STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A11-152

OFFICE OF APPELLATE COURTS

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FILED

Sara Hippert, Dave Greer, Linda Markowitz, Dee Dee Larson, Ben Maas, Gregg Peppin, Randy Penrod and Charles Roulet, individually and on behalf of all citizens and voting residents of Minnesota similarly situated,

Plaintiffs,

and

Kenneth Martin, Lynn Wilson, Timothy O'Brien, Irene Peralez, Josie Johnson, Jane Krentz, Mark Altenburg and Debra Hasskamp, individually and on behalf of all citizens of Minnesota similarly situated,

Intervenors,

and

Audrey Britton, David Bly, Cary Coop, and John McIntosh, individually and on behalf of all citizens of Minnesota similarly situated,

Intervenors,

vs.

Mark Ritchie, Secretary of State of Minnesota; and Robert Hiivala, Wright County Auditor, individually and on behalf of all Minnesota county chief election officers,

Defendants.

HIPPERT PLAINTIFFS' MOTION TO ADOPT PROPOSED REDISTRICTING CRITERIA

ORAL ARGUMENT REQUESTED

Plaintiffs Sara Hippert *et al.* submit this Motion to Adopt Proposed Redistricting Criteria pursuant to the Special Redistricting Panel's Scheduling Order No. 1, dated July 18, 2011. Plaintiffs' proposed redistricting criteria are set forth in *Exhibit A*, which is attached to Plaintiff's Memorandum of Law in support of this motion. Plaintiffs request oral argument on this Motion.

This motion will be based upon the memorandum of law submitted by Plaintiffs, the arguments of counsel, and all files, records and proceedings herein.

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HIPPERT PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION TO ADOPT REDISTRICTING CRITERIA

ORAL ARGUMENT REQUESTED

INTRODUCTION

Plaintiffs Sara Hippert *et al.* ("Plaintiffs") submit this Memorandum of Law in Support of Plaintiffs' Motion to Adopt Redistricting Criteria (the "Motion"). Plaintiffs' proposed redistricting criteria are set forth in *Exhibit A*. Plaintiffs request oral argument on this Motion.

The redistricting criteria set forth in *Exhibit A* are proposed to ensure that the redistricting process is based on constitutional requirements and objective standards, and to minimize the potential for political manipulation or gerrymandering. The proposed redistricting criteria are consistent with the United States Constitution, the Minnesota Constitution, and applicable statutory and case law. Many of the criteria are based on criteria previously adopted by the Special Redistricting Panel during the last Minnesota redistricting cycle. *See Zachman v. Kiffmeyer*, No. C0-01-160 ("*Zachman*"), (Minn. Special Redistricting Panel, Dec. 11, 2001) (order stating redistricting principles and requirements for plan submissions) (hereinafter "*Zachman* Criteria Order"). For these reasons and the reasons explained further below, Plaintiffs respectfully request that the Panel adopt their proposed redistricting criteria in their entirety.

ARGUMENT

I. CONSTITUTIONAL REQUIREMENTS, STATUTORY MANDATES, AND OBJECTIVE STANDARDS SHOULD BE PRIORITIZED OVER SUBJECTIVE CRITERIA.

An important aspect of Plaintiffs' proposed redistricting criteria is that redistricting criteria are ranked to give priority to constitutional and statutory requirements and objective standards over subjective and difficult-to-measure criteria.

See Exhibit A at Congressional Districts Standard No. 9 and Legislative Districts Standard No. 10. Giving priority to constitutional requirements and objective standards is the best way for this Panel to achieve its goals of drafting a redistricting plan that assures each citizen of Minnesota an equal voice in the political process, complies with all constitutional and statutory requirements, and is free from bias.

A. The U.S. and Minnesota Constitutions Require Redistricting to Be Based on Population Equality.

Any redistricting plan adopted by this Panel must comply with the population equality standards guaranteed by the U.S. Constitution and the Minnesota Constitution. *See* U.S. Const. art. I, § 2; Minn. Const. art. IV, § 2; *Wesberry v. Sanders*, 376 U.S. 1, 7–8 (1964) (discussing population equality standards for congressional districts); *Reynolds v. Sims*, 377 U.S. 533, 577–81 (1964) (discussing population equality standards for legislative districts). For congressional districts, the standard is "one person, one vote," and strict population equality is required. *Gray v. Sanders*, 372 U.S. 368, 381 (1963).

With respect to legislative districts, *Reynolds* provides that "substantial equality" in population is required to withstand Equal Protection scrutiny. 377 U.S. at 579. The Minnesota Constitution, however, imposes a higher standard than *Reynolds*, stating that "representation in both houses shall be apportioned equally throughout the different sections of the state in proportion to the population thereof." Minn. Const. art IV, § 2 (emphasis added). Moreover, court-ordered redistricting plans are required to adhere to stricter population equality standards than plans drafted by legislative bodies. *Connor v. Finch*, 431 U.S. 407, 414 (1977).

As a constitutionally-required criterion, population equality is paramount to all other permissible criteria that, however laudable they may be, are not mandated by the U.S. and Minnesota Constitutions. Given these constitutional mandates, population inequality among districts—not preserving political subdivisions, communities of interest, or any otherwise legitimate state interest—is why redistricting occurs. Even the other constitutional criteria, though key to how districts may be drawn, are not the reasons for redistricting.

Thus, population equality should be this Panel's first priority and overriding concern for both congressional and legislative districts.

B. Redistricting Must Comply with Constitutional and Statutory Requirements.

In addition to population equality, the U.S. and Minnesota Constitutions and federal and state law establish other mandatory requirements for the redistricting process. For example, the Minnesota Constitution provides that legislative districts must be composed of "convenient contiguous territory" and that "[n]o representative district shall be divided in the formation of a senate district." Minn. Const. art. IV, § 3. Minnesota law further requires that political subdivisions shall "not be divided more than necessary to meet constitutional requirements." Minn. Stat. § 2.91, subd. 2 (2010). Likewise, the Fourteenth and Fifteenth Amendments to the U.S. Constitution and the Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437, as amended, 42 U.S.C. § 1973 *et seq.*, prohibit the use of redistricting for the purpose of diluting racial or ethnic minority voting strength. *See Bush v. Vera*, 517 U.S. 952, 959 (1996) (holding that race may not be the

predominant factor for redistricting decisions). These constitutional and statutory requirements are mandatory, and they should also receive priority in this redistricting litigation.

C. Objective Criteria are Less Susceptible to Political Manipulation.

Case law cautions that court-ordered redistricting plans must "not become entangled in the politics that might surround redistricting processes and are common to the legislative arena." *Zachman* Criteria Order at 10 (citing *Connor*, 431 U.S. at 415 (noting that courts lack the "political authoritativeness" legislatures bring to redistricting and that "the court's task is inevitably an exposed and sensitive one that must be accomplished circumspectly, and in a manner free from any taint of arbitrariness or discrimination")). In addition to prioritizing constitutional and statutory requirements, another way to ensure that the results of this redistricting process are considered unbiased and free from gerrymandering or political gamesmanship is to give priority to objective, measurable criteria.

Criteria such as population equality and the statutory prohibition against unnecessary divisions of political subdivisions are objective, measurable, and well defined. On the other hand, criteria such as communities of interest and compactness are ambiguous, ill defined, and subject to dispute. Significant disagreement exists over how to define and measure criteria such as compactness and communities of interest. *See infra*, §§ VI-VII. The lack of clear standards increases the potential for partisan manipulation of the redistricting process. As a result, to ensure that the redistricting process is "free from any taint of arbitrariness or discrimination," this Panel should

attempt to rely on objective, measurable standards to the greatest extent possible and should not give priority to criteria that are more nebulous or subjective.

D. <u>Redistricting Criteria Should Be Ranked to Prioritize Constitutional and Statutory Requirements and Objective Standards.</u>

Plaintiffs' proposed redistricting criteria establish a framework for how this Panel should prioritize constitutional and statutory requirements and objective criteria over subjective criteria. Specifically, Plaintiffs propose the following criterion:

> Where it is not possible to fully comply with the principles contained ... hereinabove, a redistricting plan must give priority to those principles in the order in which they are listed hereinabove, except to the extent doing so would violate federal or state law.

See <u>*Exhibit A*</u> at Congressional Districts Standard No. 9 and Legislative Districts Standard No. 10. This criterion is designed to work in tandem with the numerical ordering of Plaintiffs' proposed redistricting criteria, which emphasizes constitutional and statutory requirements and objective standards as the Panel's highest priorities.

By explicitly identifying the priority of each redistricting criterion, Plaintiffs' proposed criteria increases transparency and will engender trust in the impartiality and integrity of the redistricting process. For these reasons, Plaintiffs urge the Panel to adopt this proposed prioritization criterion as well as the numerical ordering of the redistricting criteria proposed by Plaintiffs.

II. <u>THE MAXIMUM TOLERABLE DEVIATION FOR LEGISLATIVE DISTRICTS SHOULD BE PLUS OR MINUS 1%.</u>

Population equality is the preeminent constitutional requirement for congressional redistricting. *See Chapman v. Meier,* 420 U.S. 1, 23 (1975) (internal citations omitted);

see also Section (I) of Hippert Plaintiffs' Statement of Unresolved Issues dated September 28, 2011 (the "Hippert Statement") (incorporated herein by reference). With respect to legislative districts, however, courts have recognized that "divergences from a strict population standard" may be permissible so long as they "are based on legitimate considerations incident to the effectuation of a rational state policy ...." *Reynolds*, 377 U.S. at 579.

As stated in the Hippert Plaintiffs' Statement of Unresolved Issues, Plaintiffs propose the following criterion for the maximum tolerable deviation for legislative districts:[1]

> Legislative redistricting plans will faithfully adhere to the concept of population-based representation. *Roman v. Sincock,* 377 U.S. 695, 710 (1964). The plans will not exceed a maximum tolerable population deviation from the ideal population size of plus (+) or minus (-) one percent (1.0%). Because a court-ordered redistricting plan must conform to a higher standard of population equality than a legislative redistricting plan, *de minimis* deviation from the ideal district population will be the goal. *Connor v. Finch,* 431 U.S. 407, 414 (1977); *Chapman v. Meier*, 420 U.S. 1, 26–27 (1975).

See Exhibit A at Legislative Districts Standard No. 3.

Plaintiffs' proposed one-percent maximum tolerable deviation standard was achieved in Minnesota's last redistricting cycle. *See Zachman*, No. C0-01-160, at 3 (Minn. Spec. Redistricting Panel, Mar. 19, 2002) (final order adopting a legislative redistricting plan). This Panel should adopt plus or minus one percent (±1%) as the maximum tolerable percentage deviation from the ideal for legislative districts because it:

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[1] The "maximum tolerable percentage deviation" means the largest percentage by which any legislative district may deviate from the ideal district population size, whether the deviation is negative or positive.

(1) satisfies applicable legal standards; (2) is objective and measurable; (3) is technologically feasible and historically achievable; and (4) provides sufficient flexibility to avoid sacrificing other legitimate redistricting criteria.

III. CONTIGUITY AND NUMBERING CRITERIA SHOULD TAKE INTO ACCOUNT THE 11-COUNTY TWIN CITIES METROPOLITAN AREA.

The Plaintiffs' proposed contiguity and numbering criteria takes into account the 11-county Twin Cities Metropolitan Area, instead of the seven-county metropolitan area used in previous redistricting cycles. See Exhibit A at Legislative Districts Standard No. 4. Given the massive population growth and expansion of the Twin Cities metropolitan area over the past several decades (as recognized by the *Zachman* Panel, *see Zachman*, No. C0-01-160, at 4 (Minn. Spec. Redistricting Panel, Mar. 19, 2002) (final order adopting a congressional redistricting plan)), the seven-county definition proposed by the other parties is inappropriate. This Panel should reject proposals to utilize the out-of-date seven-county definition of the metropolitan area and move to an 11-county model.

A. The Metropolitan Council's Seven-County Approach is Out of Date and Should Not Be Used for Redistricting Purposes.

The Metropolitan Council was created to serve the seven-county metropolitan area in 1967. *See* Metropolitan Council, *History of the Council*, http://www.metrocouncil.org/about/history.htm. At that time, the Minneapolis-St. Paul metropolitan statistical area was only defined to include five counties. *See Exhibit B* (defining metro area as including 5 counties in 1971).[2] Now, even the Metropolitan

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[2] A true and correct copy of selected pages from the U.S. Census Bureau, *Standard Metropolitan Statistical Areas (SMSAs) and Components, 1971, with FIPS Codes*,

Council itself acknowledges that the regional economy "extends well beyond the seven-county metropolitan area." *See* Metropolitan Council, *Snapshot of the Region*, http://www.metrocouncil.org/about/region.htm (last visited October 3, 2011). Former Minnesota state demographer Hazel Reinhardt agrees with this assessment and was recently quoted as saying that:

> First of all, the geographic definition of the Twin Cities metropolitan area is already ripe for change, Reinhardt said. "In 1967, to set the Council's area of purview at seven counties actually had a great deal of foresight — because the metro area as defined by commuting was a mere five counties. However, it soon got away from us, and in 2000 the metropolitan statistical area as defined by the U.S. Census — and that does have thresholds for commuting — is 11 Minnesota counties and two Wisconsin counties."
>
> In five of the 12 counties adjacent to the current seven-county metro, more than 40 percent of workers commute into the region; in another four, at least 20 percent of workers commute into the metro. "I think it is fair to say that if we look at 2040, this metro area is likely to be larger than the 11 Minnesota counties…I think there will be other counties that will make that 20 or 25 percent threshold," Reinhardt said.

See Metropolitan Council, *Population changes mean big changes ahead for region*, http://www.metrocouncil.org/directions/general/policyconf07demographics.htm (last visited October 3, 2011). Because the Metropolitan Council's definition of the metropolitan area has not changed since 1967 despite massive growth in the Twin Cities area, the Metropolitan Council's seven-county approach is out of date and should not be used for redistricting purposes.

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available online at http://www.census.gov/population/www/metroareas/lists/historical/71mfips.txt (last visited October 4, 2011), is attached hereto as *Exhibit B*.

B. The Office of Management and Budget Has Recognized the Twin Cities Metropolitan Area to Be Larger Than Seven Counties Since 1973.

The United States Census Bureau uses the metropolitan statistical areas defined by the United States Office of Management and Budget ("OMB")[3]. In contrast to the Metropolitan Council's seven-county definition of the Twin Cities metropolitan area, the OMB and the United States Census Bureau define the Minneapolis-St. Paul-Bloomington, MN-WI metropolitan statistical area to include 13 counties, including two counties in Wisconsin.[4] *See* Peter R. Orszag, Office of Management and Budget, *OMB Bulletin No. 10-02, List 2,* at 41 (December 1, 2009), available at http://www.whitehouse.gov/omb/assets/bulletins/b10-02.pdf. Metropolitan statistical areas are characterized as having "at least one urbanized area of 50,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties." *Id.* at 2 (emphasis added). Outlying counties are included in a metropolitan statistical area if:

> (a) at least 25 percent of the workers living in the county work in the central county or counties of the [Core Based Statistical Area ("CBSA")]; or

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[3] U.S. Census Bureau, *Metropolitan and Micropolitan Statistical Areas*, http://www.census.gov/population/metro/ (last visited October 3, 2011); U.S. Census Bureau, Metropolitan and Micropolitan Statistical Areas and Components, http://www.census.gov/population/metro/files/lists/2009/List1.txt (last visited October 3, 2011).

[4] These counties are: (i) Anoka County, MN; (ii) Carver County, MN; (iii) Chisago County, MN; (iv) Dakota County, MN; (v) Hennepin County, MN; (vi) Isanti County, MN; (vii) Ramsey County, MN; (viii) Scott County, MN; (ix) Sherburne County, MN; (x) Washington County, MN; (xi) Wright County, MN; (xii) Pierce County, WI; and (xiii) St. Croix County, WI.

> (b) at least 25 percent of the employment in the county is accounted for by workers who reside in the central county or counties of the CBSA.

See 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas, 75 Fed. Reg. 37,246, at 37,250 (June 28, 2010), *available at* http://www.whitehouse.gov/sites/default/files/omb/assets/fedreg_2010/06282010_metro_standards.pdf.

The OMB's current definition of the Minneapolis-St. Paul-Bloomington, MN metropolitan statistical area has existed since 1983. *See Exhibit C* (defining metro area as including 13 counties in 1983).[5] In fact, the OMB has recognized that the Twin Cities metropolitan area has been larger than seven counties since 1973. *See Exhibit D* (defining metro area as including 10 counties in 1973).[6] Thus, the seven-county metropolitan area proposed by the other parties has not been an accurate measure of the Twin Cities metropolitan area for almost four decades.

C. Between 2000 and 2010, the Four Counties Not Included in the Seven-County Metropolitan Area Grew Significantly.

Over the past ten years, the four counties that are currently excluded from the seven-county metropolitan area (Chisago, Isanti, Sherburne, and Wright) were among the

[5] A true and correct copy of selected pages from the U.S. Census Bureau, *Metropolitan Areas and Components, 1983, with FIPS Codes*, available online at http://www.census.gov/population/www/metroareas/lists/historical/83mfips.txt (last visited October 4, 2011), is attached hereto as *Exhibit C*.

[6] A true and correct copy of selected pages from the U.S. Census Bureau, *Standard Metropolitan Areas (SMSAs) and Components, 1973, with FIPS Codes*, available online at http://www.census.gov/population/www/metroareas/lists/historical/73mfips.txt (last visited October 4, 2011), is attached hereto as *Exhibit D*.

fastest growing counties in the state. The growth statistics for all 11 metropolitan counties between 2000 and 2010 are as follows:

County	Growth Between 2000 and 2010
Anoka	11.0%
Carver	29.7%
Chisago	**31.1%**
Dakota	12.0%
Hennepin	3.3%
Isanti	**20.9%**
Ramsey	-0.5%
Scott	45.2%
Sherburne	**37.4%**
Washington	18.4%
Wright	**38.6%**

See Minnesota Department of Administration, Minnesota Population Change by County 1990-2010, http://www.demography.state.mn.us/resource.html?Id=31945 (March 16, 2011). The high growth in these four counties reinforces the conclusion that they should be included in the Panel's definition of the Twin Cities metropolitan area.

Of course, political subdivisions and, as a secondary matter, communities of interest, must also be maintained within the 11-county metropolitan statistical area. The political boundaries and demographic differences between the urban cities and the exurban areas, as well as the affiliations (or lack thereof) among suburbs and exurbs, are key map-drawing considerations. Plaintiffs submit that the 11-county metropolitan area more accurately reflects demographic trends and changes, and includes existing relationships developed and developing amongst suburbs and exurbs.

D. The Contiguity/Numbering Criteria Should Account for the Appropriate Twin Cities Metropolitan Area.

1. The Contiguity/Numbering Criteria For Legislative Districts Should Account for the 11-County Metropolitan Area.

Any redistricting criteria adopted by this Panel should be based on objective data, not aggregations that have been inaccurate for decades such as the seven-county metropolitan area. Accordingly, this Panel should adopt redistricting criteria that defines the Twin Cities metropolitan area as including 11 counties, consistent with the OMB's definition.

To incorporate the modern reality of the 11-county Twin Cities Metropolitan area into the Panel's redistricting criteria, Plaintiffs propose the following criteria regarding contiguity and numbering for legislative districts:

> LEGISLATIVE:
>
> The legislative districts must be numbered in a regular series, beginning with House District 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the eleven (11)-county metropolitan area until the southeast corner has been reached; then to the eleven (11)-county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.
>
> Legislative districts must be composed of convenient, contiguous territory. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Districts with areas that connect at only a single point will be considered noncontiguous. Minn. Const. art. IV, § 3; Minn. Stat. § 2.91, subd. 2 (2010); *Reynolds v. Sims*, 377 U.S. 533, 578–79.

See Exhibit A at Legislative Districts Standard Nos. 4–5. In addition to incorporating the 11-county Twin Cities Metropolitan Area, these proposed criteria also satisfy the contiguity requirements of Minnesota Statutes section 2.91 and the Minnesota

Constitution's requirements that districts be composed of "convenient contiguous territory" and be numbered in a regular series. *See* Minn. Const. art. 4, § 3.

2. The Contiguity and Numbering Criteria for Congressional Districts Should Mirror the Criteria for Legislative Districts.

Congressional District numbering does not depend upon the number of metropolitan districts; therefore, Plaintiffs simply propose the following consistent criteria regarding contiguity and numbering for congressional districts:

> CONGRESSIONAL:
>
> The congressional district numbers will begin with district one (1) in the southeast corner of the state and end with district eight (8) in the northeast corner of the state.
>
> Congressional districts must be composed of convenient, contiguous territory. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Districts with areas that connect at only a single point will be considered noncontiguous. Minn. Stat. § 2.91, subd. 2 (2010); *Shaw v. Reno*, 509 U.S. 630, 646 (1993) (*citing Reynolds v. Sims,* 377 U.S. 533, 587 (1964)).

See Exhibit A at Congressional Districts Standard Nos. 3–4. Again, these proposed criteria satisfy the contiguity requirements of Minnesota Statutes section 2.91 and the Minnesota Constitution's requirements that districts be composed of "convenient, contiguous territory" and be numbered in a regular series. *See* Minn. Const. art. 4, § 3.

IV. PRESERVATION OF POLITICAL SUBDIVISION BOUNDARIES (COUNTIES, CITIES, AND TOWNSHIPS) IS REQUIRED BY MINNESOTA LAW.

A. Political Subdivisions Must be Protected.

Minnesota law mandates "that political subdivisions not be divided more than necessary to meet constitutional requirements." Minn. Stat. § 2.91, subd. 2 (2010). The courts have frequently permitted legislatures to use preservation of political subdivisions as a redistricting principle so long as its use does not violate constitutionally-mandated equality of population or result in racial and ethnic minority dilution or concentration. *See e.g.*, *David v. Cahill*, 342 F.Supp. 463, 469 (D. N.J. 1972); *Dunn v. State of Oklahoma*, 343 F.Supp. 320, 329 (W.D. Okla. 1972); *Preisler v. Secretary of State of Missouri*, 341 F.Supp. 1158, 1162 (W.D. Mo. 1972). In *Reynolds*, the U.S. Supreme Court recognized that preservation of political subdivisions is "[a] consideration that appears to be of more substance in justifying some deviations from population-based representations." 377 U.S. at 580.

To address the requirements of subdivision two of Minnesota Statutes section 2.91, Plaintiffs propose the following criterion regarding preservation of political subdivision boundaries:

> Congressional: A county, city, or township will not be unduly divided into more than one congressional district unless required to meet equal population requirements or to form districts composed of convenient, contiguous territory. A county, city or town is not unduly divided in the formation of a congressional district if: (a) the division occurs because a portion of a city or town is noncontiguous with another portion of the same city or town; or (b) despite the division, the known population of any affected county, city or town remains wholly located within a single

district. Minn. Stat. § 2.91, subd. 2 (2010); *Karcher v. Daggett,* 462 U.S. 725, 733 n. 5, 740–41 (1983).

> Legislative: A county, city, or township will not be unduly divided into more than one legislative district unless required to meet equal population requirements or to form districts composed of convenient, contiguous territory. A county, city or town is not unduly divided in the formation of a legislative district if: (a) the division occurs because a portion of a city or town is noncontiguous with another portion of the same city or town; or (b) despite the division, the known population of any affected county, city or town remains wholly located within a single district. Minn. Stat. § 2.91, subd. 2 (2010); *Karcher v. Daggett,* 462 U.S. 725, 733 n. 5, 740–41 (1983).

See *Exhibit A* at Congressional Districts Standard No. 6 and Legislative Districts Standard No. 7.

Plaintiffs' proposal regarding political subdivisions is similar to the political subdivision criterion adopted in 2001 in *Zachman,* with minor modifications. *See Zachman* Criteria Order at 2–4. The "unduly divided" provision in Plaintiffs' proposal is intended to account for city/town "splits" of noncontiguous areas. Such "splits" will not result in a jurisdiction being unduly divided, nor will they qualify as "splits" in political subdivision split reports. This minor clarification thereby places the focus of this criterion on meaningful subdivision splits.

Minimizing political subdivision splits is not only required by statute, but also promotes the practical goal of reducing costs on local election officials and increasing election efficiency. As a purely factual matter, the more congressional, state senate and state house districts within a particular voting jurisdiction, the more types of ballots must be produced by the local election officials. Additionally, more districts create more races

to tabulate and report, thereby increasing staff and volunteer election judge costs, timing and duties.

At the same time, the final sentence in the *Zachman* criteria stating that a city/county will be divided into "as few districts as possible" goes beyond the language above and, taken literally, leaves no room for other relevant criteria. *See id.* Furthermore, this language is not mandated by constitution, statute, or case law. Although it is important to focus on political subdivision splits, many large cities are used to such divisions—which are often unavoidable. As a matter of mathematical fact, any city over the ideal population size (79,163 for a senate district and 39,582 for a house district) will necessarily be located in more than one applicable district. Hence, literal attempts to split "as few times as possible" can invariably lead to *more* cities being split while unnecessarily handcuffing the drafters of redistricting maps. For this reason, this Panel should not adopt the final sentence in the *Zachman* criteria stating that a city/county will be divided into "as few districts as possible."

B. Political Subdivisions are Objective and Should Be Prioritized Over the More Nebulous "Communities of Interest" Standard.

Although certain courts have at times equated political subdivisions with other "communities of interest," preservation of political subdivisions must be considered a criterion separate and superior to other, more subjective redistricting principles because political subdivisions are protected by statute, well-defined, and, by their very nature, inextricably tied to the electoral and voting process.

Political subdivision boundaries are not only protected by statute, but also provide a neutral, identifiable, fixed, and objective criterion. As a result, the preservation of political subdivisions criterion will not create the potential for partisan manipulation of district boundaries, which is inherent in vague and undefined standards. Criteria such as "communities of interest" and "compactness," on the other hand, are subjective and difficult to measure. Depending on a person's point of view, "communities of interest" may be arbitrary or hostile to one another. Moreover, wards, precincts, and other voting communities are typically defined within political subdivisions. Thus, Plaintiffs urge this Panel to adopt criteria that place an appropriate emphasis on respecting political subdivision boundaries as the most important non-constitutional criterion in this redistricting process.

V. **EQUAL PROTECTION/VOTING RIGHTS ACT.**

The Equal Protection clause of the U.S. Constitution, coupled with the federal Voting Rights Act of 1965, 42 U.S.C. § 1973 (the "VRA"), requires that racial or ethnic minority voting groups not be diluted by redistricting plans. In a series of decisions since Section 2 of the VRA was adopted, the U.S. Supreme Court has scrutinzed redistricting activities in which it was asserted that race was a "predominant factor" in drawing congressional district (or legislative district) lines. *See Bush v. Vera*, 517 U.S. 952, 959 (1996); *see also e.g.*, *Miller v. Johnson*, 515 U.S. 900, 919–20 (1995); *Easley v. Cromartie*, 532 U.S. 234, 241 (2001); *Shaw v. Reno*, 509 U.S. 630, 642–43 (1993) ("*Shaw I*"); *Shaw v. Hunt*, 517 U.S. 899, 906–07 (1996) ("*Shaw II*"); *Georgia v. Ashcroft*, 539, U.S. 461, 467 (2003).

Accordingly, to strike the appropriate balance between unconstitutional racial or ethnic minority vote dilution and unconstitutional utilization of race as a "predominant factor," Plaintiffs propose the following relative to racial and ethnic minorities:

> The dilution of racial or ethnic minority voting strength with respect to any congressional district is contrary to the laws of the United States and the State of Minnesota. These principles must not be construed to supersede any provision of the Voting Rights Act of 1965, as amended, or the Fourteenth and Fifteenth Amendments to the United States Constitution. Congressional redistricting plans must not have the intent or effect of dispersing or concentrating minority population in a manner that prevents minority communities from electing their candidates of choice.

See Exhibit A at Congressional Districts Standard No. 5 and Legislative Districts Standard No. 6.

VI. COMMUNITIES OF INTEREST SHOULD NOT BE PRIORITIZED OVER CONSTITUTIONAL REQUIREMENTS OR OBJECTIVE CRITERIA.

No one quarrels that it is appropriate to consider the impact of redistricting on communities of interest, all other things being equal. However, concerns of communities of interest should be addressed only after higher priority criteria have been reviewed and satisfied.

Although preservation of "communities of interest" is a criterion which has been deemed "permissive" by the courts (*see Miller*, 515 U.S. at 916 (noting that traditional redistricting criteria includes "respect for ... communities defined by actual shared interests")), including the *Zachman* Panel (*see Zachman* Criteria Order at 3, 5), "communities of interest" by their very nature are subjective, nebulous and difficult to define. The *Zachman* Panel correctly recognized that preserving communities of interest should be subordinate to population equality and other objective criteria by stating

"[c]ommunities of interest will be preserved *where possible in compliance with the preceding principles*." *Id.* (emphasis added).

In contrast to Minnesota law mandating the preservation of political subdivisions (*see* Minn. Stat. § 2.91, subd. 2 (2010)), Minnesota statutes do not identify protecting "communities of interest" as redistricting policy. And unlike other states that have specified protection of "communities of interest" by constitutional or statutory provisions, Minnesota has never done so. Thus it is <u>not</u> the policy of this State to give communities of interest heightened priority.

Within the last decade, the U.S. Supreme Court has confirmed that the *Zachman* Panel was correct to prioritize communities of interest below constitutional and statutory criteria. The Court further recognized the mischief that can occur if subjective communities of interest, coupled with significant population deviations, are elevated above neutral and objective criteria. In *Cox v. Larios*, 542 U.S. 947 (2004), the U.S. Supreme Court upheld the District Court's decision in *Larios v. Cox,* 300 F.Supp.2d 1320 (N.D. Ga. 2004), that a redistricting plan comprised a "deliberate and systematic policy of favoring rural and inner-city interests at the expense of suburban areas north, east, and west of Atlanta," coupled with intentionally "systematically underpopulating the districts held by incumbent Democrats [and] overpopulating those of Republicans." *Id.* at 1327, 1329. The Court criticized the map drafters' use of communities of interest "to give an electoral advantage to certain regions of the State." *Cox,* 542 U.S. at 949 (*citing Reynolds*, 377 U.S. at 565–66 (holding that regionalism is an impermissible basis for population deviations)). Due to this "regional favoritism," there was "no correlation

between county splits and attempts to reduce population disparities." *Larios*, 300 F.Supp.2d at 1333. For example:

> [T]he drafters of the plans were almost entirety unconcerned about *keeping counties whole* and that the 9.98% total population deviations cannot be explained by efforts to keep counties together....
>
> ... The House Plan actually splits eighty of the state's 159 counties into 266 parts ... in the 2002 Senate Plan, eighty-one counties are split into 219 parts, whereas the [prior] plan split only forty-three counties.

300 F.Supp.2d at 1332. In other words, it was improper to sacrifice county boundaries and population equality to the "twin goals of regional favoritism" (i.e., protecting purported communities of interest) and incumbent protection. *Id.* at 1334.

Given the significant difficulty and subjectivity in defining communities of interest and the potential political manipulation that can occur as a result, Plaintiffs propose the following criterion regarding preservation of communities of interest:

> Identifiable communities of interest will be attempted to be preserved where possible in compliance with the preceding principles. For purposes of this principle, "communities of interest" means recognizable areas within similarities of interests, including without limitation racial, ethnic, geographic, social and/or cultural interests.

See Exhibit A at Congressional Districts Standard No. 7 and Legislative Districts Standard No. 8.

Plaintiffs' proposal incorporates the criterion from the *Zachman* Panel with the modifier "identifiable" to provide some measure of objectivity and, through the prioritization criterion, preserves the *Zachman* Panel's recognition of communities of interest as a less-important criterion than other constitutional, statutory, and objective criteria. Plaintiff's proposal permits this Panel and the parties to protect the greatest

number of potential identifiable communities of interest, while also respecting the constitutional mandates of equality of population and the objective and neutral criterion of preserving political subdivision boundaries.

Any criteria proposal that attempts to elevate the subjective criterion of "communities of interest" above the mandatory constitutional criteria of equal protection or the statutorily mandated criterion of preserving political subdivisions (or any proposal which places all such criteria on an equal footing) is suspect and should be rejected. Such an approach would be a significant departure from the Minnesota judiciary's historical approach to redistricting criteria and would dramatically increase the risk of manipulation of redistricting maps for partisan ends. Accordingly, Plaintiffs urge this Panel to assign the communities of interest criterion a status lesser than preservation of political subdivisions, consistent with Minnesota redistricting history. *See id.* at 3, 5.

VII. COMPACTNESS SHOULD NOT BE PRIORITIZED OVER CONSTITUTIONAL REQUIREMENTS OR OBJECTIVE CRITERIA.

There is no federal or state constitutional or statutory requirement that "compactness" should be used when evaluating congressional or legislative district maps. *See, e.g., Gaffney v. Cummings,* 412 U.S. 735, 752, n. 18 (1973) ("[C]ompactness ... has never been held to constitute an independent federal constitutional requirement for state legislative districts."). However, some courts have observed that so-called "bizarre-shaped districts" (*i.e.*, districts that are not compact) might constitute evidence of gerrymandering racial or partisan gerrymandering. *See, e.g., Karcher v. Daggett*, 462 U.S. 725, 758 (1983) (Stevens, J., concurring) ("[D]rastic departures from compactness

are a signal that something may be amiss."); *Shaw v. Reno,* 509 U.S. 630, 676 (1993) (Stevens, J., dissenting) ("the shape of District 12 is so bizarre that it must have been drawn for the purpose of either advantaging or disadvantaging a cognizable group of voters").

Courts will generally look at non-compact districts with greater scrutiny *only if* it appears that the districts also deviate from other constitutionally-mandated criteria (such as equal population/minority vote dilution). In *Bush v. Vera*, the U.S. Supreme Court stated:

> A…district that is *reasonably* compact and regular, taking into account traditional districting principles such as maintaining communities of interest and traditional boundaries, may pass strict scrutiny without having to defeat rival compact districts designed by plaintiffs' experts in endless "beauty contests".

517 U.S. 952, 977 (1996). However, in analyzing compactness as a permissible criteria, at least one federal district court has said that compactness represents "probably the least significant" of the non-constitutional criteria which may be adopted. *Carstens v. Lamm*, 543 F.Supp. 68, 87 (D. Co. 1982).

Moreover, there is no specific definition of compactness. Instead, there are various mathematical definitions of compactness that can be used (and calculated in Maptitude software "reports"), including: (i) measuring the length of aggregate boundaries;[7] (ii) computing the absolute value of the difference between the length and

[7] Bruce Adams, *A Model State Reapportionment Process: The Continuing Quest for "Fair and Effective Representation,"* 14 Harv. J. on Legis. 825 (1977).

width of the district;[8] (iii) calculating the ratio of the area of a district to the area of the smallest possible circumscribing circle;[9] or (iv) a combination of these or other methods.[10] Some of these methods may conflict with each other and can result in time-consuming, expensive, voluminous and ultimately unnecessary and unhelpful conflicting statistical analyses (the "endless beauty contests" referred to in *Bush*, 517 U.S. at 977) regarding which compactness methodology is superior.

For these reasons, Plaintiffs propose the following criterion regarding to "compactness":

> To the extent consistent with the other principles herein, congressional districts should be compact.

See Exhibit A at Congressional Districts Standard No. 8 and Legislative Districts Standard No. 9.

Plaintiffs' proposed language "to the extent consistent with the other principles herein, districts should be compact" is preferable to the requirement of "compact units" required by the *Zachman* Panel (*see Zachman* Criteria Order at 2, 4) because Plaintiffs' proposed language places compactness in a secondary position to mandatory and

---

[8] *See, e.g.,* Iowa Code § 42.4(4) (a), (b) (2011) (reciting "length-width compactness" and "perimeter compactness" as part of "redistricting standards").

[9] Earnest C. Reock, Jr., Note, *Measuring Compactness as a Requirement of Legislative Apportionment*, 5 Midwest J. of Pol. Sci. 70 (1971).

[10] *See, e.g., Schrage v. State Bd. of Elections*, 430 N.E.2d 483, 486 (Ill. 1981); *In re Legislative Districting of General Assembly*, 193 N.W. 2d 784, 790–91 (Ia. 1972); *Acker v. Love*, 496 P. 2d 75, 76 (Colo. 1972); *Preisler v. Doherty*, 284 S.W. 2d 427, 434 (Mo. 1955).

objective criteria. Additionally, a reduced emphasis on compactness enables redistricting plans to respect city and county boundaries, which are not necessarily "compact" in any meaningful sense. (Very few cities and counties are shaped like a perfect square or circle, and indeed the shape of the state does not lend itself to clean circular or square-shaped districts.) Accordingly, Plaintiffs' proposed criteria prioritizes "compactness" as the last criterion, following communities of interest. If this Panel adopts "compactness" as a criterion, Plaintiffs respectfully request that the Panel also either: (1) adopt a uniform, neutral and objective standard for measuring compactness; or (2) require that any party that contends that its plan is more "compact" than others must articulate a specific objective or mathematical basis for such contention.

CONCLUSION

Plaintiffs' proposed redistricting criteria will help ensure that the redistricting process produces the fair and just result that the people of Minnesota deserve in compliance with all applicable constitutional and statutory requirements. Accordingly, the Hippert Plaintiffs respectfully request that this Panel adopt their proposed redistricting criteria in their entirety.

BRIGGS AND MORGAN, P.A.

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EXHIBIT A

HIPPERT PLAINTIFFS' PROPOSED REDISTRICTING CRITERIA

CONGRESSIONAL DISTRICTS

1. There will be eight (8) congressional districts with a single representative for each district.

2. The districts must be as nearly equal in population as is practicable. *Wesberry v. Sanders,* 376 U.S. 1, 7–8 (1964). Because a court-ordered redistricting plan must conform to a higher standard of population equality than a legislative redistricting plan, absolute population equality will be the goal. *See Abrams v. Johnson,* 521 U.S. 74, 98 (1997).

3. The congressional district numbers will begin with district one (1) in the southeast corner of the state and end with district eight (8) in the northeast corner of the state.

4. Congressional districts must be composed of convenient, contiguous territory. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Districts with areas that connect at only a single point will be considered noncontiguous. Minn. Stat. § 2.91, subd. 2 (2010); *Shaw v. Reno*, 509 U.S. 630, 646 (1993) (*citing Reynolds v. Sims,* 377 U.S. 533, 587 (1964)).

5. The dilution of racial or ethnic minority voting strength with respect to any congressional district is contrary to the laws of the United States and the State of Minnesota. These principles must not be construed to supersede any provision of the Voting Rights Act of 1965, as amended, or the Fourteenth and Fifteenth Amendments to

the United States Constitution. Congressional redistricting plans must not have the intent or effect of dispersing or concentrating minority population in a manner that prevents minority communities from electing their candidates of choice.

6. A county, city, or township will not be unduly divided into more than one congressional district unless required to meet equal population requirements or to form districts composed of convenient, contiguous territory. A county, city or town is not unduly divided in the formation of a congressional district if: (a) the division occurs because a portion of a city or town is noncontiguous with another portion of the same city or town; or (b) despite the division, the known population of any affected county, city or town remains wholly located within a single district. Minn. Stat. § 2.91, subd. 2 (2010); *Karcher v. Daggett,* 462 U.S. 725, 733 n. 5, 740–41 (1983).

7. Identifiable communities of interest will be attempted to be preserved where possible in compliance with the preceding principles. For purposes of this principle, "communities of interest" means recognizable areas within similarities of interests, including without limitation racial, ethnic, geographic, social and/or cultural interests.

8. To the extent consistent with the other principles herein, congressional districts should be compact.

9. Where it is not possible to fully comply with the principles contained in subsections (1) to (8) hereinabove, a redistricting plan must give priority to those principles in the order in which they are listed hereinabove, except to the extent doing so would violate federal or state law.

Legislative Districts

1. There will be sixty-seven (67) senate districts with a single senator for each district. There will be one hundred thirty-four (134) house districts with a single representative for each district. Minn. Stat. §§ 2.021, 2.031, subd. 1 (2000).

2. No representative district shall be divided in the formation of a senate district. Minn. Const. art. IV, § 3.

3. Legislative redistricting plans will faithfully adhere to the concept of population-based representation. *Roman v. Sincock,* 377 U.S. 695, 710 (1964). The plans will not exceed a maximum tolerable population deviation from the ideal population size of plus (+) or minus (-) one percent (1.0%). Because a court-ordered redistricting plan must conform to a higher standard of population equality than a legislative redistricting plan, *de minimis* deviation from the ideal district population will be the goal. *Connor v. Finch,* 431 U.S. 407, 414 (1977); *Chapman v. Meier*, 420 U.S. 1, 26–27 (1975).

4. The legislative districts must be numbered in a regular series, beginning with House District 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the eleven (11)-county metropolitan area until the southeast corner has been reached; then to the eleven (11)-county metropolitan area outside the cities of Minneapolis and St. Paul; then in Minneapolis and St. Paul.

5. Legislative districts must be composed of convenient, contiguous territory. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Districts with areas that connect at only a single point will be considered

noncontiguous. Minn. Const. art. IV, § 3; Minn. Stat. § 2.91, subd. 2 (2010); *Reynolds v. Sims*, 377 U.S. 533, 578–79.

6. The dilution of racial or ethnic minority voting strength with respect to any legislative district is contrary to the laws of the United States and the State of Minnesota. These principles must not be construed to supersede any provision of the Voting Rights Act of 1965, as amended, or the Fourteenth and Fifteenth Amendments to the United States Constitution. Legislative redistricting plans must not have the intent or effect of dispersing or concentrating minority population in a manner that prevents minority communities from electing their candidates of choice.

7. A county, city, or township will not be unduly divided into more than one legislative district unless required to meet equal population requirements or to form districts composed of convenient, contiguous territory. A county, city or town is not unduly divided in the formation of a legislative district if: (a) the division occurs because a portion of a city or town is noncontiguous with another portion of the same city or town; or (b) despite the division, the known population of any affected county, city or town remains wholly located within a single district. Minn. Stat. § 2.91, subd. 2 (2010); *Karcher v. Daggett,* 462 U.S. 725, 733 n. 5, 740–41 (1983).

8. Identifiable communities of interest will be attempted to be preserved where possible in compliance with the preceding principles. For purposes of this principle, "communities of interest" means recognizable areas within similarities of interests, including without limitation racial, ethnic, geographic, social and/or cultural interests.

9. To the extent consistent with the other principles herein, legislative districts should be compact.

10. Where it is not possible to fully comply with the principles contained in subsections (1) to (9) hereinabove, a redistricting plan must give priority to those principles in the order in which they are listed hereinabove, except to the extent doing so would violate federal or state law.

STANDARD METROPOLITAN STATISTICAL AREAS (SMSAs) AND COMPONENTS, [1971,] WITH FIPS CODES

(Standard Metropolitan Statistical Areas defined by Office of Management and Budget, 2/23/71)

Source: U.S. Census Bureau
Internet Release Date: October 16, 2000

The file layout is located at the end of the data file.

SMSA FIPS CODE	STATE/ COUNTY FIPS CODE	CITY/ TOWN FIPS CODE	Standard Metropolitan Statistical Area and Components
0040			Abilene, TX SMSA
0040	48253		Jones County
0040	48441		Taylor County
0080			Akron, OH SMSA
0080	39133		Portage County
0080	39153		Summit County
0120			Albany, GA SMSA
0120	13095		Dougherty County
0160			Albany-Schenectady-Troy, NY SMSA
0160	36001		Albany County
0160	36083		Rensselaer County
0160	36091		Saratoga County
0160	36093		Schenectady County
0200			Albuquerque, NM SMSA
0200	35001		Bernalillo County
0240			Allentown-Bethlehem-Easton, PA-NJ SMSA
0240	34041		Warren County, NJ
0240	42077		Lehigh County, PA
0240	42095		Northampton County, PA
0280			Altoona, PA SMSA
0280	42013		Blair County
0320			Amarillo, TX SMSA
0320	48375		Potter County
0320	48381		Randall County
0360			Anaheim-Santa Ana-Garden Grove, CA SMSA
0360	06059		Orange County
0400			Anderson, IN SMSA
0400	18095		Madison County
0440			Ann Arbor, MI SMSA
0440	26161		Washtenaw County
0460			Appleton-Oshkosh, WI SMSA
0460	55015		Calumet County
0460	55087		Outagamie County
0460	55139		Winnebago County
0480			Asheville, NC SMSA
0480	37021		Buncombe County
0520			Atlanta, GA SMSA
0520	13063		Clayton County
0520	13067		Cobb County
0520	13089		De Kalb County

EXHIBIT B

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4600                        Lubbock, TX SMSA
4600     48303                Lubbock County

4640                        Lynchburg, VA SMSA
4640     51009                Amherst County
4640     51031                Campbell County
4640     51680                Lynchburg city

4680                        Macon, GA SMSA
4680     13021                Bibb County
4680     13153                Houston County

4720                        Madison, WI SMSA
4720     55025                Dane County

4760                        Manchester, NH SMSA
4760     33011                Hillsborough County (pt.)
4760     33011    04500         Bedford town
4760     33011    29860         Goffstown town
4760     33011    45140         Manchester city
4760     33013                Merrimack County (pt.)
4760     33013    37300         Hooksett town

4800                        Mansfield, OH SMSA
4800     39139                Richland County

4840                        Mayaguez, PR SMSA
4840     72097                Mayaguez Municipio

4880                        McAllen-Pharr-Edinburg, TX SMSA
4880     48215                Hidalgo County

4920                        Memphis, TN-AR SMSA
4920     05035                Crittenden County, AR
4920     47157                Shelby County, TN

4960                        Meriden, CT SMSA
4960     09009                New Haven County (pt.)
4960     09009    46450          Meriden city

5000                        Miami, FL SMSA
5000     12025                Dade County

5040                        Midland, TX SMSA
5040     48329                Midland County

5080                        Milwaukee, WI SMSA
5080     55079                Milwaukee County
5080     55089                Ozaukee County
5080     55131                Washington County
5080     55133                Waukesha County

5120                        Minneapolis-St. Paul, MN SMSA
5120     27003                Anoka County, MN
5120     27037                Dakota County, MN
5120     27053                Hennepin County, MN
5120     27123                Ramsey County, MN
5120     27163                Washington County, MN

5160                        Mobile, AL SMSA
5160     01003                Baldwin County
5160     01097                Mobile County

5170                        Modesto, CA SMSA
5170     06099                Stanislaus County
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METROPOLITAN AREAS AND COMPONENTS, [1983] WITH FIPS CODES

(Metropolitan Areas defined by Office of Management and Budget, 6/27/83)

Source: U.S. Census Bureau
Internet Release Date: November 1998
Last Revised Date: March 2001

ABBREVIATIONS:
- MSA= Metropolitan Statistical Area
- CMSA= Consolidated Metropolitan Statistical Area
- PMSA= Primary Metropolitan Statistical Area
- F = Central/Outlying County or City/Town Flag (1 = central, 2 = Outlying)

The file layout is located at the end of the data file.

MSA/ CMSA FIPS CODE	PMSA FIPS CODE	ALT. CMSA FIPS CODE	STATE/* COUNTY FIPS CODE	F	CITY/ TOWN FIPS CODE	Metropolitan Area and Components
0040						Abilene, TX MSA
0040			48441	1		Taylor County
0060						Aguadilla, PR MSA
0060			72003	2		Aguada Municipio
0060			72005	1		Aguadilla Municipio
0060			72071	2		Isabela Municipio
0060			72099	2		Moca Municipio
0120						Albany, GA MSA
0120			13095	1		Dougherty County
0120			13177	2		Lee County
0160						Albany-Schenectady-Troy, NY MSA
0160			36001	1		Albany County
0160			36039	2		Greene County
0160			36057	2		Montgomery County
0160			36083	1		Rensselaer County
0160			36091	2		Saratoga County
0160			36093	1		Schenectady County
0200						Albuquerque, NM MSA
0200			35001	1		Bernalillo County
0220						Alexandria, LA MSA
0220			22079	1		Rapides Parish
0240						Allentown-Bethlehem, PA-NJ MSA
0240			34041	2		Warren County, NJ
0240			42025	2		Carbon County, PA
0240			42077	1		Lehigh County, PA
0240			42095	1		Northampton County, PA
0280						Altoona, PA MSA
0280			42013	1		Blair County
0320						Amarillo, TX MSA
0320			48375	1		Potter County
0320			48381	1		Randall County
0380						Anchorage, AK MSA
0380			02020	1		Anchorage Borough
0400						Anderson, IN MSA
0400			18095	1		Madison County
0405						Anderson, SC MSA
0405			45007	1		Anderson County
0450						Anniston, AL MSA
0450			01015	1		Calhoun County
0460						Appleton-Oshkosh-Neenah, WI MSA
0460			55015	1		Calumet County

EXHIBIT C

5082	5080	63	55133	1		Waukesha County
5082	6600	63				Racine, WI PMSA
5082	6600	63	55101	1		Racine County
5120						Minneapolis-St. Paul, MN-WI MSA
5120			27003	1		Anoka County, MN
5120			27019	2		Carver County, MN
5120			27025	2		Chisago County, MN
5120			27037	1		Dakota County, MN
5120			27053	1		Hennepin County, MN
5120			27059	2		Isanti County, MN
5120			27123	1		Ramsey County, MN
5120			27139	2		Scott County, MN
5120			27163	1		Washington County, MN
5120			27171	2		Wright County, MN
5120			55109	2		St. Croix County, WI
5160						Mobile, AL MSA
5160			01003	2		Baldwin County
5160			01097	1		Mobile County
5170						Modesto, CA MSA
5170			06099	1		Stanislaus County
5200						Monroe, LA MSA
5200			22073	1		Ouachita Parish
5240						Montgomery, AL MSA
5240			01001	1		Autauga County
5240			01051	2		Elmore County
5240			01101	1		Montgomery County
5280						Muncie, IN MSA
5280			18035	1		Delaware County
5320						Muskegon, MI MSA
5320			26121	1		Muskegon County
5360						Nashville, TN MSA
5360			47021	2		Cheatham County
5360			47037	1		Davidson County
5360			47043	2		Dickson County
5360			47147	2		Robertson County
5360			47149	2		Rutherford County
5360			47165	2		Sumner County
5360			47187	2		Williamson County
5360			47189	2		Wilson County
5400						New Bedford, MA MSA
5400			25005			Bristol County (pt.)
5400			25005	1	00520	Acushnet town
5400			25005	1	16425	Dartmouth town
5400			25005	1	22130	Fairhaven town
5400			25005	2	25240	Freetown town
5400			25005	1	45000	New Bedford city
5400			25023			Plymouth County (pt.)
5400			25023	2	38540	Marion town
5400			25023	2	39450	Mattapoisett town
5400			25023	2	57600	Rochester town
5480						New Haven-Meriden, CT MSA
5480			09007			Middlesex County (pt.)
5480			09007	2	15350	Clinton town
5480			09007	2	40710	Killingworth town
5480			09009			New Haven County (pt.)
5480			09009	2	04580	Bethany town
5480			09009	1	07310	Branford town
5480			09009	1	14160	Cheshire town
5480			09009	1	22910	East Haven town
5480			09009	2	34950	Guilford town
5480			09009	1	35650	Hamden town
5480			09009	2	44560	Madison town
5480			09009	1	46520	Meriden town
5480			09009	1	52070	New Haven town
5480			09009	1	53890	North Branford town
5480			09009	1	54870	North Haven town

STANDARD METROPOLITAN STATISTICAL AREAS (SMSAs) AND COMPONENTS, 1973, WITH FIPS CODES

(Standard Metropolitan Statistical Areas defined by Office of Management and Budget, 4/27/73)

Source: U.S. Census Bureau
Internet Release Date: May 2000

The file layout is located at the end of the data file.

SMSA FIPS CODE	STATE/ COUNTY FIPS CODE	CITY/ TOWN FIPS CODE	Standard Metropolitan Statistical Area and Components
0040			Abilene, TX SMSA
0040	48059		Callahan County
0040	48253		Jones County
0040	48441		Taylor County
0080			Akron, OH SMSA
0080	39133		Portage County
0080	39153		Summit County
0120			Albany, GA SMSA
0120	13095		Dougherty County
0120	13177		Lee County
0160			Albany-Schenectady-Troy, NY SMSA
0160	36001		Albany County
0160	36057		Montgomery County
0160	36083		Rensselaer County
0160	36091		Saratoga County
0160	36093		Schenectady County
0200			Albuquerque, NM SMSA
0200	35001		Bernalillo County
0200	35043		Sandoval County
0220			Alexandria, LA SMSA
0220	22043		Grant Parish
0220	22079		Rapides Parish
0240			Allentown-Bethlehem-Easton, PA-NJ SMSA
0240	34041		Warren County, NJ
0240	42025		Carbon County, PA
0240	42077		Lehigh County, PA
0240	42095		Northampton County, PA
0280			Altoona, PA SMSA
0280	42013		Blair County
0320			Amarillo, TX SMSA
0320	48375		Potter County
0320	48381		Randall County
0360			Anaheim-Santa Ana-Garden Grove, CA SMSA
0360	06059		Orange County
0380			Anchorage, AK SMSA
0380	02020		Anchorage Census Division
0400			Anderson, IN SMSA
0400	18095		Madison County
0440			Ann Arbor, MI SMSA
0440	26161		Washtenaw County

EXHIBIT D

4900			Melbourne-Titusville-Cocoa, FL SMSA
4900	12009		Brevard County
4920			Memphis, TN-AR-MS SMSA
4920	05035		Crittenden County, AR
4920	28033		De Soto County, MS
4920	47157		Shelby County, TN
4920	47167		Tipton County, TN
4960			Meriden, CT SMSA
4960	09009		New Haven County (pt.)
4960	09009	46450	Meriden city
5000			Miami, FL SMSA
5000	12025		Dade County
5040			Midland, TX SMSA
5040	48329		Midland County
5080			Milwaukee, WI SMSA
5080	55079		Milwaukee County
5080	55089		Ozaukee County
5080	55131		Washington County
5080	55133		Waukesha County
5120			Minneapolis-St. Paul, MN-WI SMSA
5120	27003		Anoka County, MN
5120	27019		Carver County, MN
5120	27025		Chisago County, MN
5120	27037		Dakota County, MN
5120	27053		Hennepin County, MN
5120	27123		Ramsey County, MN
5120	27139		Scott County, MN
5120	27163		Washington County, MN
5120	27171		Wright County, MN
5120	55109		St. Croix County, WI
5160			Mobile, AL SMSA
5160	01003		Baldwin County
5160	01097		Mobile County
5170			Modesto, CA SMSA
5170	06099		Stanislaus County
5200			Monroe, LA SMSA
5200	22073		Ouachita Parish
5240			Montgomery, AL SMSA
5240	01001		Autauga County
5240	01051		Elmore County
5240	01101		Montgomery County
5280			Muncie, IN SMSA
5280	18035		Delaware County
5320			Muskegon-Muskegon Heights, MI SMSA
5320	26121		Muskegon County
5320	26127		Oceana County
5350			Nashua, NH SMSA
5350	33011		Hillsborough County (pt.)
5350	33011	01300	Amherst town
5350	33011	37940	Hudson town
5350	33011	47540	Merrimack town
5350	33011	48020	Milford town
5350	33011	50260	Nashua city

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

A11-152

Sara Hippert, Dave Greer, Linda Markowitz, Dee Dee Larson, Ben Maas, Gregg Peppin, Randy Penrod and Charles Roulet, individually and on behalf of all citizens and voting residents of Minnesota similarly situated,

Plaintiffs,

and

Kenneth Martin, Lynn Wilson, Timothy O'Brien, Irene Peralez, Josie Johnson, Jane Krentz, Mark Altenburg and Debra Hasskamp,
individually and on behalf of all citizens of Minnesota similarly situated,

Intervenors,

and

Audrey Britton, David Bly, Cary Coop, and John McIntosh, individually and on behalf of all citizens of Minnesota similarly situated,

Intervenors,

vs.

Mark Ritchie, Secretary of State of Minnesota; and Robert Hiivala, Wright County Auditor, individually and on behalf of all Minnesota county chief election officers,

Defendants.

AFFIDAVIT OF SERVICE

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

I, Jill N. Yeaman, under the direction of Elizabeth M. Brama, being duly sworn, state that on October 5, 2011, true and correct copies of the **Motion of Plaintiffs' Sara Hippert *et al* to Adopt Redistricting Criteria** and **Plaintiffs' Memorandum in Support of Motion to Adopt Redistricting Criteria with Exhibits A-D** were filed by email and messengered to this Court; and true and correct copies thereof were served upon the following parties in this action by electronic mail and by placing copies in the U.S. mail, postage prepaid, addressed as follows, to-wit:

Alan I. Gilbert, Kristyn M. Anderson, Jason Pleggenkuhle
Minnesota Attorney General's Office
445 Minnesota St., Suite 1100
St. Paul, MN 55101-2128
Email: al.gilbert@state.mn.us; kristyn.anderson@state.mn.us

David L. Lillehaug, Christopher A. Stafford
Fredrikson & Byron, PA
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Minneapolis, MN 55402-1425
Email: dlillehaug@fredlaw.com; cstafford@fredlaw.com

Marc Elias, Kevin J. Hamilton
Perkins Coie LLP
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Washington, D.C. 20005-3960
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Wright County Government Center
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Buffalo, MN 55313
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Suite 300, Kellogg Square
111 East Kellogg Boulevard
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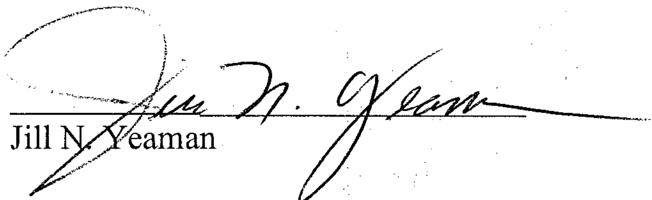
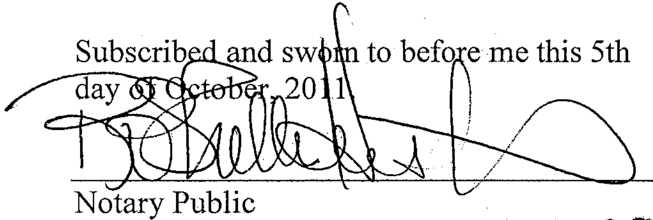


Dated: October 5, 2011

Jill N. Yeaman

Subscribed and sworn to before me this 5th day of October, 2011



Notary Public

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BRIGGS
BRIGGS AND MORGAN

2200 IDS Center
80 South 8th Street
Minneapolis MN 55402-2157
tel 612.977.8400
fax 612.977.8650

October 5, 2011

Eric J. Magnuson
(612) 977-8788
emagnuson@briggs.com

VIA E-MAIL AND MESSENGER

Clerk of Appellate Courts
Minnesota Supreme Court
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155

Re: Sara Hippert, et al. v. Mark Ritchie, et al.
Court File No. A11-152

Dear Sir/Madam:

I am enclosing an original and nine (9) copies of the following documents for filing in the above-titled matter:

1) Motion of Plaintiffs Sara Hippert *et al* to Adopt Proposed Redistricting Criteria;

2) Plaintiffs' Memorandum in Support of Motion to Adopt Redistricting Criteria, with Exhibits A-D;

3) Affidavit of Service.

All parties are being served by copy of this letter, and as evidenced by the enclosed Affidavit of Service. An electronic copy will also be submitted.

Sincerely,

Eric J. Magnuson

EJM/jy
Enclosures
cc: Michael C. Wilhelm (w/enc.)
Elizabeth M. Brama (w/enc.)
Tony Trimble (w/enc.)
Matthew W. Haapoja (w/enc.)
Alan I. Gilbert (w/enc.)
Thomas N. Kelly (w/enc.)
Greg T. Kryzer (w/end.)
Alan W. Weinblatt (w/enc.)
Jay Benanav (w/enc.)
Jane L. Prince (w/enc.)
David L. Lillehaug (w/enc.)
Christopher A. Stafford (w/enc.)
Marc E. Alias (w/enc.)
Kevin J. Hamilton (w/enc.)

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