pkupelian@clarkhill.com)  
[kfanning@clarkhill.com](mailto:kfanning@clarkhill.com)  
*Attorneys for Applicants*