

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

**NEIL PARROTT, RAY SERRANO,  
CAROL SWIGAR, DOUGLAS RAAUM,  
RONALD SHAPIRO, DEANNA MOBLEY,  
GLEN GLASS, ALLEN FURTH, JEFF  
WARNER, JIM NEALIS, DR. ANTONIO  
CAMPBELL, and SALLIE TAYLOR**

*Plaintiffs,*

v.

Case No. C-02-CV-21-001773

**LINDA H. LAMONE, in her official  
capacity as State Administrator of the  
Maryland State Board of Elections,  
WILLIAM G. VOELP, Chair of the  
Maryland State Board of Elections,  
and the STATE OF MARYLAND,**

*Defendants.*

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**MOTION TO INTERVENE AS DEFENDANT**

Pursuant to Rule 2-214(a)(2) of the Maryland Rules of Civil Procedure, Proposed Intervenor DCCC moves to intervene as a defendant in the above-titled action. Alternatively, Proposed Intervenor moves to intervene pursuant to Rule 2-214(b).

**BACKGROUND**

Last year, the United States Census Bureau conducted a decennial census (the “2020 Census”) throughout the nation. The 2020 Census found that Maryland’s resident population increased modestly over the decade. This growth required

minimal change to the existing congressional districts in order to comply with federal constitutional population equality requirements. Following a deliberative process that involved multiple virtual and in-person public hearings across the state, and opportunities for members of the public to propose congressional maps, the General Assembly passed House Bill 1 (“HB 1”). As Karl S. Aro, Chair of the Legislative Redistricting Advisory Committee (the “LRAC”) put it when releasing the proposed congressional maps (one of which eventually became the final map suggested by LRAC and passed by the General Assembly as HB 1):

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. Portions of these districts have remained intact for at least 30 years and reflect a commitment to following the Voting Rights Act, protecting existing communities of interest, and utilizing existing natural and political boundaries. It is our sincere intention to dramatically improve upon our current map while keeping many of the bonds that have been forged over 30 years or more of shared representation and coordination.<sup>1</sup>

Plaintiffs filed a complaint on December 21, 2021, and the DCCC promptly followed with this motion to intervene. There have not yet been any proceedings held in this matter.

### **LEGAL STANDARD**

Maryland Rule of Civil Procedure 2-214(a)(2) provides that: “Upon timely motion, a person shall be permitted to intervene in an action . . . when the person

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<sup>1</sup> “Message from the Chair,” Maryland General Assembly Legislative Redistricting Advisory Commission Draft Congressional Concept Maps at 1, <https://mgaleg.maryland.gov/Other/Redistricting/webpage-110921.pdf>.

claims an interest relating to the property or transaction that is the subject of the action, and the person is so situated that the disposition of the action may as a practical matter impair or impede the ability to protect that interest unless it is adequately represented by existing parties.” Md. Rule 2-214(a)(2). Rule 2-214(b)(1) provides that “[u]pon timely motion a person may be permitted to intervene in an action when the person's claim or defense has a question of law or fact in common with the action.” *Id.* 2-214(b)(1).

As the Court of Appeals has explained, “Md. Rule 2–214 contains four requirements a person must satisfy in order to intervene as of right: 1) the application was timely; 2) the person claims an interest relating to the property or transaction that is the subject of the action; 3) the person is so situated that the disposition of the action, as a practical matter, may impair or impede that person’s ability to protect that interest; and 4) the person’s interest is not adequately represented by existing parties to the suit.” *Maryland-Nat’l. Cap. Park & Plan. Comm’n v. Town of Washington Grove*, 408 Md. 37, 69–70 (2009).

## ARGUMENT

### **I. Proposed Intervenor meets the requirements for intervention as of right under Md. Rule 2-214(a)(2).**

#### **A. Proposed Intervenor’s motion is timely.**

“As to the first requirement, timeliness, whether a motion to intervene is timely depends on ‘the purpose for which intervention is sought, the probability of

prejudice to the parties already in the case, the extent to which the proceedings have progressed when the movant [mov]es to intervene, and the reason or reasons for the delay in seeking intervention.” *Doe v. Alt. Med. Md., LLC*, 455 Md. 377, 415 (2017) (quoting *Washington Grove*, 408 Md. at 70 (2009)).

Here, Proposed Intervenor seeks intervention for a legitimate purpose—to defend its interests in congressional districts in Maryland that will allow Democratic candidates to be competitive. The risk of prejudice is low, as Plaintiffs filed their Complaint only one month ago, and the proceedings have not progressed since. No Answer, Motion to Dismiss, or other responsive pleadings have yet been filed. *Cf. id.* at 420 (finding intervention timely where the motion to intervene was filed “within two months of [plaintiffs’] filing of the complaint for declaratory judgment” and noting that “[a]t that point, the circuit court had not yet ruled on the Commission’s motion to dismiss, or, in the alternative, for summary judgment”). Moreover, Proposed Intervenor has included with this motion its proposed Motion to Dismiss. Proposed Intervenor will abide by whatever briefing schedule this Court orders to ensure intervention does not cause any delay in the resolution of this matter.

Far from delaying this case, Proposed Intervenor would like this matter to be resolved as quickly as possible to ensure that districts are in place prior to the rapidly approaching primary candidate filing deadline of February 22, thereby allowing DCCC adequate time to recruit and support candidates.

**B. Proposed Intervenor has an interest that may, as a practical matter, be impaired by the disposition of this action.**

Maryland courts liberally construe the interest required for intervention. As the Court of Appeals has stated, “[t]he standard that this Court has adopted for determining an impairment or impediment to the ability to protect an interest is whether ‘the disposition of the action would at least potentially impair the [person’s] ability to protect [the person’s] interest.’” *Id.* at 416 (quoting *Washington Grove*, 408 Md. at 99). Plaintiffs’ challenge to HB 1 would impair Proposed Intervenor’s legally protected interests. Proposed Intervenor is a political organization dedicated to supporting the election of Democratic Party candidates to the United States House of Representatives. If Plaintiffs succeed and HB 1 is enjoined, Proposed Intervenor will suffer direct injury because the districts their members of Congress have run in previously, and will run in again in 2022, will be changed.

**C. Proposed Intervenor’s interests are or may not be adequately represented by the existing parties.**

“The burden of showing that existing representation may be inadequate is a minimal one.” *Id.* at 417 (quoting *Washington Grove*, 408 Md. at 102). Moreover, “[t]he person seeking to intervene need not show that existing representation is, in fact, inadequate, or that the person’s interests are adverse to existing representation; ‘[i]t is sufficient that the representation may be inadequate.’” *Id.* (quoting *Washington Grove*, 408 Md. at 417).

In *Doe*, the Court of Appeals held that the interests of medical cannabis growers were not adequately represented by the Medical Cannabis Commission, noting that “[t]he Growers have an interest in achieving the outcome in which they are the recipients of medical cannabis grower licenses as opposed to other growers; the Commission does not share this interest,” and that “the Office of the Attorney General represents the Commission’s interest, not any business’s or individual’s interest.” *Id.* at 424. Likewise here, the existing Defendants are state officials who have an undeniable interest in defending the duly enacted laws of Maryland and conducting elections under those laws. Defendants do not share Proposed Intervenor’s interest of ensuring its members of Congress have an opportunity to compete in and win congressional elections in properly constituted districts. Courts have routinely concluded that such interference with a political party’s electoral prospects constitutes a direct injury. *See, e.g., LULAC v. Pate*, No. CVCV061476 (Iowa Dist. Ct. June 24, 2021) (order granting intervention to four Republican entities, who argued that they had an interest in protecting their candidates and voters, in a case challenging Iowa’s election laws); *Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 586–87 (5th Cir. 2006) (recognizing that “harm to [] election prospects” constitutes “a concrete and particularized injury”); *Owen v. Mulligan*, 640 F.2d 1130, 1132 (9th Cir. 1981) (holding that “the potential loss of an election” is sufficient injury to confer Article III standing); *see also Town of Chester v. Laroe Estates, Inc.*, 137 S. Ct. 1645, 1651 (2017) (noting that intervenor

by right only needs “Article III standing in order to pursue relief that is different from that which is sought by a party with standing”). Proposed Intervenor has intervened in several voting cases in the past on this very basis. *See Issa v. Newsom*, No. 2:20-cv-01044-MCE-CKD, 2020 WL 3074351, at \*3 (E.D. Cal. June 10, 2020) (granting Proposed Intervenor and other organization intervention as of right after concluding that “advancing their overall electoral prospects” is “routinely found to constitute [a] significant protectable interest[.]”); *Republican Nat’l Comm. v. Newsom*, No. 2:20-cv-01055-MCE-CKD, slip op. at 5 (E.D. Cal. June 10, 2020), ECF No. 38 (same); *Paher v. Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2042365, at \*2 (D. Nev. Apr. 28, 2020) (granting Proposed Intervenor and other organizations intervention as of right where “Plaintiffs’ success on their claims would disrupt the organizational intervenors’ efforts to promote the franchise and ensure the election of Democratic Party candidates”).

**II. Alternatively, the Court should grant Proposed Intervenor’s permissive intervention under Maryland Rule of Civil Procedure 2-214(b).**

“Generally, permissive intervention is warranted where the person seeking to intervene files a timely motion and has a claim or defense with a question of law or fact in common with the case, and where intervention would not unduly delay or prejudice the adjudication of the parties’ rights.” *Doe*, 455 Md. at 425 n.26. For the reasons previously discussed, Proposed Intervenor’s motion is timely. Moreover, Proposed Intervenor has defenses that have questions of law and fact in common

with the case—for example, Proposed Intervenor maintains in the attached Motion to Dismiss that Plaintiffs have failed to state a claim on which relief can be granted. Finally, and as previously discussed, intervention will not unduly delay or prejudice this adjudication. As stated, Proposed Intervenor would like this matter to be resolved as quickly as possible to ensure that districts are in place prior to the rapidly approaching primary candidate filing deadline of February 22, thereby allowing DCCC adequate time to recruit and support candidates.

### CONCLUSION

For the reasons stated above, Proposed Intervenor respectfully requests that this Court grant its motion to intervene as a matter of right under Maryland Rule of Civil Procedure 2-214(a)(2) or, in the alternative, permit it to intervene under Rule 2-214(b).

Date: January 20, 2022

Respectfully submitted,

*/s/ Marc E. Elias*

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Marc E. Elias\*

Kathryn E. Yukevich\*

Melinda K. Johnson (CPF No.: 1812110194)

Aaron M. Mukerjee\*

**Elias Law Group LLP**

10 G St NE, Ste 600

Washington, DC 20002

Tel.: (202) 968-4490

MElias@elias.law

KYukevich@elias.law

MJohnson@elias.law

AMukerjee@elias.law



*/s/ Jessica P. Weber*

Jessica P. Weber (CPF No.: 1106150284)

**Brown, Goldstein & Levy, LLP**

120 E. Baltimore Street, Suite 2500

Baltimore, Maryland 21202

T: (410) 962-1030

F: (410) 385-0869

jweber@browngold.com

*Attorneys for Proposed Intervenor DCCC*

*\*Pro hac vice forthcoming*

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 20, 2022, I filed a copy of the foregoing Motion to Intervene as Defendant using the Maryland Electronic Courts E-filing system, which will send notification of such filing to all counsel of record.

/s/ Jessica P. Weber

Jessica P. Weber (CPF No.: 1106150284)

*Attorney for Proposed Defendant  
Intervenor DCCC*

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