

STATE OF MINNESOTA  
SPECIAL REDISTRICTING PANEL  
C0-01-160

OFFICE OF  
APPELLATE COURTS  
AUG 10 2001  
~~FILED~~  
OFFICE OF  
APPELLATE COURTS  
AUG 13 2001  
FILED

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Susan M. Zachman, Maryland Lucky R.  
Rosenbloom, Victor L.M. Gomez, Gregory G.  
Edeen, Jeffrey E. Karlson, Diana V. Bratlie,  
Brian J. LeClair and Gregory J. Ravenhorst,  
individually and on behalf of all citizens and  
voting residents of Minnesota similarly situated,

Plaintiffs,

v.

Mary Kiffmeyer, Secretary of State of Minnesota;  
and Doug Gruber, Wright County Auditor,  
individually and on behalf of all Minnesota  
county chief election officers,

Defendants.

**MOTION TO  
INTERVENE AS A  
DEFENDANT UNDER  
RULE 24**

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TO: Plaintiffs and their attorneys, Best & Flanagan LLP and Thomas B. Heffelfinger, 400  
U.S. Bank Place, 601 Second Avenue South, Minneapolis, MN 55402-4331, and  
Charles R. Shreffler, 2116 Second Avenue South, Minneapolis, MN 55404-2606; and  
Defendant Mary Kiffmeyer, Secretary of State and her attorney, Mar B. Levinger,  
Deputy Attorney General, 445 Minnesota Street, Suite 1100, St. Paul, MN 55101-  
2128; and Defendant Doug Gruber, Wright County Auditor, and his attorney, Brian J.  
Asleson, Chief Deputy Attorney, Wright County Attorney's Office, Ten Second  
Street, N.W., Buffalo, MN 55313:

**PLEASE TAKE NOTICE** that Congressman Martin Olav Sabo,  
Congressman James L. Oberstar, Congressman William P. Luther, Congresswoman Betty  
McCullum, Minnesota Senate Majority Leader Senator Roger D. Moe, and Minnesota House  
Minority Leader Representative Thomas W. Pugh, hereby move for leave to intervene as

defendants in this action in order to assert defenses in an answer to be filed and served in accordance with a schedule to be promulgated by the Special Redistricting Panel and in order to oppose Plaintiffs' Notice of Motion and Motion for Entry of a Scheduling Order, pursuant to the Minnesota Rules of Civil Procedure, Rule 24.01, for the reason that the intervenors have an interest in the subject matter of this action, the legislative and Congressional redistricting of the State of Minnesota, and the plaintiffs' motion as a practical matter threatens to impair or impede the intervenors' interests in protecting their Constitutional right to Congressional and legislative redistricting in accordance with the legislative process, as more fully set forth in the Intervenors' Memorandum in Opposition to Plaintiffs' Motion for Entry of a Scheduling Order, which accompanies this motion.

FAEGRE & BENSON LLP



Dated: August 10, 2001.

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John D. French, #31914  
Brian Melendez, #223633  
Lianne C. Knych, #0268896  
Kerry L. Bundy, #266917  
James W. Poradek, #290488  
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90 South Seventh Street  
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(612) 766-7000

COUNSEL FOR THE INTERVENORS

M2:20403848.01

STATE OF MINNESOTA

SPECIAL REDISTRICTING PANEL

C0-01-160

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individually and on behalf of all citizens and  
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Plaintiffs,

v.

Mary Kiffmeyer, Secretary of State of Minnesota;  
and Doug Gruber, Wright County Auditor,  
individually and on behalf of all Minnesota  
county chief election officers,

Defendants.

**INTERVENORS'  
MEMORANDUM IN  
OPPOSITION TO  
PLAINTIFFS' MOTION FOR A  
SCHEDULING ORDER**

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Congressman Martin Olav Sabo, Congressman James L. Oberstar, Congressman  
William P. Luther, Congresswoman Betty McCullum, Minnesota Senate Majority Leader  
Senator Roger D. Moe, and Minnesota House Minority Leader Representative Thomas W. Pugh  
(hereafter, the "Intervenors") oppose the Plaintiffs' Motion for Entry of a Scheduling Order for  
the reason that, if it is granted, the proposed schedule would entirely deprive them of their  
constitutional right to Congressional and legislative redistricting of the State of Minnesota by the  
legislative branch of government. Despite the fact that Legislature of the State of Minnesota is

not in session and will not reconvene until January 28, 2002, the proposed schedule calls for resolution of this matter via a five-day trial commencing on December 17, 2001.<sup>1</sup>

Plaintiffs' motion asks this Panel to violate the legislature's constitutional redistricting priority, as set forth in the two orders of Chief Justice Blatz which led to the establishment of the Panel. In her order granting plaintiffs' motion for appointment of a special redistricting panel but staying its appointment, dated March 2, 2001, the Chief Justice stated, "While the need to have state legislative and congressional district lines drawn in time for the 2002 election cycle imposes undeniable time constraints on this process, it is important that the primacy of the legislative rule in the redistricting process be honored and that the judiciary not be drawn prematurely into that process."

In her order establishing this Panel, dated July 12, 2001, the Chief Justice repeated these words and added, that "the special redistricting panel shall release a redistricting plan that satisfies constitutional and statutory requirements only in the event a legislative redistricting plan is not enacted in a timely manner." Plaintiffs' motion would flout these clear directives of the Chief Justice by entirely depriving the legislature of any opportunity to adopt a redistricting plan.

Plaintiffs seek to justify this proposed deprivation of the legislature's constitutional authority on the basis of a letter written to legislators by Secretary of State Kiffmeyer. Quite apart from the fact that this letter does not constitute admissible evidence, it does not stand for the proposition plaintiffs assert. Plaintiffs extrapolate from the Secretary's

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<sup>1</sup> In addition to opposing the entire concept of plaintiffs' proposed scheduling order, the Intervenor objects to many of its specific elements. For example, in this extraordinary proceeding, it is inappropriate to incorporate routine discovery procedures, or to resolve the matter by trial, and a trial by jury would obviously violate the objective of the Chief Justice in establishing the Special Redistricting Panel.

comments about “prudent public policy” requiring a redistricting plan long before March 2002 to a “real deadline” of January 1, 2002. No such deadline appears in the Secretary’s letter.

In any event, the Secretary’s views on “prudent public policy” for legislative consideration, based on her understandable concern for the orderly administration of elections by her office, were not directed to the judiciary and cannot override the law or the constitution. As plaintiffs’ Memorandum of Law acknowledges (at p. 2) the statutory deadline for redistricting is March 19, 2002, and Secretary Kiffmeyer’s letter recognizes that the law permits passage of a plan as late as March 2002.

This means that the legislature has ample time in 2002, when it reconvenes, to adopt a redistricting plan within the time prescribed by law. The constitutional precepts enunciated by Chief Justice Blatz in her orders of March 2, 2001, and July 12, 2001, compel the conclusion that the judicial branch of our state government must allow the legislative branch to take full advantage of this opportunity.

For the foregoing reasons, the Intervenors respectfully ask that Plaintiffs’ Motion to Entry of a Scheduling Order be denied.

Respectfully submitted,

Dated: August 10, 2001.

FAEGRE & BENSON LLP



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~~FILED~~

10 August 2001

**Brian Melendez**  
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Mr. Frederick K. Grittner,  
Clerk of Appellate Courts  
305 Minnesota Judicial Center  
25 Constitution Avenue  
St. Paul, MN 55155-6102

BY MESSENGER

Re: Zachman v. Kiffmeyer, No. C0-01-160 (Minn. Special Redistricting Panel)

Dear Mr. Grittner:

Please file the enclosed original and three copies of the Motion to Intervene as a Defendant Under Rule 24 and the Intervenors' Memorandum in Opposition to Plaintiffs' Motion for a Scheduling Order.

Thank you very much. Please call me if you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Brian Melendez". The signature is written in a cursive style with a long horizontal line extending to the right.

Brian Melendez  
Attorney for Intervenors

enclosures

cc (w/ encs.) (by fax and mail):

Brian J. Asleson  
John D. French  
Alan I. Gilbert  
Mike Hatch (att'n Mark B. Levinger)  
Thomas B. Heffelfinger  
Charles R. Shreffler  
Alan W. Weinblatt

M1:782566.01



Mr. Alan I. Gilbert  
Chief Deputy & Solicitor General  
Attorney General's Office  
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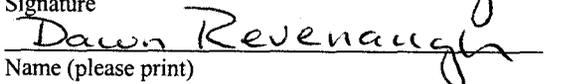
Mr. Brian J. Asleson  
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Mr. Charles R. Shreffler  
Shreffler Law Firm, P.A.  
2116 Second Avenue South  
Minneapolis, MN 55404-2606

Mr. Alan W. Weinblatt  
Weinblatt & Gaylord, PLC  
Suite 1616  
336 North Robert Street  
St. Paul, MN 55101

To the best of his or her knowledge, information, and belief; and further affiant saith not.

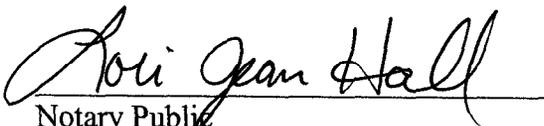
August 10, 2001.

  
\_\_\_\_\_  
Signature  
  
\_\_\_\_\_  
Name (please print)

The foregoing was sworn to before me and subscribed in my presence this day, August 10, 2001:



Seal

  
\_\_\_\_\_  
Notary Public

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