

STATE OF MINNESOTA  
SPECIAL REDISTRICTING PANEL

OFFICE OF  
APPELLATE COURTS

MAY 11 2012

FILED

A11-152

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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

**AFFIDAVIT OF ERIC J.  
MAGNUSON**

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.

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College of Law, the University of St. Thomas School of Law, and the Humphrey Institute of Public Affairs.

5. During my years of private legal practice, I have worked on hundreds of litigated matters. My practice has focused primarily on appellate matters, but I also have regularly consulted with trial attorneys on complex procedural and substantive issues.

6. I am familiar with the prevailing hourly rates charged by lawyers in Minneapolis and St. Paul. As the managing partner at Rider Bennett, I was responsible for setting the hourly rates charged by litigation lawyers. At both Rider Bennett and Briggs and Morgan, P.A., I have supervised the handling of litigation matters by other lawyers and reviewed and approved fee statements sent to clients. I have also served as an expert witness and special master in fee disputes. I am familiar with what constitutes reasonable attorneys' fees in litigation matters and what work is reasonably necessary to represent clients in such matters.

7. During this litigation, Plaintiffs were represented by two law firms: Briggs and Morgan, P.A. and Trimble & Associates, Ltd. Briggs and Morgan, P.A. was primarily responsible for drafting briefs, preparing presentations, and representing Plaintiffs in proceedings before the Special Redistricting Panel. Briggs and Morgan brought special expertise to the litigation, including service by Elizabeth Brama as Panel Counsel in the 2001 redistricting litigation. Trimble & Associates provided strategic advice and counsel and assisted with the preparation of briefs and representation of Plaintiffs in proceedings before the Special Redistricting Panel. Trimble & Associates has substantial experience with previous redistricting litigation.

8. Each of the attorneys who worked on this matter is a practicing member of the Minnesota bar and is in good standing. During this litigation, these attorneys engaged in: (i) legal and demographic research; (ii) consulting with and advising clients; (iii) consulting with demographic consultants; (iv) analyzing existing and proposed redistricting plans; (v) drafting and revising briefs, pleadings, and presentations; (vi) analyzing the pleadings, briefs, arguments, and proposed redistricting plans of other parties involved in the litigation; and (vii) preparing for and presenting oral arguments and Powerpoint presentations to the Special Redistricting Panel.

9. The hourly rates of attorneys in the Minneapolis and St. Paul metropolitan area have significantly increased since the last award of attorneys' fees in redistricting litigation in Minnesota. A September 2000 billing rate survey by management consultant, Robert Hayden, shows that the hourly billing rates for attorneys at large firms in Minneapolis and St. Paul in 2000 were as follows:

	<b>1<sup>st</sup> Quartile</b>	<b>Mean</b>	<b>3<sup>rd</sup> Quartile</b>
<b>High-Level Equity Partner</b>	\$315	\$283	\$255
<b>Mid-Level Equity Partner</b>	\$280	\$262	\$250
<b>Low Level Equity Partner</b>	\$225	\$215	\$205
<b>Associate (Class of 1996)</b>	\$165	\$157	\$160

10. I have also recently reviewed a May 2011 survey by Price Waterhouse Cooper concerning the rates charged by lawyers in the Minneapolis and St. Paul area. According to the May 2011 Price Waterhouse Cooper survey, the hourly billing rates for attorneys at large firms in Minneapolis and St. Paul in 2011 were as follows:

	<b>1<sup>st</sup> Quartile</b>	<b>Median</b>	<b>3<sup>rd</sup> Quartile</b>
<b>High-Level Equity Partner</b>	\$725	\$630	\$600
<b>Mid-Level Equity Partner</b>	\$474	\$468	\$430
<b>Low-Level Equity Partner</b>	\$343	\$328	\$325
<b>Associate (Class of 2007)</b>	\$277	\$270	\$256

11. The hourly rates charged by Plaintiff's attorneys are consistent with reasonable and customary rates charged in the Minneapolis and St. Paul legal community. The rates charged are equivalent to or less than the median prevailing rates identified in the 2011 billing survey from Price Waterhouse Cooper.

12. Comparing the 2000 Robert Hayden survey with the 2011 Price Waterhouse Coopers survey, the rates for attorneys in the Minneapolis and St. Paul metropolitan area have increased over the past decade by approximately:

- 122% for high-level equity partners;
- 78% for mid-level equity partners;
- 52% for low-level equity partners; and
- 72% for mid-level associates.

On average, attorneys' fees in the Minneapolis and St. Paul metropolitan area increased by 81% from 2000 to 2011.

13. The average fee request submitted in 2012 by the three principal parties in *Zachman* was \$128,920. See Affidavit of Timothy D. Kelly in Support of Zachman Plaintiffs' Motion for Attorneys' Fees, Costs and Disbursements (June 26, 2002)

(requesting \$114,230 in attorneys' fees); Bill and Memorandum of Costs and Disbursements and Affidavit of Alan W. Weinblatt (May 16, 2002) (requesting \$139,895 in attorneys' fees); Affidavit of Brian Melendez (May 29, 2002) (requesting \$132,636 in attorneys' fees). Accounting for the average increase of 81% in attorney fee rates over the past 10 years, an equivalent amount in today's legal community is \$233,345. When indexed to today's rates for attorneys in the Minneapolis and St. Paul area, Plaintiffs' request for \$225,000 in attorneys' fees in this litigation is less than the average request for attorneys' fees by the principal parties in the *Zachman* litigation.

14. The actual attorneys' fees incurred by Plaintiffs in this litigation exceed the \$225,000 in attorneys' fees requested by Plaintiffs. In light of the current circumstances of the state, balancing all of the factors involved in determining a reasonable attorneys' fees award, and considering the amount of attorneys' fees requested by the principal parties in the *Zachman* litigation, \$225,000 represents a reasonable award of attorneys' fees to Plaintiffs for their efforts in this litigation. In stating this opinion, I have considered the experience of the attorneys involved, the responsibility they assumed, the difficulty of the issues presented, the amount of time spent in prosecuting the litigation, the customary and usual fees in the community, the matter in dispute, and the results obtained. The work was actually performed for the Plaintiffs' benefit and was necessary for their proper representation. No charges for any unnecessary or duplicative work or work unrelated to this matter have been submitted in support of this motion.

15. Briggs and Morgan, P.A. advanced \$15,452.76 in costs to Plaintiffs during this litigation. These costs were incurred for the following:

<b>ITEM</b>	<b>COSTS</b>
Delivery Services	\$653.16
Digital Reproductions	\$3,166.38
Copies	\$626.82
Color Printing	\$8,671.00
Long Distance Telephone	\$108.02
Westlaw	\$1,683.58
Court Reporter Fees	\$94.40
Transcripts	\$291.77
Services	\$157.63
<b>TOTAL</b>	<b>\$15,452.76</b>

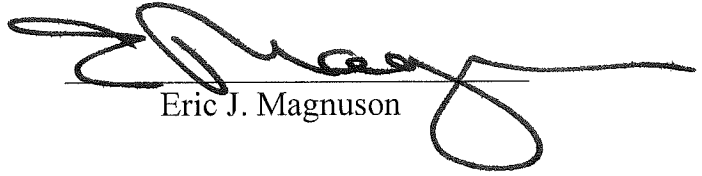
16. Trimble and Associates, Ltd. advanced \$5,861.91 in costs to Plaintiffs during this litigation. These costs were incurred for the following:

<b>ITEM</b>	<b>COSTS</b>
Photocopies	\$4,649.75
Telephone	\$41.75
Postage	\$23.80
Courier	\$113.00
Binders	\$165.50
Mileage/Parking	\$539.10
<b>TOTAL</b>	<b>\$5,532.90</b>

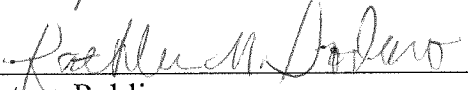
17. The total costs advanced to Plaintiffs during this litigation by Briggs and Morgan, P.A., and Trimble and Associates, Ltd. is \$20,985.66.

18. I have reviewed the costs incurred by Plaintiffs in this litigation. Each of the costs were actually incurred by Plaintiffs and were necessary for their proper representation. No charges for unnecessary or duplicative costs or costs unrelated to this matter have been submitted in support of this motion.

Dated: May 10, 2012.

  
Eric J. Magnuson

Subscribed and sworn to before me  
on this 10<sup>th</sup> day of May, 2012.

  
Notary Public

