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STATE OF MINNESOTA  
SPECIAL REDISTRICTING PANEL

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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.

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**PLAINTIFFS'  
MEMORANDUM OF LAW  
IN SUPPORT OF MOTION  
FOR ENTRY OF  
SCHEDULING ORDER**

By Order dated June 12, 2001, the Supreme Court appointed a special redistricting panel “to hear and decide all matters, including all pretrial and trial motions” in this matter. Zachman, et al. v. Kiffmeyer, et al., No. C0-01-160 (Minn. June 12, 2001). The Court also ordered that this 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.” Id.

Plaintiffs hereby submit a proposed Scheduling Order that seeks to outline the tasks and suggested deadlines for this Panel to accomplish its assigned responsibilities. Plaintiffs are not asking this Panel to usurp the Legislature’s redistricting duties. However, a judicial

determination of legislative and congressional redistricting plans, in the event this Panel is required to release such plans, must be preceded by the usual elements of any litigated matter: discovery, motions, trial, deliberation, and possibly appeal. In order for the Panel to be prepared to release redistricting plans, when and if required, the parties and the panel need to begin now the process of preparing for trial.

Minnesota Statutes § 204B.14, subd. 1a (2000) sets the deadline for preparation of redistricting plans. In the current redistricting cycle, that statutory deadline is March 19, 2002. That statutory deadline, however, does not allow enough time for election officials to accomplish the task that follow the adoption of new legislative and congressional plans. According to Secretary of State Mary Kiffmeyer, the statutory deadline “should be viewed as the most extreme scenario permitted by current law.” Letter from Mary Kiffmeyer, Minnesota Secretary of State, to Rep. Erik Paulsen, Minnesota House of Representatives (May 15, 2001), attached as Exhibit A to the Affidavit of Thomas B. Heffelfinger.<sup>1</sup> According to Secretary Kiffmeyer:

While the law may permit passage of a plan as late as March, 2002, prudent public policy demands that a redistricting plan be enacted long before that deadline. Because redistricting will result in significant changes to government boundaries at nearly every level, time is a critical element to managing these transitions.

Id. (emphasis added). In other words, the real deadline should be approximately January 1, 2002 in order to allow the time necessary for county and municipal redistricting, for candidate identification, and for precinct caucus preparations. See also Minn. Stat. § 204B.135, subd. 1 (2000) (city wards cannot be redistricted until the legislature has been redistricted).

The time required for preparation and consideration of redistricting plans through the judicial process counsels against waiting for the Legislature to exhaust its redistricting efforts

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<sup>1</sup> The same letter was sent to all members of the Minnesota Senate and House.

before beginning this litigation. In eight of the last nine redistricting cycles, the work of redistricting was accomplished through the courts, not by the Legislature. Cotlow, et al. v. Grove, et al., No. C8-91-985 (Spec. Redist. Panel Dec. 9, 1991) at 14 (“Only once during this time [the last 78 years] have the legislature and the governor been able to pass a redistricting plan.”) The Legislature is currently not in session and cannot lawfully conduct any business. Unless the Governor calls another special session, the Legislature cannot even consider redistricting proposals until it reconvenes on January 29, 2002. See House Journal, 59<sup>th</sup> Day (May 21, 2001), attached as Ex. B to Aff. of T. Heffelfinger. Finally, there is nothing to prevent the Legislature from meeting to discuss redistricting while this litigation proceeds through discovery, motions and trial. If the Legislature and Governor are able to agree upon constitutional redistricting plans in a timely manner before January 1, 2002, this Panel would never be called upon to release final plans. However, by starting now and moving forward expeditiously toward a final decision, the Panel will be in a position to render a decision if legislative efforts prove to be unsuccessful.

Plaintiffs here submit a proposed Scheduling Order that allows this Panel to complete its work prior to January 1, 2002. That proposed Scheduling Order identifies two primary events— an initial hearing to establish redistricting principles, and a trial to determine the final legislative and congressional redistricting plans. The other proposed deadlines flow from those suggested hearing dates. We have suggested that the Panel hold a hearing, and issue an interim order, on redistricting principles prior to trial regarding the plans so that the parties have sufficient time to prepare redistricting plans which follow those criteria.

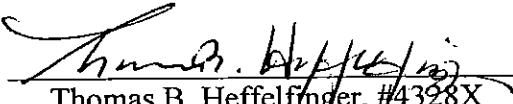
In order for the Panel to be prepared to release legislative and congressional redistricting plans, should the legislature not act in a timely manner, the tasks necessary to prepare for trial

must proceed on an expedited basis. In submitting their proposed Scheduling Order, plaintiffs also recognize that progress on these tasks by this Panel may well encourage the Legislature to make progress on its redistricting tasks. Correspondingly, delay by this Panel may foster further delay by the Legislature.

Respectfully submitted,

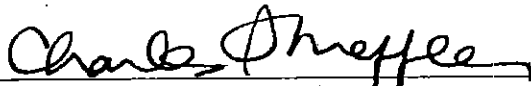
Dated: July 31, 2001.

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Dated: July 31, 2001.

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