EXHIBIT
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PENGAD 800-631-6989

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2004-0361, Petition of Senator Clifton Below & a., the court on May 28, 2004, issued the following order:

On May 27, 2004, Senator Clifton Below and Representative Peter Burling filed a petition for writ of certiorari regarding the reapportionment of house and senate districts in accordance with the New Hampshire Constitution, the Federal Constitution and the Federal Voting Rights Act, 42 U.S.C. § 1973. The petition alleges that there are two pieces of legislation that are on the verge of final enactment that would create an unconstitutional legislative apportionment scheme in New Hampshire.

The first piece of legislation, House Bill (HB) 1292, was enacted on April 5, 2004. HB 1292 becomes effective either on June 4, 2004, or immediately upon enactment of the second piece of legislation, HB 264. Both houses of the legislature have passed HB 264; the petitioners allege that the Governor has not yet signed it. HB 1292 redistricts the New Hampshire House of Representatives and HB 264 redistricts the New Hampshire Senate. The petition alleges that the voting districts created by these bills violate the State and Federal Constitutions and the Federal Voting Rights Act. The petition seeks declaratory and injunctive relief to prevent upcoming elections from going forward with unconstitutional districts.

The petition alleges that it was served upon the respondent on May 27, 2004. The respondent has not yet had an opportunity to respond to it. The respondent may file a response to the petition on or before Friday, June 4, 2004.

Without expressing any opinion as to the merits of this action, we note that the filing period for candidates opens on June 2, 2004, and that judicial relief may be necessary to ensure a timely and orderly electoral process. See Monier v. Gallen, 122 N.H. 474 (1982). Before deciding whether to accept questions B through F in the petition, the court hereby accepts question A in the petition for briefing and oral argument on the following expedited schedule. Oral argument shall be held

on Thursday, June 10, 2004, at 9:00 a.m. at the Supreme Court building. Each party shall be allotted fifteen minutes for oral argument. The parties, which at this time are the petitioners and the New Hampshire Secretary of State, shall file memoranda of law addressing only question A in the petition by noon on Tuesday, June 8, 2004.

Because the June 2 filing deadline is imminent, it is hereby ordered that the statutory filing period for house and senate candidates is enjoined pending further order of the court. See RSA 655:14. On or before noon on June 1, 2004, the parties shall file an agreed-upon statement identifying the legislative districts potentially affected by HB 1292 and HB 264. Upon receipt of this statement, the court may modify its injunction accordingly.

Broderick, Nadeau, Dalianis, Duggan, and Galway, JJ., concurred.

Eileen Fox,
Clerk