

STATE OF MINNESOTA  
SPECIAL REDISTRICTING PANEL

OFFICE OF  
APPELLATE COURTS

A11-152

NOV 29 2011

FILED

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,

MINNESOTA CHAPTER OF  
COMMON CAUSE  
AMICUS CURIAE ORDER

and

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,

Plaintiffs-Intervenors,

and

Audrey Britton, David Bly, Cary Coop,  
and John McIntosh, individually and on behalf  
of all citizens of Minnesota similarly situated,

Plaintiffs-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.

## ORDER

Pursuant to Minn. R. Civ. App. P. 129.01, the Minnesota Chapter of Common Cause (Common Cause) requests leave to file a brief as *amicus curiae*. Common Cause proposes to include in its amicus brief (1) commentary on the parties' proposed redistricting plans and (2) the winning entry from a redistricting contest sponsored by Common Cause. Common Cause seeks leave to submit its amicus brief on December 9, 2011, the deadline for the parties to file their responses to the proposed redistricting plans. *See Hippert v. Ritchie*, No. A11-152 (Minn. Special Redistricting Panel Oct. 6, 2011) (Scheduling Order No. 2). Plaintiffs Sara Hippert et al. oppose the motion. Plaintiffs-intervenors Kenneth Martin et al., plaintiffs-intervenors Audrey Britton et al., and defendants Mark Ritchie et al. did not file responses to the motion.

We first address the request of Common Cause to comment on the parties' proposed redistricting plans.

The ordinary purpose of an *amicus curiae* brief in civil actions is to inform the court as to facts or situations which may have escaped consideration or to remind the court of legal matters which have escaped its notice and regarding which it appears to be in danger of making a wrong interpretation.

*State v. Finley*, 242 Minn. 288, 294-95, 64 N.W.2d 769, 773 (1954). Common Cause asserts that it will provide the Special Redistricting Panel (the panel) with an "informed, non-partisan perspective" on the parties' proposed redistricting plans. Common Cause argues that its request is similar to the successful amicus request made by the Minnesota Women's Campaign Fund (MWCF) during the last redistricting cycle. *See Zachman v.*

*Kiffmeyer*, No. C0-01-160 (Minn. Special Redistricting Panel Jan. 7, 2002) (Order). We disagree. The *Zachman* panel granted the amicus request of MWCF because MWCF proposed to submit a brief “discussing gender issues surrounding the redistricting plans submitted to th[e] panel, a topic that the parties [in *Zachman*] . . . ha[d] not previously raised.” *Id.* By contrast, Common Cause has not articulated with any specificity how its proposed brief would inform or remind the panel as to facts, situations, or legal matters that may have escaped the panel’s consideration or are susceptible to a wrong interpretation. We, therefore, conclude that the request of Common Cause for leave to file an amicus brief is inconsistent with the purpose of amicus participation.

Common Cause asserts that its amicus brief would add a “public voice” to the redistricting process. But the panel has already invited and received a robust, diverse, and informative body of public input. In its September 13, 2011 order, the panel announced public hearings and invited members of the public to speak at the hearings. *Hippert*, No. A11-152 (Minn. Special Redistricting Panel Sept. 13, 2011) (Amended Order Setting Public Hearing Schedule). Minnesota citizens participated in the panel’s eight public hearings held throughout the state in October 2011. In addition, members of the public provided written submissions in accordance with the panel’s September 13, 2011 order seeking public input. Common Cause has already informed the panel of its views and concerns by participating in the public-input process. First, a representative of Common Cause spoke at the October 5, 2011 public hearing in Saint Paul. Second, Common Cause is affiliated with Draw the Line Minnesota and its nonpartisan Citizens’ Redistricting Commission, which also participated in the public-input process. Fairness

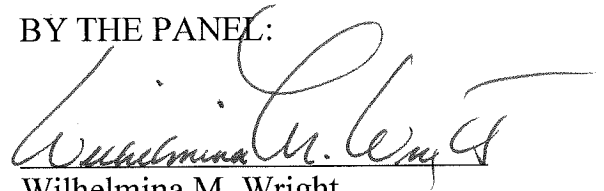
dictates that we decline to elevate the opinions and concerns of Common Cause above those of other participating members of the public by granting Common Cause a special opportunity to comment on the parties' proposed redistricting plans.

We next address the request of Common Cause to submit a redistricting plan generated through its map-drawing contest. In addition to inviting written comments, the panel's September 13, 2011 order invited the public to submit proposed redistricting plans by October 21, 2011. *Hippert*, No. A11-152 (Minn. Special Redistricting Panel Sept. 13, 2011) (Amended Order Setting Public Hearing Schedule). Several members of the public—including Draw the Line Minnesota and its Citizens' Redistricting Commission, with which Common Cause is affiliated—did so in a timely manner. We decline to treat the redistricting plan that Common Cause seeks to submit differently from any other untimely submission by a member of the public.

NOW, THEREFORE, IT IS HEREBY ORDERED that the request of Common Cause for leave to file an amicus brief is DENIED.

Dated: November 29, 2011

BY THE PANEL:

  
Wilhelmina M. Wright  
Presiding Judge