

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT**

BRIAN F. EGOLF, JR., HAKIM BELLAMY,)
MEL HOLGUIN, MAURILIO CASTRO, and)
ROXANE SPRUCE BLY,)
) NO. D-101-CV-2011-02942
Plaintiffs,)
) CONSOLIDATED WITH:
v.) D-101-CV-2011-02944
) D-101-CV-2011-02945
DIANNA J. DURAN, in her official capacity as) D-101-CV-2011-03016
New Mexico Secretary of State, SUSANA) D-101-CV-2011-03099
MARTINEZ, in her official capacity s New) D-101-CV-2011-03107
Mexico Governor, JOHN A. SANCHEZ, in his) D-202-CV-2011-09600
official capacity as New Mexico Lieutenant) D-506-CV-2011-00913
Governor and presiding officer of the New)
Mexico Senate, TIMOTHY Z. JENNINGS, in)
his official capacity as President Pro-Tempore)
of the New Mexico Senate, and BEN LUJAN,)
SR., in his official capacity as Speaker of the)
New Mexico House of Representatives,)
Defendants.)

**LEGISLATIVE DEFENDANTS' RESPONSE TO PLANS FILED ON
FEBRUARY 20, 2012 BY THE COURT**

COME NOW, Defendants, Timothy Z. Jennings, in his official capacity as President Pro-Tempore of the New Mexico Senate, and Ben Lujan, Sr., in his official capacity as Speaker of the New Mexico House of Representatives (hereinafter collectively "Legislative Defendants"), and by and through their attorneys, Stelzner, Winter, Warburton, Flores, Sanchez and Dawes, P.A. (Luis G. Stelzner and Sara N. Sanchez) and Hinkle, Hensley, Shanor & Martin, L.L.P. (Richard E. Olson), and as and for their written comments on the preliminary plans proposed by the Court, would show the Court as follows:

1. The Legislative Defendants continue to advocate the adoption of the legislative plan, House Bill 39, but, subject to that caveat provide the following comments to assist the court in its task:

A. North Central New Mexico: The Legislative Defendants' continue to believe that no consolidation of districts is necessary in North Central New Mexico and that the Supreme Court order of February 10, 2012 does not call for such a consolidation. However, if this Court chooses to consolidate two districts in North Central New Mexico, plan 1 is acceptable. Furthermore, plan 2 is also acceptable if Precinct Nos. 3 and 4 in Santa Fe County are moved from House District 68 to House District 40. This would provide a much more compact House District 68 and the communities in those precincts, for example, Cundiyo, more appropriately belong in a Santa Fe County based district because of ties such as commercial ties, people sending their children to schools in Pojoaque and the like. There is no evidence to cite on the record regarding this matter as this is an issue that has arisen since the taking of testimony in this case.

B. Community of Interest in House District 58: Concerning House District 58, Chaves County Precinct No. 103 should be included with House District 58. Chaves County Precinct No. 103 primarily consists of the community of Lake Arthur. The community of Lake Arthur has natural ties and affinities with the communities of Hagerman and Dexter, which are communities in the Pecos Valley south of Roswell and in Chaves County, New Mexico. These communities have substantial Hispanic populations and have historically been part of the same representative district and part of the same senatorial district. From a community of interest standpoint, it makes sense to keep these communities intact. There is no particular evidence in

the record as this is an issue that surfaced as a consequence of the multiple redraws of the Governor's Executive Plans that were submitted during the trial phase of this matter.

C. Treatment of Santa Fe County communities in Plan #1: The Legislative Defendants would note that Plan #1 maintains a number of Santa Fe communities intact and maintains relationships between those communities and their legislators, thus respecting those communities of interest as well as political and geographic boundaries — traditional redistricting principles — of Rio Arriba and Santa Fe counties.

D. Belen District: The Legislative Defendants would suggest that, in order to keep Belen relatively intact, that Valencia County Precinct 21 move from House District 7 to House District 8.

E. Consolidation of north central district: If this court consolidates a north central district, the finally submitted Court Plan should be refined or amended so as to provide that the new seat emerging on the Westside of Albuquerque from the consolidation be a swing district. The Supreme Court has made it clear that the court must be mindful of partisan bias, and should carefully evaluate political considerations to adopt a politically-neutral plan. *See, e.g.* Supreme Court Opinion (February 21, 2012), ¶ 28 (“Because the redistricting process is embroiled in partisan politics, when called upon to draw a redistricting map, a court must do so with both the appearance and the fact of scrupulous neutrality.”) (internal quotation marks omitted). “[M]aintaining the political ratios as close to the status quo as practicable, accounting for any changes in statewide trends, will honor the neutrality in . . . a politically charged case.” *Id.* ¶ 31. In addition, “[a]ny district that results from a Democrat-Republican consolidation . . . should [generally] result in a district that provides an equal opportunity to either party.” In order to be consistent with the Order from the Supreme Court, and in the interest of elimination of partisan

bias and maintenance of the status quo, the Legislative Defendants would submit that the new Westside District should emerge as a swing district so that of the three seats emerging on the Westside, one district is a solid Democratic seat, one district is a solid Republican seat and one is a true swing district. Testimony submitted at the trial established that this could be done. *See* Egolf 5 plan, Exhibit No. 26. Lastly, the Court should consider the potential partisan bias in the proposed plan because of the imbalance of incumbency in the fifteen swing districts. Creating an open swing seat on the Westside of Albuquerque will also help ameliorate the partisan advantages that incumbency has on the existing swing districts.

2. The Legislative Defendants believe that this Court has dealt in an appropriate and adequate manner with the issues relating to House District 63.

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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2012, I caused a true and correct copy of LEGISLATIVE DEFENDANTS' RESPONSE TO PLANS FILED ON FEBRUARY 20, 2012 BY THE COURT, along with this Certificate of Service, to be served electronically through the Tyler Tech System, which caused all parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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