

STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT

BRIAN F. EGOLF, JR., HAKIM BELLAMY, MEL HOLGUIN, MAURILIO CASTRO and  
ROXANE SPRUCE BLY,

Plaintiffs,

-vs-

**No. D-101-CV-2011-02942**

DIANNA J. DURAN, in her official capacity as New Mexico Secretary of State, SUSANA MARTINEZ, in her official capacity as New Mexico Governor, JOHN A. SANCHEZ, in his official capacity as New Mexico Lieutenant 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.

**CONSOLIDATED WITH CAUSE NO. D-202-CV-2011-09600  
CONSOLIDATED WITH CAUSE NO. D-506-CV-2011-00913  
CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-02944  
CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-02945  
CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-03016  
CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-03099  
CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-03107**

**MOTION FOR APPOINTMENT OF SPECIAL MASTER**

Susana Martinez, in her official capacity as New Mexico Governor, by and through her attorneys, Paul J. Kennedy, Jessica M. Hernandez, and Matthew J. Stackpole; and Dianna J. Duran, in her official capacity as New Mexico Secretary of State, and John A. Sanchez, in his official capacity as New Mexico Lieutenant Governor, by and through their attorneys, Doughty & West, P.A. (Robert M. Doughty III), hereby move this Court for the appointment of a special master pursuant to Rule 1-053 NMRA 2011.

## INTRODUCTION

In this case, which consolidates eight separately filed lawsuits, the Court is being asked to develop and adopt redistricting plans for the United States House of Representatives, New Mexico House of Representatives, New Mexico Senate, and New Mexico Public Regulation Commission (“PRC”). This task will require the Court to evaluate data from the 2010 Federal Census and develop four separate redistricting plans that account for shifts in population throughout the state. These redistricting plans must equalize population among the districts in compliance with the constitutional “one person, one vote” principle, satisfy the requirements of the Voting Rights Act of 1965, and comply with traditional redistricting principles set out in United States Supreme Court case law. This task is extremely complex and technical and must be completed within a very short period of time in order to allow the 2012 election cycle to move forward according to state and federal law.

Given the exceptional conditions that are present in this case, including the time constraints and extreme expense to the state, this case is well-suited to the appointment of a special master, with expertise in demography, to assist the Court in streamlining the process of developing and evaluating a set of appropriate redistricting plans. There are at least twenty-eight individual parties in this lawsuit and at least seven different identifiable groups of parties. A special master would eliminate the need for those seven distinct groups of parties to each retain separate experts to create separate sets of redistricting plans, which would then require dozens of depositions in which all of the separately retained experts would defend their own plans while criticizing the plans prepared by the other parties. This method was used ten years ago in the last redistricting litigation and cost the tax-payers more than \$3.5 million dollars. A special master

could create a single set of maps based upon criteria from the Court and the parties, which could then serve as the basis for focused discovery and trial presentation.

Recognizing the unique nature of redistricting litigation, in recent redistricting cases around the nation, courts have appointed special masters with expertise in demography to assist the court in developing and evaluating redistricting plans. When a special master has assisted the court, the redistricting litigation process has been a more efficient, more economical, and less partisan process, benefitting the citizens of the states where a special master was used. As further demonstrated below, a special master should be appointed in this redistricting litigation because efficiency, economic, and fairness considerations favor the appointment of a special master to assist the Court in adopting redistricting maps that ensure that all New Mexicans have an equal voice in their representation.

**REDISTRICTING LITIGATION PRESENTS EXCEPTIONAL CONDITIONS THAT  
JUSTIFY APPOINTMENT OF A SPECIAL MASTER.**

Courts in this state have the discretion to appoint special masters. See Santa Fe Pac. Gold Corp. v. United Nuclear Corp., 2007 NMCA 133, ¶¶ 4-5, 143 N.M. 215, 219 (discussing trial court proceedings involving special master). “The court in which any action is pending may appoint a special master therein.” Rule 1-053 NMRA 2011. In non-jury cases, the appointment of a special master is appropriate when there is some exceptional condition. See id. The Court may specify or limit the special master’s powers and may direct the special master to report only upon particular issues at a specified time. Id. The special master can take all measures necessary or proper for the efficient performance of his duties under the order. Id. The special master “shall prepare a report upon the matters submitted to him by the order of reference.” See e.g. Rule 1-053 (D) 2011 (Proceedings). “The court after hearing may adopt the report or may

modify it or may reject it in whole or in part or may receive further evidence or may recommit it with instructions.” Rule 1-053(E) 2011 (Report).

Exceptional conditions justifying the appointment of a special master are present in this case. The task before the Court is a highly complex and technical one that must be completed in a very short amount of time, which involves approximately fifty parties and attorneys representing highly politicized interests, and which will cost the state multiple millions of dollars. Under these circumstances, the Court should use its inherent authority to control the process of the litigation in order to produce the most efficient, economical, and fair result possible. Appointment of a special master would serve these purposes by reducing the amount of time needed for discovery and trial, focusing the attorneys’ and experts’ efforts during discovery and trial, and ultimately saving New Mexico tax-payers millions of dollars.

**1. Other States Have Appointed Special Masters to Assist in Streamlining Redistricting Litigation.**

Courts throughout the United States have chosen to appoint special masters to assist in streamlining redistricting litigation. Courts have ruled that in order to “prepar[e] plans in a timely manner, while reconciling the demands of the Constitution, the Voting Rights Act, and the redistricting principles... an exceptional condition [exists] that requires the appointment of a Special Master to assist the court.” Larios v. Cox, 306 F.Supp.2d 1212, 1213 (N.D.Ga. 2004). Courts have used a special master to assist in evaluating and compiling data and preparing redistricting plans. See e.g. Rodriguez v. Pataki, 207 F.Supp.2d. 123 (S.D.N.Y. 2002), See Diaz v. Silver, 978 F. Supp. 96, 99 (E.D.N.Y. 1997), Jackson v. Nassau County Bd. of Supervisors, 157 F.R.D. 612, 615 (E.D.N.Y. 1994); Fund for Accurate and Informed Representation, Inc., 1992 U.S. Dist. LEXIS 21617, No. 92CV283 (N.D.N.Y. Dec. 23, 1992). Thus, the parties are not asking this Court to blaze a new trail in redistricting litigation. They are asking the Court to

use an existing procedure that is allowed for under the New Mexico Rules of Civil Procedure and which has been successfully used in states throughout the country to address complicated cases such as this one.

**2. The Time Constraints on this Litigation Provide Exceptional Conditions Justifying the Appointment of a Special Master.**

Redistricting is a complex task that must be completed in a short period of time so that the election process can proceed as mandated by the procedural requirements of the New Mexico Election Code, NMSA 1978, §§ 1-1-1 through 1-24-4 (2011). Time is of the essence because, among other important Election Code deadlines, the U.S. House of Representatives candidates must declare their candidacy and file nominating petitions by February 14, 2012. NMSA 1978 1-8-26(A) (stating the declaration for candidacy must be filed by the second Tuesday in February). Candidates for the New Mexico Senate, New Mexico House of Representatives, and PRC must declare their candidacy and file nominating petitions by March 20, 2012. NMSA 1978 1-8-26(B) (stating the declaration of candidacy must be filed by the third Tuesday in March). There is an extensive amount of work on the part of the Secretary of State, county clerks, political parties, and individual candidates that must occur before these deadlines. That work includes preparing for the primary election based upon district boundary changes, recruiting candidates, gathering nominating petition signatures, and other district-specific planning. Without the certainty of knowing where district boundaries will be, these decisions and tasks become difficult or impossible. Providing guidance to potential candidates, political parties, and relevant governmental entities is the reason the special session is scheduled in early September.

In fairness to the candidates for the U.S. House of Representatives, New Mexico Senate, New Mexico House of Representatives, and PRC, and for the benefit of the governmental

entities charged with implementing the Election Code, this redistricting litigation would ideally be completed by December 31, 2010, or shortly thereafter. This is most critical with respect to the Congressional map. This will allow the respective candidates to know the exact boundaries of the districts they will represent so that they may obtain appropriate signatures via nominating petitions. NMSA 1978, § 1-8-30 (2010) (requiring signatures for the “area to be represented by the office for which the person being nominated is a candidate”).

During the special legislative session, the Legislature did not pass a Congressional map for the Governor’s consideration. The maps the Legislature passed for the New Mexico House of Representatives, New Mexico Senate, and PRC did not include any bipartisan input and had flaws that required the Governor to veto them. Thus, this case does not present a situation where the Court will be asked simply to review constitutional challenges to redistricting maps that have been enacted into law. The Court will be responsible for the actual development of four distinct redistricting plans that will be in place for the next ten years. The Court must accomplish this task in a few short months while, at the same time, ensuring strict compliance with the requirements of “one person, one vote” as mandated by the United States Constitution and the Voting Rights Act of 1965, as well as other redistricting principles articulated by the U.S. Supreme Court. This is no simple task as demonstrated by New Mexico’s redistricting history in 2001.

Following the 2000 Federal Census, the New Mexico courts were tasked with adopting two (2) redistricting plans (Congressional and New Mexico House of Representatives). Like the present consolidated cases, litigation related to the 2001 redistricting commenced in September of 2001. In mid-December 2001, the U.S. House of Representatives case was tried before State District Court Judge Frank H. Allen, Jr. On January 2, 2002, Judge Allen adopted a

congressional plan. The New Mexico House of Representatives trial was held immediately after Judge Allen issued his decision in the congressional case, and on January 24, 2002, Judge Allen adopted a New Mexico House of Representatives plan. During the 2001 litigation, the parties proposed numerous redistricting plans, which involved heavy use of demographers and other experts to develop and defend each party's proposed redistricting plan. Numerous lay witnesses were called to demonstrate how the plans promoted state policies such as accounting for communities of interests and other redistricting principles.

In this case, there are more parties than there were in 2001 *and twice as many plans required to be adopted by the Court within the same short time period.* Using the 2001 litigation as an illustration of the complexity and controversial nature of redistricting as well as the length of time needed to develop the necessary redistricting plans, this Court has only half the time Judge Allen had to develop each plan. Not only is the task twice as large as the task was before Judge Allen in 2001, but there are more parties and attorneys involved, which will no doubt increase the number of proposed plans that will be submitted before this Court.

Instead of a lengthy trial on multiple plans proposed by the parties, a special master will be tasked with developing one plan for each of the four (4) elections to present to the Court. The special master's plans will be the basis upon which each party will have the opportunity to address the constitutionality of the plans as well as compliance with the Voting Rights Act of 1965. This Court will then review all evidence and arguments proffered and determine if the plans are constitutional or whether modifications must be made. The ultimate decision on each one of the respective redistricting maps will be left to the sole discretion of this Court.

Rather than requiring every party to hire demographers to create different proposed plans and then requiring the parties to engage in dozens of depositions to determine what each

different expert will say about each party's plan, allowing a special master to create a single set of proposed plans based upon input from the parties and the Court on the criteria for those plans will simplify the litigation and make the litigation process more efficient and cost effective.

**3. The Cost to Tax-Payers for this Litigation Creates Exceptional Conditions Justifying the Appointment of a Special Master.**

Not only would the appointment of a special master reduce the time required to prepare redistricting plans, it also will save New Mexicans millions of dollars in legal fees and related costs. As history has shown, redistricting litigation is extremely expensive for the tax-payers of New Mexico. Between September 2001 and January 2002, the redistricting litigation cost the State of New Mexico more than \$3.5 million dollars. The cost of this litigation will greatly exceed the \$3.5 million spent for the 2001 litigation because there are four (4) districting maps at issue in this case as opposed to two (2) that were at issue in 2001. There are twenty-eight parties and over twenty attorneys. Trying these consolidated cases under traditional litigation principles will be extremely costly to the tax-payers of New Mexico. The media and the public have been very clear that money spent by the State of New Mexico on the 2001 redistricting litigation was too much. See Newspaper articles attached hereto as Exhibit "A." The media and the public are very aware that the instant litigation could cost the State of New Mexico substantially more when this Court is being asked to adjudicate twice as many redistricting plans as were litigated in 2001. Id. Given that twice as many plans are being litigated in this redistricting litigation, the cost of the instant litigation could easily double, costing the tax-payers of New Mexico roughly \$7 million dollars.

If a special master is appointed to assist the Court in this redistricting litigation, litigation costs will be significantly cut, saving the tax-payers of New Mexico millions of dollars. With a special master, there will be no need for the parties to submit multiple proposed redistricting



maps for each side to then laboriously nitpick for weeks on end during discovery and at trial. With a special master, there will not be multiple competing maps. To the contrary, the special master would propose one map for each of the four (4) redistricting plans. This will allow the parties and the Court to focus solely on potential modifications to that one set of proposed maps.

**4. Fairness Considerations Favor the Appointment of a Special Master.**

Not only would the appointment of a special master reduce the time and expense required to conduct this litigation, it also will create a more fair process and result by taking the partisanship out of the process. Although redistricting is a political process when conducted in the legislative forum, it takes on a different character when it moves into the Courts. Ten years ago, Judge Allen was “reluctant to make radical or partisan changes unless the law requires those changes to be made” and recognized that the Court should “exercise[e] a limited role and appl[y] neutral principles of law” when adopting redistricting plans. Appointing an experienced demographer as a special master to draw neutral and objective redistricting plans, which the parties would still have ample opportunity to comment on, will assist this Court in adopting plans that are not based upon partisan interests, but are based upon objective criteria interpreted by a neutral expert.

**5. Use of a Special Master Will Still Allow Each Party to Provide Significant Input to the Court through Briefing, Testimony, Evidence, and Argument.**

If the Court chooses to appoint a special master, each party would submit the name of a proposed candidate, along with the individual’s resume and/or *curriculum vitae*. Each party would have the opportunity to provide written comment on the other parties’ proposed candidates. Each party would have the opportunity to submit proposed instructions or criteria to be used by the special master. The Court would then rule on the appropriate instructions to be given to the special master. Based upon input from the parties, the Court could determine which

additional information the parties would submit to the special master. This information might include expert reports, proposed redistricting plans, or other factual information.

Upon receipt of this information from the parties, the special master will draw the four (4) redistricting maps and present the maps to the Court and the parties. Once the Court has received the maps from the special master, the parties would have the opportunity to provide written objections and comments to the Court. In addition, there would be an evidentiary hearing or bench trial in which the parties could present evidence, fact witness testimony, and expert testimony to assist the Court in evaluating the special master's proposed plans and identifying any necessary modifications to those plans. Upon completion of the hearing(s), the Court could adopt the four (4) redistricting maps with or without modification or the Court could reject any one of the plans in whole or in part or the Court may receive further evidence or may recommit it with instruction. See Rule 1-053 (E) 2001. Clearly, the Court would make the ultimate decisions regarding the adoption of all the redistricting plans and will not be bound in any way by any of the findings of the special master.

Per the Court's instruction at the Rule 16 Scheduling Conference held on October 17, 2011, a proposed Order is attached hereto as Exhibit "B" which outlines the proposed mechanics of the procedure for proceeding with a special master. These deadlines are suggestions to illustrate how the process would work and would be modified based upon input from all parties and the Court.

### **CONCLUSION**

Recently, in redistricting cases around the nation, courts have appointed special masters to investigate, compile data, and prepare redistricting plans, while reconciling the demands of citizens' constitutional rights. Given the facts and circumstances of this case, the time

constraints, and New Mexico's costly litigation history relating to redistricting, exceptional circumstances exist such that a special master should be appointed to assist the Court in formulating and developing redistricting maps that equalize the population of New Mexico districts to ensure that its citizens have an equal voice in their representation as required by the United States Constitution and the Voting Rights Act of 1965.

Respectfully submitted,


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I hereby certify that on October 19, 2011, I filed the foregoing pleading 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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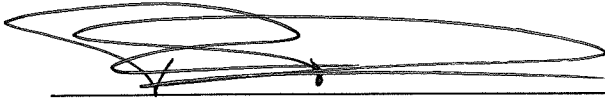
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Robert M. Doughty, III

**Albuquerque Journal (New Mexico): New Maps Will Cost Taxpayers**

January 6, 2002  
Loie Fecteau

**Public funds will pay for much of the \$1 million or so tab from lawyers.**

The running battle over new political maps for New Mexico will cost taxpayers a bundle.

The fight has moved from the Capitol to the courtroom, and all sides are bristling with legal representation. **Fees for the two dozen or so lawyers involved in the cases will be no small part of the overall redistricting tab.**

**The attorneys' bills easily could top \$1 million, with taxpayers footing much of that.**

Redistricting of the state's U.S. House districts, Legislature and other districted elective offices is a once-a-decade task based on the latest census. Since legislators and Gov. Gary Johnson couldn't agree, the highly partisan chore ended up in court.

**New Mexico already has shelled out more than \$1.5 million on redistricting this time around, and that's for expenses incurred in advance of redistricting trials before state District Judge Frank Allen Jr. in Albuquerque.**

The eight-day congressional redistricting trial ended Dec. 20. Allen rejected Democratic attempts to create a Hispanic majority district and instead opted for a "least change" map that keeps the three U.S. House districts essentially the same as they were.

The state House trial began Jan. 2 and is under way now, with trials on redistricting the state Senate and state Board of Education still to come.

**With appeals, it could be years before the total cost is known.**

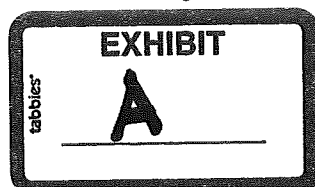
Allen's courtroom at times looked like a bar convention, with 19 lawyers arrayed before him.

Many of the lawyers were involved in redistricting work even before Johnson vetoed new districts approved by the Democrat-controlled Legislature.

**The \$1.5 million already spent includes nearly \$691,000 to pay for a 17-day special legislative session in September; \$533,305 for legislative consultation up to September 2001 by Research and Polling Inc. of Albuquerque; and \$321,549 for work through October and November for two law firms hired as legal consultants by the Legislature.**

Meanwhile, voters and legislators from both the Democratic and Republican sides of the aisle have sued the governor, the lieutenant governor, the legislative leadership and the secretary of state. Two Indian tribes have sued, along with a group of Mexican-Americans. They all have attorneys. And so do the public officials they have sued. Most of the lawyers are from private practice; some work for the state attorney general.

Allen, at one point, said he was "damn mad" that he was being forced to deal with a squabble that should have been settled at the Roundhouse.





## Big guns

"The caliber of lawyers in that courtroom is incredible," said state Rep. Alfred Park, D-Albuquerque, a lawyer himself, who occasionally stopped by to watch the trials. "None of them are lightweights."

Park noted that Albuquerque lawyer James Browning is "only one of three (former) U.S. Supreme Court law clerks that practice law in New Mexico." Browning has been one of two lawyers representing the governor.

Browning, who served as deputy attorney general under former state Attorney General Hal Stratton and now is in private practice, was retained to represent Johnson by the state Republican Party.

"He (Browning) is not being paid through the Governor's Office or through Risk Management," said Matthew Hoyt, Johnson's general counsel, who is working with Browning during the trials. "There's no public money involved."

State Republican Party chairman John Dendahl said the GOP plans to hold fund-raisers to pay the fees of Browning and other lawyers helping Republicans.

"I bet it'll be in the \$500,000 range," Dendahl said. "So we've got a tall fund-raising effort ahead of us. ... I know they're all putting in humongous hours because I get e-mails from some of these lawyers that have been sent in the middle of the night."

The state Republican Party already has paid Mark Braden, a Washington, D.C., lawyer and national GOP redistricting expert, "tens of thousands of dollars" for work he did for Republicans during the special legislative session on redistricting and for some pretrial work, Dendahl said.

Braden, who said he gets between \$200 and \$500 an hour, also represents several Republican clients in the congressional and state House redistricting trials.

Neither Braden nor Dendahl would disclose how much Braden is being paid. But Dendahl said the party would have to list payments to Braden in state campaign finance reports in May.

Taxpayers will foot the bill for Albuquerque lawyers Mark Jarmie and Jason Bowles, who represent Lt. Gov. Walter Bradley, another defendant.

Jarmie and Bowles are being paid \$125 an hour through a contract Jarmie's firm has with the state General Services Department's Risk Management Division. Jarmie served as director of prosecution under Stratton and is a former assistant U.S. attorney.

"We have not received an invoice from him (Jarmie) yet," said General Services Department spokesman George Marquez. "He (Jarmie) is invoicing quarterly."

## Pricey battle

A number of lawyers plan to apply to the court to have the state pay for their fees under federal law.

That could cost New Mexico taxpayers up to \$500,000 just for the congressional trial, said former U.S. Attorney John Kelly.

"My expectation is the state of New Mexico will pay very substantial legal fees," said Kelly, who stopped by several times to watch the congressional trial. "The lawyers will submit a bill based on their usual hourly rate."

Park estimated that most of the trial lawyers in the redistricting cases normally charge between \$200 and \$250 an hour.

Under federal law, parties who bring civil rights or voter rights lawsuits can be awarded legal fees and expenses, if they prevail.

The legal battle also includes prominent defense attorney Charles Daniels of Albuquerque and his partner Joseph Goldberg, who successfully challenged New Mexico's redistricting after the 1980 census.

"I expect to get paid under the Civil Rights Attorneys Fees Award Act, exactly the same way I got paid after the 1982 litigation," said Goldberg, who with Daniels represents several Democratic plaintiffs.

Albuquerque lawyers Patrick Rogers and David A. Garcia, who represent separate groups of Republicans, also expect to apply for attorney fees. So do Rolando Rios of San Antonio, Texas, Manuel Lopez of Las Cruces, and William Garrett of Santa Fe, who represent a group of Mexican-American clients.

"I think everybody is planning to apply to the court for fees," said Albuquerque lawyer Don Bruckner, who, along with Braden, represented a group of Republicans who advocated the so-called "least change" plan selected by Allen.

Braden and Bruckner also are involved in the state House trial, where they represent the same clients, who include Rep. Joe Mohorovic, R-Albuquerque, and Sen. William Sharer, R-Farmington.

If not taxpayers ...

In a Texas congressional redistricting case last year, six lawyers representing three groups of clients have asked the courts to approve about \$1.2 million in fees and expenses. That's on top of about \$4.6 million that Texas has already spent on redistricting.

"Cases go on for years as to who's the prevailing party in these type of cases," Garrett said.

In the New Mexico cases, Gov. Johnson might try to squash the lawyers' attempts to be paid by taxpayers, Hoyt said.

"We are considering opposing awards of attorneys' fees and costs to any party," Hoyt said. "That's everyone, not just Joe (Goldberg). That would be Pat Rogers, Bruckner. We would not discriminate (between Republicans and Democrats). The governor believes the taxpayers should not shoulder the burden of this litigation. The taxpayers paid for the special session and that should have resolved redistricting."

Albuquerque lawyer Luis Stelzner and Roswell lawyer Richard Olson, a former House member, and other lawyers in their firms, were hired by the Legislative Council Service, a publicly funded agency of the Legislature, to serve as legal consultants on redistricting beginning in November 2000.

Under that contract, Stelzner and Olson represent defendants House Speaker Ben Lujan, D-Santa Fe, and Senate President Pro Tem Richard Romero, D-Albuquerque, in the redistricting trials.

Stelzner's firm billed the state for about \$234,748 for work through November, which included some pre-trial work, but primarily was for work before and during the special session on redistricting. Olson's firm billed for about \$86,800 for work through October.

Neither firm has submitted bills yet for work on the trials, the first of which began Dec. 10.

Olson, Stelzner and lawyer Philip Larragoite and University of New Mexico Law School professor Michael Browde are paid \$150 an hour, while lawyers Joel Carson and Ray Vargas II receive \$120 an hour, according to their contract with the Legislative Council Service.

Park described those fees as "cut-rate deals for those lawyers."

"I wish I could get Luis Stelzner on retainer for \$150 an hour I'd be thrilled," Park said. "Luis is one of the best mediators in the state."

Piling on

Some lawyers in the redistricting trials, such as Hoyt, Johnson's general counsel, and Chris Coppin, an assistant attorney general, already are on the state government payroll. Coppin represents defendant Secretary of State Rebecca Vigil-Giron.

Other lawyers include Richard Hughes of Santa Fe, who represents the Navajo Nation, and Teresa Leger de Fernandez of Santa Fe, who represents the Jicarilla Apache Nation. They could apply to the state for their fees also.

New Mexico taxpayers also will have to pay for several expert witnesses.

Lisa Handley, a Washington, D.C., voting-rights consultant who testified on behalf of Democratic legislative leaders, has yet to submit her bill for the congressional trial. But, according to her contract with Legislative Council Service, she gets \$200 an hour, up to \$1,500.

"We seem to have a traveling show going on," quipped Ronald Gaddie, a University of Oklahoma professor, who testified on behalf of Republicans during the New Mexico congressional trial. "There were several witnesses here who were in the Texas case as well."

## ***The Associated Press: Feed Bill To Cover Redistricting Suits***

January 17, 2002  
Barry Massey

Republican senators objected Wednesday to spending \$ 750,000 for lawyers to represent the Legislature in redistricting lawsuits.

The money is part of a bill providing \$ 3.9 million for the Legislature during the 30-day session and \$ 11.2 million for permanent legislative operations in the next budget year.

Sen. Patrick Lyons, R-Cuervo, said the two law firms hired by the Legislature couldn't represent Republican as well as Democratic interests in redistricting trials.

"It's not fair," Lyons said before the Senate Finance Committee approved the spending bill and sent it to the full Senate for debate and a vote. "There ought to be money appropriated to each side to be fair."  
Paula Tackett, director of the Legislative Council Service, said the lawyers represented "the Legislature as an institution."

"They are not representing Democrats or Republicans," she said.

The official action of the Legislature, Tackett said, were the bills passed by the Legislature -- and later vetoed by Republican Gov. Gary Johnson. However, Republican senators pointed out the redistricting bills passed mostly along party lines, with GOP members opposing the measures.

The committee rejected a proposal by Lyons to reduce the amount for legal expenses to \$ 500,000.

The bill provides \$ 750,000 out of the Legislature's \$ 1.8 million in cash reserves for the legal expenses in redistricting lawsuits. Some money is being set aside in case a trial is held over Senate redistricting, Tackett said.

A state district judge has issued a ruling on how to draw new congressional districts and a trial is concluding on House redistricting. Legislative leaders were named as defendants in redistricting lawsuits as well as the governor, lieutenant governor and secretary of state.

Tackett said about \$ 950,000 had been spent on redistricting through November, including public hearings by a legislative study committee across the state as well as services of a contractor who helped prepare redistricting maps and demographic information.

The House unanimously approved the spending bill earlier Wednesday and sent it to the Senate.

## ***The Associated Press: Court Asked To Award \$2.9 Million In Redistricting Suits***

March 4, 2002

Barry Massey

**Taxpayers could end up paying more than \$3 million for the legal fight over legislative and congressional redistricting.**

**A state judge has been asked to award \$2.9 million in attorneys fees and other expenses related to lawsuits that determined new boundaries of New Mexico's congressional and state House districts.**

Those expenses range from fees for experts who testified in trials to charges for copying documents and some long-distance telephone calls. There's also gross receipts tax on the fees and expenses.

"The numbers are going to look big, but I really don't think anybody was greedy," said David A. Garcia, an Albuquerque lawyer involved in the cases.

**The total price tag for redistricting could exceed \$4 million because the \$2.9 million doesn't reflect the costs of all lawyers in the lawsuits, a pending appeal or more than \$1 million in expenses in the Legislature, including work before the battle shifted to the courts.**

District Judge Frank Allen Jr. will decide who will be paid fees and how much.

Redistricting ended up before Allen after Republican Gov. Gary Johnson and the Democratic-led Legislature failed to agree on plans for drawing new congressional and House districts. Allen held a two-week trial on congressional redistricting in December and an 11-day trial on House districts in January.

More than two dozen lawyers worked on the lawsuits, and they have asked the court to have their fees paid under a federal law allowing for the awarding of legal expenses to parties who prevail in civil rights lawsuits.

The redistricting cases featured a wide range of parties: a group of Democrats and minority voters, Hispanic activists, three groups of Republicans, the governor, lieutenant governor, the Legislature, the Navajo Nation and Jicarilla Apache Nation.

A fight could be brewing in court over who should be paid attorney's fees.

Johnson, in filings last week in state district court, opposed any attorneys receiving fees "considering the economy and tight state budget."

However, the governor said that if the judge decides fees should be paid, then payments also should be considered for Johnson's private lawyer, James Browning of Albuquerque.

The governor also has asked the judge to require the Legislature to pay for attorney fees that are awarded to any parties in the cases. Johnson contends that the Legislature can use its cash balances, which total about \$1 million, to help make any payments, Matthew Hoyt, general counsel on the governor's staff, said Monday.

Hoyt said the "principal reason that the redistricting effort failed is the Legislature's inability to pass legally acceptable plans."

In the House case, however, the judge adopted a plan that largely mirrored a proposal passed by the Legislature last year but vetoed by Johnson. The state judge combined the legislative proposal with boundary recommendations from the Navajo Nation and Jicarilla Apache Nation for districts in northwestern New Mexico.

In the congressional case, Allen approved districts that followed the recommendations of a group of Republicans. Boundaries of the three congressional districts changed only slightly. The judge turned down a Democratic-backed proposal for creating a majority Hispanic congressional district.

However, federal law provides for a broad definition of a prevailing party in civil rights cases, which can go beyond the notion of which group's redistricting plan was adopted by the judge.

**The largest request for fees and expenses in the two lawsuits, about \$666,000, was made by lawyers for a group of Democrats, known as the Jepsen plaintiffs, who brought redistricting lawsuits last September. The group included Reps. Max Coll, D-Santa Fe, and Raymond Ruiz, D-Albuquerque.**

**Browning submitted a request for combined fees and expenses of about \$528,600 for the House and congressional cases. That includes 2,475 hours of work by Browning and other lawyers and paralegals in his firm.**

**Lawyers for the Navajo Nation requested fees and expenses of about \$323,000 for the House case.**

**The smallest request was \$172,600 by a group Republicans, whose lawyers included Garcia.**

The state Republican Party has paid for some fees of lawyers representing Republicans and the governor. The party raised about \$400,000 to cover those expenses, said John Dendahl, chairman of the state GOP.

If lawyers for GOP clients are awarded fees and expenses, the GOP would be reimbursed for any of those costs that it paid, according to Dendahl.

The Legislature also has paid some of the bills of its lawyers, who submitted requests to the court for fees and expenses of about \$246,000 in the House case.

Two law firms were hired by the Legislature to serve as legal consultants to the House and Senate starting more than a year ago. The firms also represented legislative leaders who were defendants in the redistricting lawsuits.

John Yaeger of the Legislative Council Service said the Legislature had incurred about \$700,000 in legal expenses through January, which includes lawsuit expenses and work before lawsuits were filed.

Even before the redistricting fight shifted to the courts, the state paid \$691,000 for a special session of the Legislature last year and had expenses of \$697,000 through February for an Albuquerque-based consultant, Research and Polling Inc.

**Not included in the \$2.9 million in requests to the court are fees that will be paid by the state for lawyers representing Lt. Gov. Walter Bradley. His lawyers have a contract with the risk management division of the General Services Department. The agency declined to release billing by the lawyers so far because the redistricting legal fight hasn't ended. Johnson and Bradley are appealing the judge's decision in the House case.**

## ***Santa Fe New Mexican (New Mexico): Johnson Signs Off On Redistricting-Bill Compromise***

March 06, 2002

Steve Terrell

The state avoided a possible court battle over redistricting state Senate seats Tuesday when Gov. Gary Johnson signed a compromise redistricting bill.

Some of the governor's fellow Republicans, including state GOP Chairman John Dendahl, had said Senate Bill 485 would ensure Democrat control over the Senate -- where Democrats outnumber Republicans 24-18 -- for the next 10 years.

However, the bill was supported by 14 Senate Republicans and a clear majority of House Republicans. "He signed it? That's amazing," said Senate President Pro-tem Richard Romero, D-Albuquerque, upon receiving the news from a reporter. Romero was the sponsor of the bill.

Johnson said last week he was leaning toward signing the bill, mainly because of a federal court's recent decision not to overturn a state judge's ruling in the lawsuit over the House redistricting plan.

"It definitely moves the needle," Johnson told reporters last week. "Will (the Senate plan) be any better if it goes to court? These are questions that we're asking ourselves."

### **Lawsuits over the redistricting plans vetoed by Johnson last year could cost the state more than \$4 million.**

State District Judge Frank Allen of Albuquerque -- who presided over trials for redistricting plans for the state House of Representatives and New Mexico's boundaries for congressional seats -- will decide how legal fees will be distributed and who will pay.

Johnson vetoed all legislative redistricting plans the Legislature passed during a special session in September.

Both parties filed lawsuits concerning redistricting. Allen eventually approved a state House plan that made minimal changes to the current 70 House districts.

Some Senate Democrats wanted the Legislature to wait until next year to draft a Senate redistricting plan. Senators, all of whom are elected to four-year terms, do not run for re-election until 2004.

Democrats who wanted to wait -- including Sen. Roman Maes of Santa Fe and Phil Griego of San Jose -- expressed the hope a Democrat would be elected governor this year.

Seven Senate Democrats voted against the bill, saying Republicans on the state's east side should have lost some seats because of population shifts.

Sen. Joe Carraro of Albuquerque, one of the four Republicans who voted against the bill, commented on the Senate floor last month about the unusual alliance opposing the compromise.

"Talk about strange bedfellows," Carraro said. "This is a very strange group of people. It'd look like the bar scene in Star Wars if you put us all together."

***Albuquerque Journal (New Mexico): Settlement Cuts Lawyers' Fees***

May 21, 2002  
S.U. Mahesh

Redistricting Cases Dismissed

**State District Judge Frank Allen Jr. on Monday approved a settlement that will give the more than two dozen lawyers involved in court battles over redistricting "substantially" less than they had asked for.**

Also part of the settlement approved Monday was an agreement to dismiss any remaining appeals in the redistricting cases as well as all pending lawsuits relating to redrawing of state Senate districts.

Mark Jarmie, an Albuquerque lawyer representing the state Risk Management Division, said the settlement would save New Mexico taxpayers "hundreds of thousands of dollars."

**Attorneys involved in the redistricting litigation had asked for between \$3.3 million and \$3.4 million in fees and other expenses.**

"(The settlement) would allow payments of all costs at a substantially reduced rate," Jarmie told Allen during Monday's hearing.

Jarmie told the judge the settlement was reached through mediation among the parties Thursday.

**Under the settlement, law partners will be paid a flat rate of \$200 an hour and associates will be paid \$140 an hour. Paralegals will be paid \$75 an hour for their work on redistricting.**

**Jarmie said most lawyers' bills exceeded the \$200-an-hour rate, with the highest being \$375 an hour.**

"The attorneys took a deduction, so nobody got what they wanted," Jarmie said. "At those rates the public will achieve savings of hundreds of thousands of dollars."

**Under the settlement agreement, Jarmie said, attorneys' fees and other costs would end up being substantially less than \$3.4 million. Individual payments to each law firm will be calculated based on the billing hours submitted by lawyers and a final reckoning will be available in about a week, he said.**

Jarmie also pointed out that through the settlement the taxpayers would also save money by eliminating appeals and future lawsuits on redistricting.

"If there had been appeals and all parties participated, clearly hundreds of thousands of dollars more could have expended," Jarmie said.

The Navajo Nation accepted the settlement after an initial rejection.

Attorney Richard Hughes told Allen that Navajos prevailed in the lawsuit and that there was no reason for them to reduce their attorney fees.



But Allen told Hughes that attorneys' fees for the Navajos were "more than anyone else's ... your fees are \$100,000 out of line."

The Navajos had asked for a total of \$273,000.

The redistricting battle ended up before Allen after Republican Gov. Gary Johnson and the Democratic-controlled Legislature failed to agree on plans for redrawing three congressional districts and 70 state House districts using the 2000 census.

Allen held a two-week trial on congressional redistricting in December and an 11-day trial on state House districts in January.

## ***The Associated Press: Price Tag For Redistricting Approaches \$5 Million***

June 11, 2002

Barry Massey

**Taxpayers will end up paying about \$5 million for redistricting in New Mexico.**

**A court-approved settlement calls for the state to pay \$2.6 million to law firms for legal expenses related to trials over legislative and congressional districts. An accounting of those payments was released Tuesday.**

The payments will be made by the Risk Management Division, which serves as the self-insurance program for state government.

The settlement was approved last month by District Judge Frank Allen Jr. It covers lawyers representing groups of Democrats, Republicans, Hispanic activists, Indian tribes and state elected officials such as Republican Gov. Gary Johnson. No total for the settlement was available when the settlement was approved.

The payments ranged from about \$197,000 for lawyers for one group of Republicans to \$591,000 for an Albuquerque law firm that represented the governor.

The payments are for attorney's fees and other expenses, such as experts who testified in trials. Lawyers had requested about \$3.5 million from the court.

The settlement doesn't cover expenses of the Legislature or those of lawyers who represented Lt. Gov. Walter Bradley in the trials.

The Legislature has incurred about \$770,000 in legal expenses, which includes work before redistricting lawsuits were filed last year, according to John Yaeger of the Legislative Council Service.

Two law firms were hired by the Legislature to serve as legal consultants to the House and Senate starting in November 2000. The firms also represented legislative leaders who were defendants in the redistricting lawsuits.

The total price tag of redistricting also includes:

- \$697,000 for a consultant hired by the Legislature to provide demographic and political information and help lawmakers draw maps of proposed districts. The consultant was Research and Polling Inc., of Albuquerque.

- About \$691,000 approved by lawmakers last year for a special session of the Legislature on redistricting.

The governor vetoed plans approved by the Democratic-led Legislature for drawing new congressional, state House and Board of Education districts. Johnson signed a redistricting plan for Public Regulation Commission seats.

Mark Jarmie, an Albuquerque lawyer on contract with the Risk Management Division, represented Bradley in the trials. He also negotiated the settlement of legal expenses for the state and released the list of firm-by-firm payments.

Jarmie estimated his expenses and fees would be at or near the bottom of those paid to other firms, but said billings to the Risk Management Division will not be completed until the end of this month.

## ***Albuquerque Journal (New Mexico): Redistrict Lawyers Get 2.6 Million***

June 12, 2002

S.U. Mahesh

Settlement Saves Taxpayers \$850,000

**SANTA FE The redistricting battle between Democrats and Republicans will cost New Mexico taxpayers more than \$2.6 million in legal fees and costs, the state Risk Management Division said Tuesday.**

**More than two dozen lawyers involved in the case had originally asked for about \$3.5 million in fees and other costs. But a settlement a state district judge approved last month reduced legal costs to around \$2.6 million.**

Redistricting ended up in state District Court after Republican Gov. Gary Johnson and the Democratic-controlled Legislature failed to agree on plans for redrawing congressional and legislative districts.

Two groups of Democratic plaintiffs, three Republican interveners, Johnson, Lt. Gov. Walter Bradley, the Legislature, the Navajo Nation and the Jicarilla Apache Nation all were represented in redistricting lawsuits.

District Judge Frank Allen Jr. held trials in Albuquerque on congressional redistricting and state House districts.

Allen mostly sided with a Democratic plan for the state House districts while approving a congressional redistricting plan that largely maintained the status quo.

In a settlement Allen approved last month, lawyers for all parties both winning and losing sides agreed to a flat rate for their work on redistricting.

Under the settlement, law partners were to be paid \$200 an hour, associates \$140 an hour and paralegals \$75 an hour.

Mark Jarmie, an Albuquerque lawyer representing the state Risk Management Division, said attorneys had initially requested nearly \$3.5 million, so the settlement saved taxpayers about \$850,000.

"Our goal was to treat everybody the same and save the state as much as possible by entering into this agreement," Jarmie said Tuesday. "I think we were successful in doing that."

Jarmie also said the agreement saved taxpayers money by dismissing all remaining appeals and any pending lawsuits related to redrawing state Senate districts.

**The \$2.6 million figure announced Tuesday, however, doesn't include \$770,000 the Legislature paid two Albuquerque law firms in legal fees, which includes lawsuit expenses and work done before the lawsuits were filed, according to Jarmie.**

Also not included are the fees to be paid by the state to lawyers for Lt. Gov. Walter Bradley in the redistricting case.

Dividing the dollars

The \$2.6 million total was divided by the following law firms:

James Browning of Albuquerque, representing Gov. Gary Johnson, received \$591,366

Joe Goldberg of Albuquerque, representing Democratic plaintiffs, received \$502,153

Richard Hughes of Santa Fe, representing the Navajo Nation, received \$303,437

Patrick Rogers of Albuquerque, representing Republican interveners, received \$272,919

Nordhaus and Haltom Law Firm of Albuquerque, representing the Jicarilla Apache Nation, received \$222,037

Don Bruckner of Albuquerque, representing Republican interveners, received \$179,977

David A. Garcia of Albuquerque, representing Republican interveners, received \$143,075.

Baker and Hostetler Law Firm of Washington, D.C., representing Republican interveners, received \$113,568

David P. Garcia of Santa Fe, representing Democratic plaintiffs, received \$52,199.

Texas attorneys William Garrett and Rolando Rios, along with Manuel J. Lopez of Las Cruces, representing Democratic plaintiffs, received \$68,726, \$46,869 and \$97,971, respectively

Scott and Kienzle Law Firm of Albuquerque, representing a group of Republican interveners, received \$54,281

[abqjournal.com](http://www.abqjournal.com) <http://www.abqjournal.com/main/2011/10/03/abqnewsseeker/redistricting-attorneys-ok%E2%80%99d-for-legislature.html>

## Redistricting Attorneys OK'd for Legislature

SANTA FE — A team of private lawyers will defend the Democratic-controlled Legislature in a court fight over redistricting, state legislative leaders decided Monday despite objections from Republicans.

The Legislative Council voted along party lines to authorize the lawyers. They will represent the Legislature in lawsuits over plans for new boundaries of districts for Congress, the state House of Representatives, the state Senate and Public Regulation Commission.

Senate GOP Leader Stuart Ingle, of Portales, said in an interview that separate lawyers should have been authorized for Republicans as well as Democrats, who hold majorities in the House and Senate, because redistricting decisions were largely divided along party lines during the special session.

"If one side is going to get lawyers paid for, the other side should get it too," said Ingle.

Senate President Pro Tem Tim Jennings, D-Roswell, said both political parties will have an opportunity to voice their views during the lawsuits. Groups of Democrats and Republicans, including the No. 2 House GOP leader, are among those who have brought lawsuits so far.

Republicans opposed Democratic-backed House and Senate redistricting plans passed by the Legislature, and GOP Gov. Susana Martinez was expected to veto those proposals. The Legislature failed to approve a congressional redistricting plan, although a proposal passed the Senate with only Democrats backing it.

The Legislature needs lawyers for redistricting litigation, Jennings said, because the governor is named as a defendant in some cases. Also named in several of the lawsuits were House Speaker Ben Lujan, D-Santa Fe, and Jennings, who will be represented by the Legislature's lawyers.

The lawsuits will present a court with "confrontation between the executive and her veto authority and the legislative branch and our authority to make a decision on what our districts are," Jennings said.

"We're doing this as an institution," Jennings said.

The same legal team represented the Legislature in lawsuits over congressional and House redistricting a decade ago. Its three main lawyers also were hired last year to advise legislators on redistricting issues before and during a special session, which ended last month.

The three, who are being paid \$260 an hour each, are Luis Stelzner of Albuquerque, Richard Olson of Roswell and Michael Browde, an emeritus law professor at the University of New Mexico. Stelzner and Olson, a former GOP state legislator, work for separate law firms.

For their work 10 years ago, the team was paid about \$653,700 for litigation costs, including fees for expert witnesses during trials, according to the Legislative Council Service. The council makes administrative decisions for the Legislature, and its members include Democratic and GOP leaders in the House and Senate, as well as rank-and-file legislators.

Taxpayers footed the bill for nearly \$3 million in other legal fees for redistricting a decade ago, paying for lawyers representing then-Gov. Gary Johnson, the lieutenant governor, groups of Democrats and Republicans, Indian tribes and Hispanic activists.

House GOP Leader Tom Taylor of Farmington said the lawyers are "very upstanding individuals."

"But the fact of the matter is, they work for the majority because the majority can hire and fire those guys without the minority," Taylor said.

The state Supreme Court is expected to decide later this month whether it will consolidate redistricting lawsuits in Santa Fe. The court has told lawyers to submit their arguments on the proposal by Oct. 10.

A group of Democrats, including Rep. Brian Egolf of Santa Fe, asked the justices last week to consolidate

all redistricting cases and appoint one judge to handle them in state district court in Santa Fe.

Republicans have filed separate redistricting lawsuits in Lovington, in southeastern New Mexico, and in Albuquerque. Lawsuits were filed in Santa Fe by Democrats and Laguna Pueblo.

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Oct. 3, 2011 2:51 p.m.

By Barry Massey / The Associated Press

SANTA FE — Legislative leaders have agreed to use private lawyers to defend the Legislature in a court fight over redistricting.

The Legislative Council voted Monday to authorize a team of three lawyers to participate in redistricting lawsuits. Republicans on the council objected.

The lawyers were hired previously by the Legislature to provide advice on redistricting issues before and during a special session, which ended last month.

Senate GOP Leader Stuart Ingle of Portales said in an interview that redistricting decisions were so partisan during the special session that separate lawyers should have been authorized for Republicans as well as Democrats, who hold majorities in the House and Senate.

Republicans opposed House and Senate redistricting plans passed by the Democratic-controlled Legislature, and GOP Gov. Susana Martinez is expected to veto those proposals.

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consolidated in a single court and that will be among the first disputes addressed by lawyers in their cases.

"It will get straightened out," said Garcia.

One possibility is that the Supreme Court could resolve the issue, and assign a judge to take the lead in redistricting.

Ten years ago, the Supreme Court named a district court judge in Bernalillo County to handle congressional and state House redistricting lawsuits that were filed in Santa Fe.

The high court stepped in at the request of a group of Democrats after judges in Santa Fe were bumped off the redistricting cases and there was a dispute over a replacement. Lawyers for parties in a lawsuit have the right to excuse one judge in a civil case without giving a reason.

Regardless of which court and judge ends up with the redistricting task, there will be pressure to move quickly because candidates won't know which seats they're eligible to seek until new district boundaries are drawn. Typically, candidates start in October to collect signatures on nominating petitions they'll need when filing for an office.

The filing deadline is in February for candidates for Congress and in early March for candidates for the Legislature and PRC.

The court fight over redistricting also could end up costing taxpayers a hefty amount. The state paid more than \$3.5 million in legal bills for redistricting lawsuits 10 years ago.

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## Redistricting lawsuits now total three

### Cases expected to be joined before one judge

Updated: Tuesday, 27 Sep 2011, 3:52 PM MDT  
Published : Tuesday, 27 Sep 2011, 11:42 AM MDT

- By BARRY MASSEY, Associated Press

SANTA FE, N.M. (AP) - New Mexico's fight over redistricting has shifted to the courts, but the Supreme Court might have to step in to determine which judge will handle the assignment of drawing new boundaries of districts for elected offices.

Republican and Democratic legislators and other voters have filed redistricting lawsuits at state district courts in Albuquerque, Santa Fe and Lovington.

The cases ask the courts to establish new districts for Congress, the state House of Representatives, the state Senate and the Public Regulation Commission. The lawsuits also seek orders stopping state officials from using current districts for next year's elections.

"Since we've had the census, we know for a fact that the distriNew Mexico's fight over redistricting has shifted to the courts, but the Supreme Court might have to step in to determine which judge will handle the assignment of drawing new boundaries of districts for elected offices.

Republican and Democratic legislators and other voters have filed redistricting lawsuits at state district courts in Albuquerque, Santa Fe and Lovington.

The cases ask the courts to establish new districts for Congress, the state House of Representatives, the state Senate and the Public Regulation Commission. The lawsuits also seek orders stopping state officials from using current districts for next year's elections.

"Since we've had the census, we know for a fact that the districts as currently configured are unconstitutional if applied in the next election," Rep. Brian Egolf, D-Santa Fe, said Tuesday.

Redistricting ended up in court because the Democratic-controlled Legislature and Republican Gov. Susana Martinez appear unlikely to agree on plans for new districts.

The Legislature adjourned a special session during the weekend without approving a congressional redistricting plan, and the governor has promised to veto Democratic-backed plans passed by the Legislature for the Senate and House. The governor is reviewing a PRC redistricting plan approved by lawmakers and hasn't announced whether she will veto it.

Egolf was among several Democrats who brought lawsuits Monday in Santa Fe. House Minority Whip Donald Bratton, R-Hobbs, joined with GOP Sens. Carroll Leavell, of Jal, and Gay Kernan, of Roswell, in a case in Lovington on the same day. Rep. Conrad James, R-Albuquerque, and Sen. John Ryan, R-Albuquerque, and others electronically filed a lawsuit Sunday night in state district court in Albuquerque.

Each of the lawsuits contends that current districts are unconstitutional because they don't have equal populations, which is necessary to meet the requirement of one person, one vote.

David A. Garcia, an Albuquerque lawyer handling the case by James and Ryan, said the lawsuits likely will be

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## Posts Tagged Stuart Ingle

### One group that profited nicely in the last redistricting special session? Lawyers

Posted by [mikolewski](#) in [News](#) on June 20th, 2011



Taxpayers in New Mexico paid nearly \$5.3 million for the total costs of the special session in 2001 that tackled redistricting — and \$3.5 of that amount went strictly to settle legal challenges after the legislature and then-Gov. [Gary Johnson](#) could not reach an agreement on how to draw up state and congressional boundaries.

As they are mandated to do every 10 years, lawmakers are about to tackle redistricting again. And if they can't reach agreement among themselves and

Gov. [Susana Martínez](#), the costs from potential legal challenges could be much higher than \$3.5 million.

Members of the [Redistricting Committee](#) held their first meeting of the summer at the Roundhouse Monday (June 20) and while hearing a recap of the last redistricting battle, lawmakers were told it cost taxpayers \$1.8 million to handle all the expenses that came with running committees and operating the special session in 2001.

But the price tag for all the legal fees that were racked up as multiple litigants lined up before District Judge Frank Allen Jr., filing suits on the behalf of various parties complaining they were unfairly represented in the redistricting fight, was nearly twice as expensive. The final price tag for all the complainants — who all received checks from New Mexico taxpayers? Some \$3.5 million.

With a potentially contentious redistricting battle ahead, the cost could be much higher in 2011, which alarmed a number of committee members.

"We've created a monster," Rep. [Don Bratton](#) (R-Hobbs) said. "Every party that went to the table [in 2001] didn't prevail but they all got paid."

"It bothers me too," [Luis Stelzner](#), an attorney who appeared in front of the committee said. "That price tag was extremely, extremely high."

With the state already struggling to cope with a budget deficit, the prospect of taxpayers footing the bill for every potential complaint about a redistricting proposal is scary.

"This thing has become a feeding frenzy," Sen. [Stuart Ingle](#) (R-Portales) said. "It's the legislature's job to do a good job of redistricting .... If you thought attorneys' fees were high then, hold on. It's easy ... to get the meter running and it doesn't stop ... and there's not one damn thing we can do about it."

Well, legislative experts say there is something that can be done to reduce potential lawsuits: Get a redistricting agreement done.

That didn't happen in 2001 and without a law in the books, litigation flourished.

Some say a few of those suits lacked merit but the plaintiffs still got paid after the redistricting controversy ended up in Judge Allen's court. According to [an Associated Press story from March of 2002](#), more than two dozen lawyers worked on the lawsuits, and they asked the court to have their fees paid under a federal law allowing for the awarding of legal expenses to parties who prevail in civil-rights lawsuits.

"If there's no law, it's very easy to file a challenge," a legislative analyst told [Capitol Report New Mexico](#) on Monday.

But if a law can be hammered out this year, the sheer number of legal challenges — especially frivolous ones — are expected to be greatly reduced.

Given the state's economic jam, Democrats and Republicans legislators as well as Gov. Martínez should have plenty of incentive to find common ground.

"I don't think we will have done our job if this thing ends up in the courts," Bratton said.

[Associated Press](#), [Capitol Report New Mexico](#), [Don Bratton](#), [Gary Johnson](#), [Luis Stelzner](#), [Redistricting Committee](#), [Stuart Ingle](#), [Susana Martínez](#)

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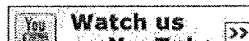
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October 2011

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STATE OF NEW MEXICO  
COUNTY OF SANTA FE  
FIRST JUDICIAL DISTRICT

BRIAN F. EGOLF, JR., HAKIM BELLAMY, MEL HOLGUIN, MAURILIO CASTRO and  
ROXANE SPRUCE BLY,

Plaintiffs,

-vs-

No. D-101-CV-2011-02942

DIANNA J. DURAN, in her official capacity as New Mexico Secretary of State, SUSANA MARTINEZ, in her official capacity as New Mexico Governor, JOHN A. SANCHEZ, in his official capacity as New Mexico Lieutenant 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,

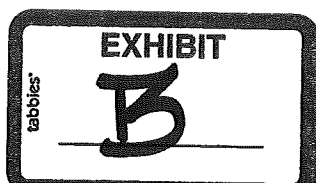
Defendants.

**CONSOLIDATED WITH CAUSE NO. D-202-CV-2011-09600**  
**CONSOLIDATED WITH CAUSE NO. D-506-CV-2011-00913**  
**CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-02944**  
**CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-02945**  
**CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-03016**  
**CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-03099**  
**CONSOLIDATED WITH CAUSE NO. D-101-CV-2011-03107**

**ORDER GRANTING MOTION TO APPOINT SPECIAL MASTER AND ADOPTING  
PROCEDURAL DEADLINES**

THIS MATTER having come before the Court on Susana Martinez', in her official capacity as New Mexico Governor, and Dianna J. Duran's, in her official capacity as New Mexico Secretary of State, and John A. Sanchez', in his official capacity as New Mexico Lieutenant Governor, Motion to Appoint a Special Master, and the Court hereby FINDS the motion is well-taken, and ORDERS, ADJUDGES and DECREES:

1. That each party to the consolidated redistricting case shall submit a proposed qualified Special Master candidate with that individual's resume and/or *curriculum*



*vitae* with proposed special master directives and criteria by Thursday, October 27, 2011.

2. That each party will provide written comment on the other parties' proposed candidates by Monday, October 31, 2011.
3. That after the Court receives written comments on the list of candidates, the Court will appoint a qualified special master from the list of persons provided by the parties by Wednesday, November 2, 2011.
4. That the parties submit proposed criteria and instructions to be used by the special master by Wednesday, November 19, 2011.
5. That the appointed special master shall issue his or her findings and proposed redistricting plans by Wednesday, December 5, 2011.
6. That the Court will hold evidentiary hearings on the findings and proposed redistricting plans of the special master on December 12-16, 2011.
7. That the Court will issue his decision on the U.S. House of Representatives map by December 30, 2011.
8. That the Court will issue his decision on the remaining maps by Friday, January 8, 2012.

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HON. JAMES HALL  
FIRST JUDICIAL DISTRICT COURT