

Shreffler Law Firm, P.A.

Commercial Litigation ■ Civil Trials

August 15, 2001

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VIA MESSENGER

Frederick K. Grittner
Minnesota Supreme Court Administrator
305 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155-6102

OFFICE OF
APPELLATE COURTS

AUG 15 2001

FILED

**Re: Susan M. Zachman, et al. v. Mary Kiffmeyer, et al.
Supreme Court File No. C0-01-160
Special Redistricting Panel**

Dear Mr. Grittner:

Enclosed for filing, on behalf of the plaintiffs in the above-referenced matter, please find the original and five copies of each of the following:

1. Notice of Objection to Intervention;
2. Plaintiffs' Notice of Motion and Motion to Strike Memorandum of Intervenor-Applicants; and
3. Plaintiffs' Memorandum in Support of Motion to Strike Applicants' Memorandum in Opposition to Plaintiffs' Motion for Entry of Scheduling Order.

By copy of this letter with enclosures, the above-referenced items are also being provided to the Honorable Edward Toussaint, Jr., as Presiding Judge, Special Redistricting Panel, as well as all parties and applicants.

Sincerely,

SHREFFLER LAW FIRM, P.A.

By: 
Charles R. Shreffler

CRS:sms
Enclosures

Frederick K. Grittner

August 15, 2001

Page 2

cc: The Honorable Edward Toussaint, Jr. (w/enc.) (via fax & mail)
Alan I. Gilbert, Esq. Chief Deputy and Solicitor General,
Attorney General's Office (w/enc.) (via fax & mail)
Brian J. Asleson, Esq. (w/enc.) (via fax & mail)
John D. French, Esq. (w/enc.) (via fax & mail)
Alan W. Weinblatt, Esq. (w/enc.) (via fax & mail)
Thomas B. Heffelfinger, Esq. (w/enc.) (via fax & mail)

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL

OFFICE OF
APPELLATE COURTS

C0-01-160

AUG 15 2001

FILED

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,

**NOTICE OF OBJECTION
TO INTERVENTION**

vs.

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.

Plaintiffs, pursuant to Rule 24.03 of the Minnesota Rules of Civil Procedure, hereby give Notice of their objection to the proposed intervention by Applicants for Intervention: Congressman Martin Olav Sabo, Congressman James L. Oberstar, Congressman William P. Luther, Congresswoman Betty McCollum, Senator Roger D. Moe and Representative Thomas W. Pugh.

1. Applicants' attempt to intervene as defendants in this matter is improper because Applicants cannot provide Plaintiffs the relief sought by Plaintiffs in this litigation.
2. Applicants' motion is not timely under the Minnesota Rules of Civil Procedure.
3. Applicants have no separate or cognizable right or interest in the subject matter of this action which is different from that of Plaintiffs or Defendants. Applicants, by their Motion, allege a constitutional interest (to "congressional and legislative redistricting in accordance with the legislative process") which interest does not exist in law.
4. Plaintiffs and/or Defendants will adequately represent Applicants' claimed interest.

5. Applicants' alleged claim of interest can be protected by a motion by Applicants to appear *amicus curiae*.

6. Based on Applicants' Motion, Applicants appear to want to intervene in this action solely for the purpose of seeking a delay in the adoption of a constitutionally valid plan for congressional and legislative redistricting. Applicants seek to halt judicial action until after the Minnesota Legislature has further time to act on redistricting. However, absent a special session, the Minnesota Legislature will not reconvene until January 29, 2002. This date does not provide sufficient time to pass a constitutionally valid legislative and congressional redistricting plan and to allow cities and counties to engage in their own redistricting efforts before convening of precinct caucuses.

7. Neither Defendants nor Applicants have submitted an Answer to Plaintiff's Complaint. Therefore, the Court is unable to determine whether any of Applicant's claimed defenses are consistent, inconsistent or common with or to those asserted by the present Defendants.

8. Applicants seek to deny entry of a Scheduling Order. If the Court fails to issue a Scheduling Order to move this matter forward, such failure is an effective dismissal of this action. Therefore, Applicants' Motion appears to be a veiled attempt to effectively act as a motion for dismissal of the case. This Court, in the exercise of its discretion under Minnesota Rule of Civil Procedure 24.02, should not allow Applicants to intervene in this action for the sole purpose of prejudicing the adjudication of the rights of the original parties.

Dated: August 15, 2001

BEST & FLANAGAN, LLP



Thomas B. Heffelfinger, #4328X
4000 US Bank Place
601 Second Avenue South
Minneapolis, MN 55402-4331
(612) 339-7121

Dated: August 15, 2001

SHREFFLER LAW FIRM, P.A.



Charles R. Shreffler, #183295
2116 Second Avenue South
Minneapolis, MN 55404-2606

Attorneys for Plaintiffs

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL

C0-01-160

OFFICE OF
APPELLATE COURTS
AUG 15 2001

FILED

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'
NOTICE OF MOTION AND
MOTION TO STRIKE MEMORANDUM
OF INTERVENOR-APPLICANTS
MARTIN OLAV SABO, ET. AL.

Plaintiffs,

vs.

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.

To: Michael Hatch, Attorney General of Minnesota, 102 Capitol Building, Aurora Avenue, St. Paul, Minnesota, 55101 and Deputy Attorney General Mark B. Levinger, 445 Minnesota Street, Suite 1100, St. Paul, Minnesota, 55101, attorneys for Defendant Mary Kiffmeyer, Secretary of State of Minnesota; and Brian J. Asleson, Chief Deputy Attorney, Wright County, Wright County Government Center, Ten Second Street NW, Buffalo, Minnesota, attorney for Doug Gruber, Defendant Wright County Auditor:

NOTICE OF MOTION

PLEASE TAKE NOTICE that the undersigned will bring the following motion before the Hon. Edward Toussaint, Jr., Presiding Judge, and Members of the Special Redistricting Panel, on _____, 2001 at _____, or as soon thereafter as parties may be heard, at the Chambers of the Court of Appeals, 305 Minnesota Judicial Center, 25 Constitution Avenue, St. Paul, Minnesota:

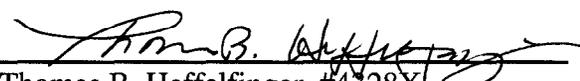
MOTION

Plaintiffs 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 ("Plaintiffs") move this Court for an order under Minnesota Rules of General Practice 115.03 striking the Memorandum of Intervenor-Applicants Congressman Martin Olav Sabo, Congressman James L. Oberstar, Congressman William P. Luther, Congresswoman Betty McCollum, Senator Roger D. Moe and Representative Thomas W. Pugh (collectively, "Applicants") in Opposition to Plaintiff's Motion for a Scheduling Order. The grounds for this motion are that Applicants are not parties to this case as Plaintiffs have filed a Notice of Objection to Intervention and no court order has yet been entered allowing such intervention.

Because Applicants are not parties to this litigation, Applicants' Memorandum should be stricken by this Court and Applicants should not be permitted to oppose Plaintiffs' motion for a Scheduling Order. This motion is to be supported by the accompanying Memorandum of Law.

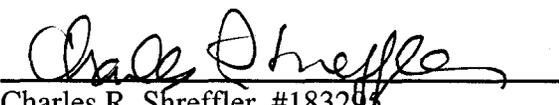
Dated: August 15, 2001

BEST & FLANAGAN, LLP


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4000 US Bank Place
601 Second Avenue South
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(612) 339-7121

Dated: August 15, 2001

SHREFFLER LAW FIRM, P.A.


Charles R. Shreffler, #18320
2116 Second Avenue South
Minneapolis, MN 55404-2606

Attorneys for Plaintiffs

STATE OF MINNESOTA
SPECIAL REDISTRICTING PANEL

C0-01-160

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,

vs.

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.

***PLAINTIFFS' MEMORANDUM
IN SUPPORT OF MOTION TO
STRIKE APPLICANTS'
MEMORANDUM IN OPPOSITION TO
PLAINTIFFS' MOTION FOR ENTRY
OF SCHEDULING ORDER***

Plaintiffs 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
(collectively, "Plaintiffs"), submit this memorandum in support of their Motion to Strike the
Memorandum of Congressman Martin Olav Sabo, Congressman James L. Oberstar, Congressman
William P. Luther, Congresswoman Betty McCollum, Senator Roger D. Moe and Representative
Thomas W. Pugh (collectively, "Applicants") in Opposition to Plaintiffs' Motion for a Scheduling
Order.

SUMMARY

Applicants are not parties to this litigation and should not be heard in opposition to Plaintiff's
Motion for Scheduling Order.

ARGUMENT

Rule 24.03 of the Minnesota Rules of Civil Procedure provides the proper procedure for a motion to intervene:

A person desiring to intervene shall serve on all parties to the action and file a notice of intervention which shall state that in the absence of objections by an existing party to the action within 30 days after service thereof upon the party, such intervention shall be accomplished. . . Within 30 days after service upon the party seeking to intervene of a notice of objection to intervention, the party shall serve a motion to intervene upon all parties as provided in Rule 5 (emphasis added).

On August 10, 2001, counsel for Applicants served on Defendants via facsimile a Memorandum in Opposition to Plaintiffs' Motion for Entry of Scheduling Order, seeking to intervene and appear before the Special Redistricting Panel ("Panel") in opposition to Plaintiffs' Motion for Entry of Scheduling Order. In response, Plaintiffs have filed and served upon Applicants a Notice of Objection to Intervention in compliance with Minnesota Rules of Civil Procedure Rule 24.03.

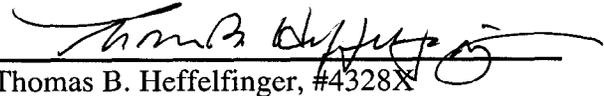
Accordingly, Applicants must now serve and file a motion to intervene, along with a pleading setting forth the "nature and extent" of each defense as to which intervention is sought. Unless Applicants' motion to intervene is heard and affirmatively granted by the Panel, Applicants are not parties to this litigation. Therefore, Applicants' Memorandum should be stricken and not considered by the Panel.

CONCLUSION

In conclusion, Applicants are not parties to this litigation and have not been granted permission by the Court to intervene in this litigation. Applicants must not be permitted to delay the Minnesota redistricting process by opposing Plaintiffs' Scheduling Order Motion. For the foregoing reasons, Plaintiffs respectfully request that Applicants' Memorandum be stricken and Applicants not be permitted to oppose Plaintiffs' Scheduling Order Motion.

Dated: August 15, 2001

BEST & FLANAGAN, LLP



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(612) 339-7121

Dated: August 15, 2001

SHREFFLER LAW FIRM, P.A.



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Attorneys for Plaintiffs

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Commercial Litigation ■ Civil Trials

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August 15, 2001

VIA FACSIMILE AND U.S. MAIL

John D. French, Esq.
Faegre & Benson, LLP
90 South 7th Street, Suite 2200
Minneapolis, MN 55402

**Re: Susan M. Zachman, et al. v. Mary Kiffmeyer, et al.
Supreme Court File No. C0-01-160
Special Redistricting Panel**

Dear Mr. French:

Enclosed for service, on behalf of the plaintiffs in the above-referenced matter, please find the following:

1. Notice of Objection to Intervention;
2. Plaintiffs' Notice of Motion and Motion to Strike Memorandum of Intervenor-Applicants; and
3. Plaintiffs' Memorandum in Support of Motion to Strike Applicants' Memorandum in Opposition to Plaintiffs' Motion for Entry of Scheduling Order.

Sincerely,

SHREFFLER LAW FIRM, P.A.

By: 
Charles R. Shreffler

CRS:sms
Enclosures

cc: Mr. Frederick K. Grittner (via messenger)
The Honorable Edward Toussaint, Jr. (w/enc.) (via messenger)
Alan I. Gilbert, Esq. Chief Deputy and Solicitor General,
Attorney General's Office (w/enc.) (via fax & mail)
Brian J. Asleson, Esq. (via fax & mail)
Alan W. Weinblatt, Esq. (w/enc.) (via fax & mail)
Thomas B. Heffelfinger, Esq. (w/enc.) (via fax & mail)