

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

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

Plaintiffs,

v.

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.

NO. **D-101-CV-2011-02942**
Honorable James A. Hall

CONSOLIDATED WITH
D-101-CV-2011-02944
D-101-CV-2011-02945
D-101-CV-2011-03016
D-101-CV-2011-03099
D-101-CV-2011-03107
D-202-CV-2011-09600
D-506-CV-2011-00913

**EGOLF PLAINTIFFS' SUPPLEMENTAL
POST-TRIAL CONGRESSIONAL ARGUMENT**

The Egolf Plaintiffs hereby submit their Post-Trial Congressional Argument. In addition to the arguments set forth in the Joint Plan Proponents' Congressional Written Closing Argument, the Egolf Plaintiffs wish to clarify their position concerning certain arguments made by the other Joint Plan Proponents.

Specifically, the Egolf Plaintiffs wish to alert the Court to the fact that they do not join in arguments of the Executive Defendants, the Sena Plaintiffs, and the James Plaintiffs with respect to certain opposition to the Maestas Plan. While the Executive Defendants, the Sena Plaintiffs,

and the James Plaintiffs have all argued, both in Pre-trial briefs and their separate closing arguments, that the Maestas Plan is a partisan, political gerrymander, the Egolf Plaintiffs do not join in that position. Indeed, no evidence was presented at trial that any partisan gerrymander exists in the Maestas Plan. Moreover, *Vieth v. Jubelirer*, 541 U.S. 267 (2004), a plurality, though not a majority, of the United States Supreme Court, held that political gerrymander claims may not be justiciable claims because there are no clear, manageable and politically neutral standards for measuring such claims (disapproving the Court's prior plurality decision, *Davis v. Bandemer*, 478 U.S. 109 (1986), which held political gerrymander claims justiciable, but not articulating standards to apply to such claims). The Egolf Plaintiffs therefore do not join in these arguments made by the Executive Defendants, James Plaintiffs and Sena Plaintiffs in opposition to the Maestas Plan.

The Egolf Plaintiffs additionally wish to clarify that they do not join the Executive Defendants in their characterization of the Maestas Plan as "radical" or that "nakedly partisan advantages the *Maestas* Plaintiffs seek are so severe that even other, Democratic-oriented parties to this case object to the adoption of the *Maestas* plan." Exec. Defs.' Pre-Trial Brief Regarding the Congressional Redistricting Plan at p. 2. The Egolf Plaintiffs do not join in the partisan characterizations represented by the above-quoted statements. Nor do the Egolf Plaintiffs believe that evidence to support those statements was presented at trial.

The Egolf Plaintiffs therefore do not support the separate arguments made by the Executive Defendants, the Sena Plaintiffs, nor the James Plaintiffs.

Respectfully submitted,

Garcia & Vargas, LLC

/s/ Ray M. Vargas, II

Ray M. Vargas, II

David P. Garcia

Erin B. O'Connell

303 Paseo del Peralta

Santa Fe, NM 87501

Phone: (505) 982-1873

ray@garcia-vargas.com

david@garcia-vargas.com

erin@garcia-vargas.com

And

Joseph Goldberg

John W. Boyd

David H. Urias

Sara K. Berger

Freedman Boyd Hollander Goldberg,

Ives & Duncan, P.A.

20 First Plaza Ctr. NW, #700

Albuquerque, NM 87102

Phone: (505) 842-9960

jg@fbdlaw.com

jwb@fbdlaw.com

dhu@fbdlaw.com

skb@fbdlaw.com

I hereby certify that on December 27, 2011, I filed the foregoing 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; all counsel of record were additionally served via email.

/s/ Ray M. Vargas, II