
THE STATE OF NEW HAMPSHIRE
SUPREME COURT

Docket No. 2012-0338

City of Manchester, Barbara E. Shaw and John R. Rist, et al.
Petitioner,

v.

Secretary of State
Respondent.

NOTICE OF JOINDER IN WALLNER ET AL. RESPONSE BRIEF
ON CONSTITUTIONALITY

Petitioners City of Manchester, Barbara E. Shaw and John R. Rist, by their attorneys, give notice that they join the Response Brief on Constitutionality filed by the Wallner et al. Petitioners.

Petitioners emphasize that the Intervenor, Speaker O'Brien, is incorrect in comparing the constitutional provision for apportionment of the 24 member Senate, N.H.CONST. Part II, Art. 26, with just one of the several constitutional provisions applicable to apportionment of the 400 member House of Representatives, Part II, Art. 11. In fact, Article 11 was amended in 2006 to state that each "town or ward [of sufficient population] shall have its own district of one *or more* representative seats." Applied to Manchester, Wards 8 and 9 have sufficient population to receive their own seats plus a floterial district within the city, while affording Litchfield more than ample alternatives.

Also, contrary to Intervenor, Speaker O'Brien's brief, there is nothing "nebulous and unworkable" in applying community of interest factors to redistricting. The United States

Supreme Court specifically accepted their use in *Miller v. Johnson*, 515 U.S. 900, 916 (1995) and many states use them. *See*, Manchester's Brief on Constitutionality, pp. 14 – 15. The Intervenor's suggestion that *McGovern v. Secretary of State*, 138 N.H. 128 (1993) prevents use of data outside of the United States Census in redistricting is misleading: that case merely held that the Census is the only proper source for *population* data. It did not deal with other redistricting data, such as maps or demographic and economic comparisons among towns. *See*, Manchester's Brief, pp. 10 – 13, 16 – 18.

Respectfully submitted,

CITY OF MANCHESTER
BARBARA E. SHAW and JOHN R. RIST

By their Attorneys:

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: May 29, 2012

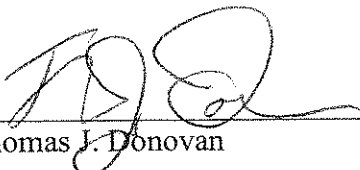
By:



Thomas J. Donovan, No. 664
900 Elm Street, P.O. Box 326
Manchester, NH 03105
Telephone (603) 625-6464

Certificate of Service

I hereby certify that on May 29, 2012, I served the foregoing Notice of Joinder in Wallner et al. Response Brief on Constitutionality by electronic mail upon Jason B. Dennis, Esq., Tony F. Soltani, Esq., Jason M. Surdukowski, Esq., Martin P. Honigberg, Esq., Danielle L. Pacik, Esq., Peter V. Millham, Esq., Matthew D. Huot, Esq., Anne M. Edwards, Esq., Stephen G. LaBonte, Esq., Richard J. Lehmann, Esq., David A. Vicinanza, Esq. and Anthony L. Galdieri, Esq., pursuant to the Court's May 14, 2012 scheduling order.



Thomas J. Donovan