

**IN THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY, MARYLAND**

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MICHELLE KORDELL

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Plaintiffs,

v.

Case No. _____

LINDA H. LAMONE,
*in her official capacity as the
Maryland State Administrator
of Elections,*

151 West Street, Suite 200
Annapolis, MD 21401

WILLIAM G. VOELP,
*in his official capacity as
Chairman of the Maryland
State Board of Elections,*
151 West Street, Suite 200
Annapolis, MD 21401

**MARYLAND STATE BOARD
OF ELECTIONS**
151 West Street, Suite 200
Annapolis, MD 21401

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs file this Complaint for Declaratory and Injunctive Relief to prevent the implementation and use in Maryland of unconstitutional, politically gerrymandered congressional districts.

I. Introduction

1. This is a constitutional challenge to Maryland's 2021 congressional redistricting plan (the "2021 Plan"), which establishes electoral districts for selecting Maryland's members of the United States House of Representatives. As explained below, the 2021 Plan is an extreme political gerrymander. The Democrat-controlled General Assembly enacted the 2021 Plan to continue a now decade-long strategy of diluting Republican votes across Maryland and preventing Republican voters, through unconstitutional means, from electing their preferred representatives for Congress.

2. The 2021 Plan violates Articles 7, 24, and 40 of the Maryland Declaration of Rights and Article I, Section 7 of Maryland's Constitution by unconstitutionally infringing on Plaintiffs' rights to free elections, freedom of speech, and equal protection and breaching the General

Assembly's obligation to pass laws ensuring the purity of Maryland's elections. Indeed, the 2021 Plan defies the fundamental democratic principle that voters should choose their representatives, not the other way around.

3. The Court should declare that the 2021 Plan violates Articles 7, 24, and 40 of the Maryland Declaration of Rights and Article I, Section 7 of Maryland's Constitution; enjoin the Defendants from using, applying, administering, or enforcing the 2021 Plan in any future election in Maryland, including but not limited to the 2022 primary and general elections for Congress; and order Defendants to delay, postpone, or suspend candidate filing deadlines until such time as the Maryland General Assembly enacts a congressional districting plan that complies with the Maryland Constitution and Declaration of Rights.

II. The Parties

A. Plaintiffs

4. Plaintiffs are qualified, registered voters in Maryland. Plaintiffs have been harmed by the 2021 Plan's unconstitutional partisan gerrymander because it interferes with their rights to free and pure elections and burdens and discriminates against them based on their political views and party affiliation.

5. Plaintiffs are:

a. Kathryn Szeliga is a citizen of the United States and a resident of and registered voter in Maryland. She is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives. Ms. Szeliga currently serves as a member of Maryland's House of Delegates and has been a member of the House of Delegates since 2011. She is a Republican elected official who represents Maryland citizens in Baltimore and Hartford Counties.

b. Christopher T. Adams is a citizen of the United States and a resident of and registered voter in Maryland. He is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives. Mr. Adams currently serves as a member of Maryland's House of Delegates and has been a member of the House of Delegates since 2015. Mr. Adams is a Republican elected official who represents Maryland citizens in Caroline, Dorchester, Talbot, and Wicomico Counties.

c. James Warner is a citizen of the United States and a resident of and registered voter in Maryland. Mr. Warner is a decorated combat veteran and former prisoner of war. He has sacrificed a great deal for his right to free and fair elections. He is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives.

d. Martin Lewis is a citizen of the United States and a resident of and registered voter in Maryland. He is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives.

e. Janet Moye Cornick is a citizen of the United States and a resident of and registered voter in Maryland. She is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives.

f. Ricky Agyekum is a citizen of the United States and a resident of and registered voter in Maryland. He is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives.

g. Maria Isabel Icaza is a citizen of the United States and a resident of and registered voter in Maryland. She is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives.

h. Luanne Ruddell is a citizen of the United States and a resident of and registered voter in Maryland. She is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives. She currently serves as Chair of the Garrett County Republican Central Committee and President of the Garrett County Republican Women's Club. Additionally, she serves on the Rules Committee for the Maryland Republican Party and is a member of the Maryland Republican Women and the National Republican Women's organizations.

i. Michelle Kordell is a citizen of the United States and a resident of and registered voter in Maryland. She is a registered Republican and plans to vote in the future for Republican candidates for elective office, including for the United States House of Representatives.

B. Defendants

6. Linda H. Lamone is the Maryland State Administrator of Elections.

7. William G. Voelp is the chairman of the Maryland State Board of Elections.

8. The Maryland State Board of Elections ensures compliance with Maryland and federal election laws by all persons in the election process. It is responsible for administering federal elections under the 2021 Plan.

III. Jurisdiction and Venue

9. This Court has subject-matter jurisdiction pursuant to §§1-501 and 3-403 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

10. Venue is appropriate in this Court pursuant to § 6-201 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland.

IV. The Facts

A. Partisan Gerrymandering

11. Every 10 years, states redraw legislative and congressional district lines following completion of the decennial United States census. Redistricting is necessary to ensure that districts are equally populated and comply with federal and state constitutions and voting laws.

12. Those entrusted with the power to redraw congressional districts, usually state legislators, sometimes abuse that power by redrawing congressional maps in a way that predetermines or guarantees a desired election outcome, no matter the will and preference of voters. When this abuse is based on the political views of the individuals tasked with redrawing congressional districts, it is called political gerrymandering. Political gerrymandering occurs most often when legislatures overwhelmingly comprised of members of one political party, like Maryland's General Assembly, control the redistricting process.

13. Political gerrymandering most often is implemented through two basic techniques: cracking and packing. Cracking splits groups of voters of one political party across multiple electoral districts, which greatly diminishes voting strength and the ability of those voters to elect their preferred candidate in any of the districts. Packing occurs when voters from the same political party are jammed into as few districts as possible, thus minimizing their voting strength elsewhere.

14. Political gerrymandering is not new. Accusations of unfair map drawing have been made since Patrick Henry allegedly attempted to gerrymander James Madison out of the First Congress. But as Justice Kagan recently explained, "big data and modern technology—of just the kind that the mapmakers in North Carolina and Maryland used—make today's gerrymandering altogether different from the crude linedrawing of the past." *Rucho v. Common Cause*, 139 S. Ct.

2484, 2512 (2019) (Kagan, J., dissenting). Now, congressional mapmakers have access to granular data about party voting and preference and can put that information to use with “unprecedented efficiency and precision” to choose maps “giving their party maximum advantage.” *Id.* at 2513. “The effect is to make gerrymanders far more effective and durable than before, insulating politicians against all but the most titanic shifts in the political tides.” *Id.*

B. The Harms of Partisan Gerrymandering

15. Extreme political gerrymandering, like that found in Maryland, is incompatible with basic democratic principles. Most importantly, it threatens “the core principle of republican government” that “voters should choose their representatives, not the other way around.” *Ariz. State Legis. v. Ariz. Indep. Redistricting Comm’n*, 576 U.S. 787, 824 (2015). Partisan gerrymandering turns this basic principle on its head by allowing politicians to cherry-pick their representatives and guarantee their reelection. In this way, elections conducted under gerrymandered electoral maps will violate Plaintiffs’ constitutional rights to free and pure elections. Indeed, at its most extreme—as it exists in Maryland—partisan gerrymandering amounts to election rigging.

16. By discriminating against Plaintiffs on the basis of their political views, partisan gerrymandering also violates their basic civil liberties. Diluting the weight of Plaintiffs’ votes based on party affiliation violates their right to equal protection by depriving them of the opportunity for equal participation in the election of legislators.

17. Political gerrymandering also violates Plaintiffs’ rights to free speech. Put simply, extreme partisan gerrymandering in Maryland subjects Plaintiffs to disfavored treatment based on their voting history, party affiliation, and expression of political views.

18. Political gerrymandering also has broader adverse consequences. For example, extreme political gerrymandering of the kind found in Maryland leads to less competitive—and in

many cases uncompetitive—electoral races. Without real challenges from those with opposing viewpoints, elected representatives need only serve the narrow interests of those with whom they agree ideologically. Elected officials in gerrymandered districts have no need to be responsive to political minorities in their districts and have no incentive to moderate their views to appeal to a diverse constituency. This, in turn, exacerbates political polarization, makes bipartisanship and pragmatic compromise nearly impossible, and drives voters away from an increasingly dysfunctional political system.

C. The Congressional Redistricting Process in Maryland

19. The United States Constitution provides that “[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States,” U.S. Const. art. I, § 2, cl. 1, and that “[t]he Times, Places and Manner of holding Elections for ... Representatives, shall be prescribed in each State by the Legislature thereof,” *id.* § 4, cl. 1. The United States Constitution thus leaves to state legislatures primary responsibility for apportionment of their federal congressional districts.

20. Maryland has eight congressional districts. The General Assembly enacts maps for these districts by ordinary statute. While the General Assembly’s congressional maps are subject to gubernatorial veto, the General Assembly can, as with any ordinary statute, override a veto.

21. The process for establishing Maryland’s state legislative districts is different and guards against the type of extreme partisan gerrymandering in which the General Assembly has engaged with regard to congressional districts. Specifically, Article 3, Section 5 of the Maryland Constitution provides that the Governor first draws the state’s legislative districts and submits that plan to the General Assembly on the first day of its regular session. The General Assembly may then draw and adopt its own maps through a joint resolution, which is subject to gubernatorial veto. If the General Assembly fails to adopt its own maps, the Governor’s maps are adopted.

22. Critically, whether the maps are drawn by the Governor or the General Assembly, Article 3, Section 4 of the Maryland Constitution requires that “[e]ach legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population.” That section of the Maryland Constitution further requires that “[d]ue regard shall be given to natural boundaries and the boundaries of political subdivisions.”

D. The 2011 Maryland Congressional Redistricting Plan

23. In 2011, following the 2010 decennial census, Maryland redrew the lines for its eight congressional districts. Then-Governor Martin O’Malley led the redistricting process.

24. As Governor O’Malley later testified under oath, he wanted to use the redistricting process to change the overall composition of Maryland’s congressional delegation to 7 Democrats and 1 Republican. He hoped to do so by “flipping” either District 1 on the Eastern Shore or District 6 in western Maryland from Republican to Democrat control. Thus, he set out to draw a congressional map favorable to the Democratic party.

25. According to Governor O’Malley, ultimately “a decision was made to go for the Sixth.” Importantly for purposes of this lawsuit, Governor O’Malley and other Democratic leaders rejected the idea of trying to flip District 1 because the resulting district “would have to jump across the Chesapeake Bay.” *Benisek v. Lamone*, 348 F. Supp. 3d 493, 502 (D. Md. 2018), *rev’d on other grounds by Rucho v. Common Cause*, 139 S. Ct. 2484 (2019).

26. To carry out the redistricting process, Governor O’Malley appointed the Governor’s Redistricting Advisory Committee (“GRAC”) to hold public hearings and recommended a redistricting plan. But at the same time, he also asked Congressman Steny Hoyer—a self-described “serial gerrymanderer”—to advise GRAC about congressional redistricting and devise a congressional map that a majority of the congressional delegation supported.

27. While GRAC held public hearings across the State, the Democratic members of Maryland's congressional delegation, led by Representative Hoyer, endeavored to redraw the State's congressional map. They retained NCEC Services, Inc. ("NCEC"), a Democratic consulting firm, and charged NCEC "with drawing a map that maximized 'incumbent protection' for Democrats and that changed the congressional delegation from 6 Democrats and 2 Republican to 7 Democrats and 1 Republican. [NCEC] was given no additional instructions as to how to draw the map." *Benisek*, 348 F. Supp. 3d at 502-03.

28. NCEC used a proprietary metric to develop maps that met the twin goals it was assigned. Among other things, NCEC's proprietary metric used past voting history in the state and in individual congressional districts.

29. The Democratic members of Maryland's congressional delegation proposed and forwarded one of NCEC's maps to Maryland's Democratic leadership. NCEC also briefed legislative staffers on the proposed map and assisted some of those staffers as they worked on the congressional map. Staffers to Maryland's most senior Democratic leaders also were given a data file containing NCEC's proprietary metrics for Maryland at the precinct level—the smallest geographic unit at which election results are reported in Maryland. "Democratic officials, through their staffers, thus continued to use [NCEC's proprietary metrics]—as well as other information about how local groups of citizens had previously voted and the political party with which they were affiliated—to finalize a map for [GRAC] and ultimately the Governor." *Benisek*, 328 F. Supp. 3d at 504.

30. GRAC released its proposed congressional redistricting plan to the public on October 4, 2011. GRAC's plan met the goals of Governor O'Malley and Maryland's Democratic congressional delegation—incumbent protection and flipping District 6. It ensured that Democratic voters comprised the majority of voters in the districts then held by the six Democratic

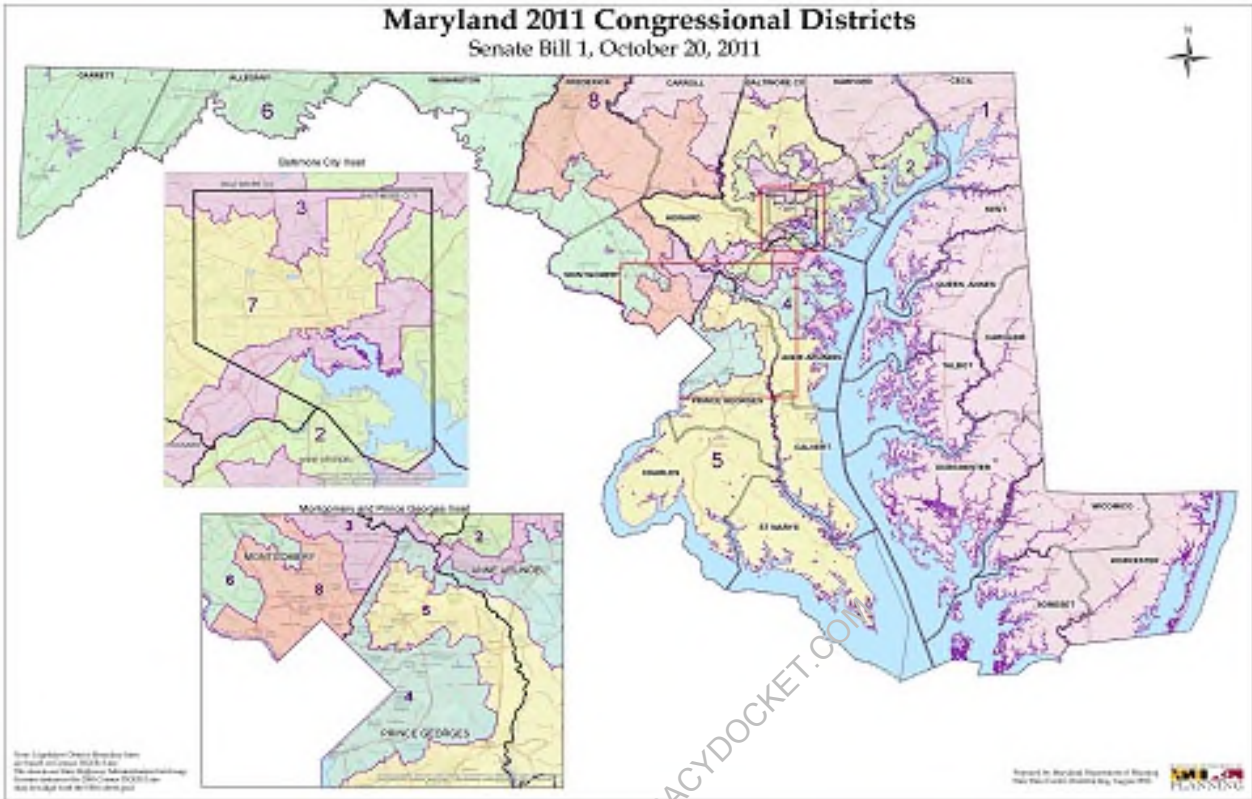
incumbents of Maryland's congressional delegation. And it radically altered the boundaries of District 6 by removing much of Frederick County—which had been in District 6 in its entirety since 1872—and replacing it with a large portion of Montgomery County. This geographic alteration exchanged about 700,000 residents among districts, resulted a 90,000-voter swing in favor of Democrats, and virtually ensured a Democratic victory in District 6 in the next five congressional elections.

31. On October 15, 2011, Governor O'Malley announced that he was submitting a map (the "2011 Plan") to the General Assembly that was substantially the same as GRAC's proposal.

32. Maryland's then-Senate President, Thomas Miller, briefed the General Assembly's Democrats about the 2011 Plan. Talking points prepared for Senator Miller stated that the map would give "Democrats a real opportunity to pick up a seventh seat in the delegation" and that "[i]n the face of Republican gains in redistricting in other states[,] we have a serious obligation to create this opportunity."

33. On October 17, 2011, Senate President Miller introduced the 2011 Plan as a bill at a special session. With only minor technical adjustments, the 2011 Plan was signed into law on October 20, 2011. No Republican member of the General Assembly voted in favor of the 2011 Plan.

34. The 2011 Plan was as follows:



35. The congressional districts created through the 2011 Plan were used in the 2012 election and succeeded in “flipping” District 6. Since 2012 a Democrat has held District 6 and Maryland’s congressional delegation has always included 7 Democrats and 1 Republican.

36. In short, the 2011 Plan explicitly considered the political views and voting histories of Maryland’s citizens—at the most granular level possible—to generate a statewide congressional map overwhelmingly favoring Democrats and violating the constitutional rights of Maryland Republicans. As Justice Kagan has written:

The partisan gerrymanders in these cases [which included the 2011 Plan] deprived citizens of the most fundamental of their constitutional rights: the rights to participate equally in the political process, to join with others to advance political beliefs, and to choose their political representatives. In so doing, the partisan gerrymanders here debased and dishonored our democracy, turning upside-down the core American idea that all governmental power derives from the people. These gerrymanders enabled politicians to entrench themselves in office as against voters’ preferences. They promoted partisanship above respect for the popular will. They

encouraged a politics of polarization and dysfunction. If left unchecked, gerrymanders like the ones here may irreparably damage our system of government.

Rucho, 139 S. Ct. at 2509 (Kagan, J., dissenting).

E. The 2021 Maryland Congressional Redistricting Plan

37. In July 2021, following the 2020 decennial census, Bill Ferguson, President of the Maryland Senate, and Adrienne A. Jones, Speaker of the Maryland House of Delegates, formed the General Assembly's Legislative Redistricting Advisory Commission (the "LRAC"). The LRAC was charged with redrawing Maryland's congressional and state legislative maps.

38. The LRAC included Senator Ferguson, Delegate Jones, Senator Melony Griffith, and Delegate Eric G. Luedtke, all of whom are Democratic members of Maryland's General Assembly. Two Republicans, Senator Bryan W. Simonaire and Delegate Jason C. Buckel, also were appointed to the LRAC by Senator Ferguson and Delegate Jones. Karl S. Aro, who is not a member of Maryland's General Assembly, was appointed as Chair of the LRAC by Senator Ferguson and Delegate Jones.

39. The LRAC held public hearings across Maryland, purportedly to seek public input into the drawing of new congressional districts. At the hearings, the LRAC received testimony and comments from numerous citizens. One of the main themes that emerged from the public testimony and comments was that Maryland's citizens wanted congressional maps that were not gerrymandered.

40. At the conclusion of the public hearings, the Department of Legislative Services ("DLS") was directed to produce maps for the LRAC's consideration. Upon information and belief, DLS was instructed to both use the maps from the 2011 Plan as a baseline and keep as many people as possible in their current districts.

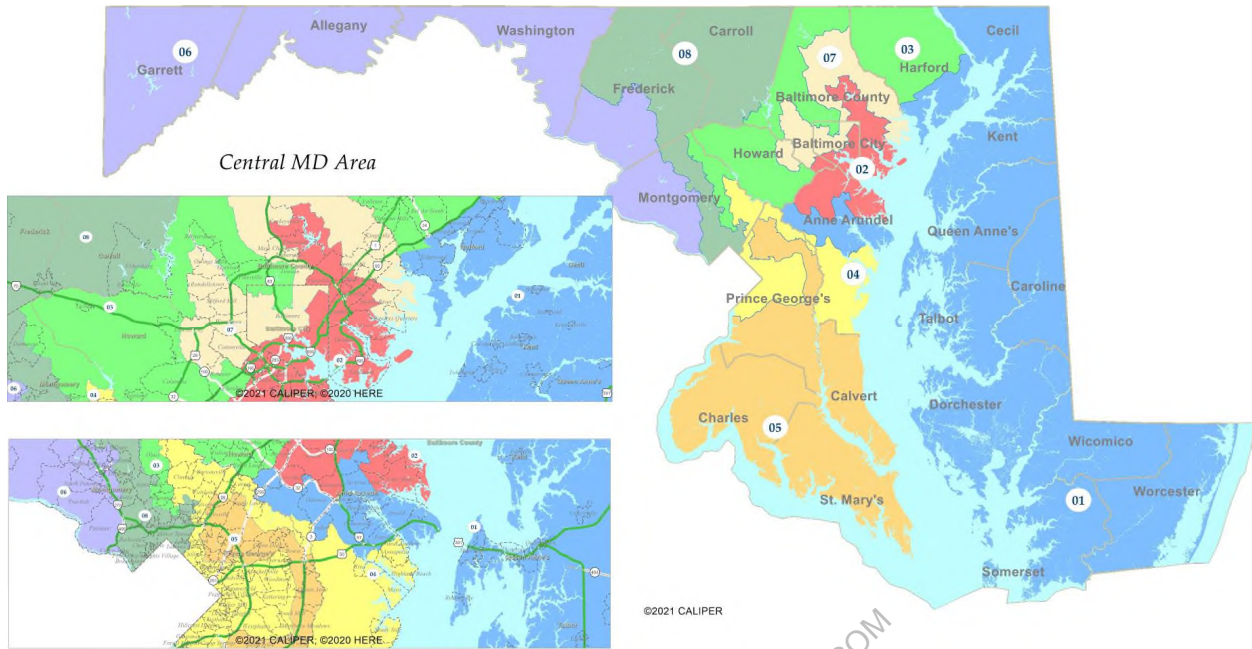
41. Upon information and belief, DLS also purportedly was instructed to factor certain public comments into the maps it produced. DLS, however, was not instructed to consider the overwhelming request of Maryland's citizens to not produce politically gerrymandered congressional maps.

42. Upon information and belief, Democratic members of the LRAC and/or their staffers worked closely with DLS to produce a set of proposed congressional maps for the LRAC's consideration. Neither Republican member of the LRAC or their staffs had input into the maps DLS produced for the LRAC.

43. On November 9, 2021, the LRAC issued four maps for public review and comment. Importantly, in a cover message releasing the maps, Defendant Aro wrote (emphasis added): "These Congressional map concepts below reflect much of the specific testimony we've heard, *and to the extent practicable, keep Marylanders in their existing districts.*" The "existing districts" to which Defendant Aro referred were those from the 2011 Plan.

44. On November 23, 2021, by a strict party-line vote, the LRAC chose a final map to submit to the General Assembly for approval (the "2021 Plan"). Neither Republican member of the LRAC supported the 2021 Plan. Noting the obvious extreme political gerrymander that the 2021 Plan represents, Senator Simonaire lamented during the vote: "Once again, I've seen politics overshadow the will of the people."

45. The 2021 Plan is below:



46. A basic summary of each of Maryland’s congressional districts under the 2022 Plan is as follows:

a. District 1: District 1 is the last remaining congressional district in Maryland held by a Republican. Under the 2021 Plan, District 1 includes all the counties on the Eastern Shore (Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne’s, Kent, and Cecil). It also includes part of Harford County. Under the 2021 Plan, District 1 now includes a significant part of Anne Arundel County. The addition of this part of Anne Arundel County—which shares no land border with any other part of District 1 and which extends far from the shore of the Chesapeake Bay—has changed District 1 from a majority Republican congressional district to a majority Democratic congressional district. In fact, according to the Princeton Gerrymandering Project, a non-partisan group focused on understanding and eliminating partisan gerrymandering, Democrats now hold a 50.93% to 49.07% estimated vote-share advantage over Republicans in District 1.

b. District 2: District 2 includes part of Baltimore County, parts of Baltimore City, and the northern part of Anne Arundel County. It includes no entire county within its geographic footprint and does not honor natural boundaries. In fact, it is shaped like a long-eared rabbit getting ready to leap across the Chesapeake Bay. According to the Princeton Gerrymandering Project, the estimated Democratic vote share in District 2 is 61.19% and the estimated Republican vote share is 38.81%.

c. District 3: District 3 includes a large part of Harford County, an irregularly shaped swath of Baltimore County, a small part of Baltimore City, the southeast corner of Carroll County, most of Howard County, and a sliver of eastern Montgomery County. It preserves no preexisting political subdivision and does not respect natural boundaries. Its shape defies easy description. According to the Princeton Gerrymandering Project, the estimated Democratic vote share in District 3 is 62.90% and the estimated Republican vote share is 37.10%.

d. District 4: District 4's eastern prong is comprised of southern Anne Arundel County (making Anne Arundel County part of three congressional districts). It then travels northwest through a thin sliver of Prince George's County before connecting with a portion of eastern Montgomery County. It then veers south through another thin sliver of Prince George's County before mushrooming into a larger portion of Prince George's County. It makes a mockery of preexisting political subdivisions, natural borders, and geographic contiguity. According to the Princeton Gerrymandering Project, the estimated Democratic vote share in District 4 is 85.18% and the estimated Republican vote share is 14.82%.

e. District 5: District 5 includes Calvert County, St. Mary's County, and Chares County in the south. It also includes an unnatural hook-shaped portion of Prince George's County. According to the Princeton Gerrymandering Project, the estimated Democratic vote share in District 5 is 71.84% and the estimated Republican vote share is 28.16%.

f. District 6: District 6—the district Democrats targeted and intentionally gerrymandered in the 2011 Plan to eliminate a Republican representative to Congress—largely retains its shape under the 2021 Plan, thus continuing the goal of Democratic leaders to minimize the sizable Republican vote in Western Maryland. Its western side includes Garrett County, Allegany County, and Washington County. It also includes the southern part of Frederick County—once again dividing Frederick County—and the overwhelmingly Democratic eastern half of Montgomery County. According to the Princeton Gerrymandering Project, the estimated Democratic vote share in District 6 is 61.71% and the estimated Republican vote share is 38.29%.

g. District 7: District 7 includes irregularly shaped parts of Baltimore County (making Baltimore County part of three congressional districts), dips into and through the middle of Baltimore City (making Baltimore City also part of three congressional districts), and steals a small section of Howard County from District 3 (making Howard County part of three congressional districts). According to the Princeton Gerrymandering Project, the estimated Democratic vote share in District 7 is 79.24% and the estimated Republican vote share is 20.76%.

h. District 8: District 8 includes most of Carroll County, northern Frederick County, and a strangely shaped portion of the middle of Montgomery County (making Montgomery County part of four separate congressional districts). According to the Princeton Gerrymandering Project, the estimated Democratic vote share in District 8 is 67.22% and the estimated Republican vote share is 32.78%.

47. The 2021 Plan thus cracks Republican voters, including Plaintiffs, into eight Democratic-majority districts through unnatural and tortured partisan map drawing. By way of example only:

a. The 2021 Plan, like the 2011 Plan, cracks the Republican voters of western Maryland. District 6 cuts Frederick County in half and forces the primarily rural and Republican

voters of Garrett, Allegany, and Washington Counties into a district with the overwhelmingly Democratic voters of suburban Montgomery County. The district thus continues the 2011 Plan's pairing of voters for purely partisan political advantage and not because members of the district share interests or would consider themselves a community. As one United States District Judge has written regarding a prior, similar version of District 6:

Citizens of Garrett County are at a higher altitude, have a different climate, root for different sports teams, and read different newspapers than their counterparts in Montgomery County. As a result, the interests of two widely diverse regions of the state are paired, and both are compromised in their right to fair and effective representation. Those who have an interest in farming, mining, tourism, paper production, and the hunting of bears, are paired with voters who abhor the hunting of bears and do not know what a coal mine or paper mill even looks like.

Fletcher v. Lamone, 831 F. Supp. 2d 887, 906 (D. Md. 2011) (Titus, J., concurring).

b. The 2021 Plan cracks the Republican voters of the Eastern Shore and northeast Maryland, who all used to be members of one congressional district. District 1 now includes the primarily Republican voter of Maryland's Eastern Shore and Cecil County. The district, however, no longer includes the primarily Republican voters of portions of Harford County, Baltimore County, and Carroll County. Instead, it now includes a primarily Democratic portion of Anne Arundel County that eliminates the previous Republican voting advantage in the district—the only district in Maryland where Republicans held such an advantage. Like District 6, District 1 now combines widely diverse regions of Maryland—regions that do not share interests or otherwise consider themselves a community of likeminded voters—into one district for partisan political advantage.

48. Upon release of the 2021 Plan, the Princeton Gerrymandering Project gave the 2021 Plan a “F” grade—the worst possible grade—based on political favoritism, geographical compactness, and other factors.

F. Enactment of the 2021 Plan

49. On December 8, 2021, the General Assembly enacted the 2021 Plan on a strict party-line vote. Not a single Republican member of the General Assembly voted to approve the 2021 Plan.

50. On December 9, 2021, Governor Hogan vetoed the 2021 Plan. In his letter vetoing the 2021 Plan, Governor Hogan wrote:

Free and fair elections are the very foundation of American democracy and the most basic promise that those in power can pledge to citizens. Here in Maryland, nonpartisan redistricting reform has been overdue for decades. The current process is nothing less than a form of political subterfuge that has saddled our state with the dubious distinction of being home to the most gerrymandered districts in the nation. Unfortunately, and despite all of my efforts, the Maryland General Assembly has once again failed Marylanders and neglected the will of the people by continuing their long legacy of gerrymandering.

....

The fight for free and fair elections in our state is not just a fight between the right and left; this is a fight between right and wrong. We must rebuild a democracy where voters pick their elected representatives—not the other way around. I will not stand idly by and allow this unfair practice to continue to dilute and disadvantage the voices and rights of millions of Marylanders.

51. On December 9, 2021, the General Assembly, again on a strict party line vote, overrode Governor Hogan's veto, thus adopting the 2021 Plan into law.

G. The 2021 Plan Was Designed to Continue the Partisan Gerrymandering of the 2011 Plan and Flip the Final Majority-Republican District to Democratic Control

52. As explained above, the 2011 Plan was filled with grotesque examples of extreme partisan gerrymandering.

53. The 2021 Plan is nothing more than a continuation of the extreme partisan gerrymandering enacted through the 2011 Plan. As Chair Aro stated when the LRAC released its

proposed maps for public review and comment, the LRAC's maps were designed to "keep Marylanders in their existing districts." Additionally, upon information and belief, the LRAC instructed DLS to produce maps for the LRAC's consideration that used the 2011 Plan as a baseline.

54. Maryland's Democratic leaders have made no secret of their desire to "stick to the plan" of gerrymandering Maryland Republicans into congressional oblivion. For example:

a. Echoing the comments of then-Senate President Miller prior to the enactment of the 2011 Plan, Representative Jamie Raskin recently told *Slate* the following regarding why he was in favor of drawing a map that ensured Democrats would win all eight congressional seats in Maryland:

Given that [Republicans] were the ones who blocked redistricting reform, and they are now in the process of trying to gerrymander us into oblivion from Texas to Georgia to North Carolina to Michigan to Wisconsin ... we have not only a political right, but I would argue an ethical duty, to do whatever we can to fight fire with fire, and try to defend democratic values and democratic process in America.

b. After passage of the 2021 Plan, Senator Ferguson and Delegate Jones issued a joint statement emphasizing that the 2021 Plan "keep[s] a significant portion of Marylanders in their current districts, ensuring continuity of representation."

55. In at least one way, moreover, the 2021 Plan is even worse than the 2011 Plan—it was drawn to alter District 1 to eliminate the one remaining Republican congressional representative from Maryland. According to the Princeton Gerrymandering Project, Democrats now have an estimated vote share advantage in every single Maryland congressional district.

56. In other words, the 2011 Plan cracked Republican voters across seven congressional districts (Districts 2, 3, 4, 5, 6, 7, and 8) and packed them into one congressional district (District 1) to ensure a 7-1 Democratic majority for Maryland's congressional delegation.

The 2021 Plan has cracked Republican voters, including Plaintiffs, across all the newly formed congressional districts, including District 1, thus paving the way for an 8-0, Democrat-only congressional delegation.

57. The 2021 Plan has materially altered the political make up of District 1 in fundamental ways. The 2021 Plan removes from District 1 Republican-leaning portions of Carroll County, northern Baltimore County, and Harford County. It replaces those geographic areas with a Democratic leaning portion of Anne Arundel County. The net effect of these politically motivated changes is stark: The 2021 Plan gives Democrats a 50.93% to 49.07% vote share advantage in a district that voted overwhelmingly in the 2020 election for its current Republican representative and the then-Republican candidate for President.

58. Incredibly, the 2021 Plan has done something even the architects of the 2011 Plan were not willing to do to achieve a Democratic monopoly of Maryland's congressional districts: jump the Chesapeake Bay. To eliminate the Republican voting advantage in District 1, the 2021 Plan inserts into District 1 a Democratic-leaning portion of Anne Arundel County that stretches inland away from the Chesapeake Bay and shares no land border with the rest of the district, most of which is located on the Eastern Shore.

V. Claims

Count I – Violation of Maryland's Free Elections Clause (Maryland Declaration of Rights, Article 7)

59. Paragraphs 1 through 58 are realleged and incorporated by reference as if set forth fully herein.

60. Article 7 of Maryland's Declaration of Rights provides: "That the right of the People to participate in the Legislature is the best security of liberty and the foundation of all free

Government; for this purpose, elections ought to be free and frequent; and every citizen having the qualifications prescribed by the Constitution, ought to have the right of suffrage.”

61. This provision is “even more protective of rights of political participation than the provisions of the federal Constitution.” *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 150 (2003).

62. Article 7, therefore, provides the citizens of Maryland, including Plaintiffs, with a right to an equally effective power to select the congressional representative of their choice, and bars the State from creating congressional districts that ensure the election of candidates from one political party and/or diluting the votes of citizens on the basis of political affiliation and viewpoint. Simply put, it prohibits the State from rigging elections in favor of one political party.

63. The 2021 Plan violates Plaintiffs’ (and other Marylanders’) right under Article 7 to free elections in numerous ways, including but not limited, to the following:

a. The congressional districts in the 2021 Plan were designed specifically for partisan purposes and with an intent to preserve and expand the political power of one political party, and thus the 2021 Plan unlawfully seeks to predetermine election outcomes in Maryland’s congressional districts.

b. The 2021 Plan violates the right of Maryland citizens to choose their congressional representatives by continuing to “crack” Republican voters, including Plaintiffs, into congressional districts in a way that ensures the election of Democratic representatives to Congress.

c. The 2021 Plan’s congressional districts do not all consist of adjoining territory, are not compact in form, and do not respect natural boundaries or the boundaries of traditional political subdivisions (*e.g.*, counties). Indeed, the shapes of six out of eight congressional districts can only (and generously) be described as irregular or unusual; at least one

district wholly ignores and “jumps over” the Chesapeake Bay to include a portion of the State that shares no borders with the rest of the district; and multiple counties belong to multiple congressional districts (with Montgomery County part of four separate districts and Anne Arundel County, Baltimore City, Baltimore County, and Howard County part of three separate districts). The 2021 Plan thus violates well-established traditions in Maryland for forming congressional districts.

d. The 2021 Plan admittedly was designed to preserve the status quo, and thus continue the explicit and acknowledged goal of the 2011 Plan to eliminate a Republican congressional district and ensure at least a 7-1 Democratic majority in Maryland’s congressional delegation.

e. The 2021 Plan has altered District 1—the last remaining congressional district currently held by a Republican—to make even that district a likely Democratic seat. By removing portions of Carroll, Baltimore, and Harford Counties from District 1 and replacing them with a portion of Anne Arundel County, the 2021 Plan has given Democrats a 50.93% to 49.07% estimated vote share advantage in a district that voted overwhelmingly in the 2020 election for its current Republican representative.

64. Any election poisoned by extreme political gerrymandering and the intentional dilution of votes on a partisan basis is not free. Through the 2021 Plan, the General Assembly has installed a system whereby voters are cherry-picked to ensure the election of congressional candidates from one political party. In this way, the 2021 Plan violates Plaintiffs’ (and other Marylanders’) right of suffrage.

**Count II – Violation of Purity of Elections
(Maryland Constitution, Article I, Section 7)**

65. Paragraphs 1 through 58 are realleged and incorporated by reference as if set forth fully herein.

66. Article I, Section 7 of the Maryland Constitution provides: “The General Assembly shall pass Laws necessary for the preservation of the purity of Elections.” This provision requires the General Assembly to pass laws concerning elections that are fair and evenhanded, and that are designed to eliminate corruption.

67. The 2021 Plan is not fair or evenhanded. Through intentional partisan manipulation, it cracks Republican voters across Maryland, including Plaintiffs, in a way which ensures that Republicans do not have a vote share majority in any congressional district. Thus, the 2021 Plan intentionally dilutes the voting power of Plaintiffs and renders their votes nearly meaningless in congressional elections.

68. Instead of preventing corruption in Maryland’s elections, moreover, the 2021 Plan makes political corruption the law of the State. Through intentional partisan manipulation, the 2021 Plan ensures the election of Democratic representatives to Congress in all but one of Maryland’s congressional districts. And as for that one district where Democratic success is not guaranteed (District 1), the 2021 Plan, again through intentional partisan manipulation, gives Democrats an estimated vote share majority. Like all extreme political gerrymanders before it, the 2021 Plan amounts to election rigging.

69. No republican form of government can last when its elections are not fair, evenhanded, and free of political corruption. Article I, Section 7 prohibits the General Assembly from enacting election laws that violate this basic principle and thereby undermine democracy.

Because the 2021 Plan undermines democracy in a profound sense—by ensuring that the people cannot choose those who they want to govern them—the 2021 Plan violates Article I, Section 7.

**Count III – Violation of Equal Protection
(Maryland Declaration of Rights, Article 24)**

70. Paragraphs 1 through 58 are realleged and incorporated by reference as if set forth fully herein.

71. Article 24 of the Maryland Declaration of Rights guarantees “[t]hat no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.” The protections afforded by Article 24 include by implication the principle of equal protection.

72. The 2021 Plan violates Article 24 by unconstitutionally discriminating against Republican voters, including Plaintiffs, and infringing on their fundamental right to vote. Specifically, the 2021 Plan intentionally discriminates against Plaintiffs by diluting the weight of their votes based on party affiliation and depriving them of the opportunity for full and effective participation in the election of their congressional representatives.

73. By way of example only, the 2021 Plan continues the 2011 Plan’s intentional discrimination against Republican voters in District 6. That district was drawn once again to intentionally dilute Republican votes in western Maryland and ensure the election of a Democratic congressional representative, thereby depriving Republican voters in that district of equal electoral participation. Indeed, since adoption of the 2011 Plan—which, with regards to District 6, the 2021 Plan largely mirrors—District 6 has voted in favor of a Democratic representative in the 2012, 2014, 2016, 2018 and 2020 election, when prior to the redrawing, District 6 was consistently held by a Republican congressional representative.

74. District 6, of course, is not the only problematic district under the 2021 Plan. As explained above, the 2021 Plan has cracked Republican voters in District 1 as well by replacing a large number of Republican voters in the district with a large number of Democratic voters to gain a Democratic advantage in the lone remaining Republican congressional district in Maryland. Districts 2, 3, 4, 5, 7, and 8 also unnaturally combine large Democratic population centers with traditional Republican voting areas to unconstitutionally dilute the Republican votes in those districts.

75. The 2021 Plan's continuation of the systemic debasement and dilution of the weight of Republican votes in Maryland unconstitutionally degrades Plaintiffs' influence on the political process and infringes on their fundamental right to have their votes count fully.

76. The State of Maryland lacks any compelling interest in upholding the 2021 Plan and debasing and diluting the weight of Plaintiffs' votes or depriving them of the opportunity for full, effective, and equal participation in the election of their congressional representatives.

**Count IV – Violation of Freedom of Speech
(Maryland Declaration of Rights, Article 40)**

77. Paragraphs 1 through 58 are realleged and incorporated by reference as if set forth fully herein.

78. Article 40 of the Maryland Declaration of Rights guarantees “that every citizen of the State ought to be allowed to speak, write and publish his sentiments on all subjects.”

79. The 2021 Plan violates Article 40 by burdening protected speech based on political viewpoint. Specifically, the 2021 Plan benefits certain preferred speakers (Democratic voters), while targeting certain disfavored speakers (*e.g.*, Republican voters, including Plaintiffs) because of a disagreement with the views they express when they vote.

80. The 2021 Plan subjects Plaintiffs (and other Republican voters) to disfavored treatment by cracking them into specific congressional districts to dilute their votes and ensure that they are not able to elect a candidate who shares their views. The 2021 Plan thus has the effect of suppressing the political views and expressions of Plaintiffs. The 2021 Plan discriminates against Plaintiffs (and other Republican voters) in this way because of their voting history, party affiliation, and expression of their political views.

81. The 2021 Plan further violates Article 40 by retaliating against Plaintiffs (and other Republican voters) based on their political speech. The 2021 Plan takes adverse action against Plaintiffs and would not have done so but for a retaliatory intent to punish Republican voters because of their voting history, party affiliation, and expression of their political views.

82. The State of Maryland has no legitimate or compelling interest in discriminating and retaliating against Plaintiffs because of their political viewpoints, voting history, or party affiliation. Nor can Maryland's geography, natural boundaries, political subdivisions, or other legitimate redistricting criteria explain or justify the 2021 Plan.

VI. Request for Relief

WHEREFORE, Plaintiffs respectfully requests that the Court enter Judgment in their favor and against Defendants, and:

(a) Determine and declare that the 2021 Plan is unconstitutional and invalid because it violates the rights of Plaintiffs under Articles 7, 24, and 40 of Maryland's Declaration of Rights and violates the General Assembly's obligation to pass laws ensuring the purity of elections under Article I, Section 7 of Maryland's Constitution;

(b) Enjoin the Defendants, their agents, officers, and employees from using, applying, administering, or enforcing the 2021 Plan in any future election in Maryland, including but not limited to the 2022 primary and general elections for Congress;

(c) Order Defendants to delay, postpone, or suspend candidate filing deadlines until such time as the Maryland General Assembly enacts a congressional districting plan that complies with the Maryland Constitution and Declaration of Rights; and

(d) Award such other and further relief to as the Court deems just, appropriate, necessary, or proper.

Respectfully submitted,

/s/ Strider L. Dickson

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