

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

**KATHRYN SZELIGA,
CHRISTOPHER T. ADAMS,
JAMES WARNER, MARTIN LEWIS,
JANET MOYE CORNICK,
RICKY AGYEKUM, MARIA ISABEL
ICAZA, LUANNE RUDELL, and
MICHELLE KORDELL**

Plaintiffs,

v.

Case No. C-02-CV-21-001816

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

Defendants.

[PROPOSED] ANSWER

I. Introduction

1. Paragraph 1 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 1.

2. Paragraph 2 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 2.

3. Paragraph 3 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 3 and denies Plaintiffs' requested relief.

II. The Parties

A. Plaintiffs

4. Intervenor is without sufficient information to respond to the claim that Plaintiffs are qualified, registered voters in Maryland. The remainder of Paragraph 4 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 4.

5. As to the allegations in Paragraph 5:

a. Intervenor admits that Kathryn Szeliga currently serves as a member of Maryland's House of Delegates. Intervenor is without sufficient information to otherwise respond to the allegations in Paragraph 5(a).

b. Intervenor admits that Christopher T. Adams currently serves as a member of Maryland's House of Delegates. Intervenor is without

sufficient information to otherwise respond to the allegations in Paragraph 5(b).

- c. Intervenor is without sufficient information to respond to the allegations in Paragraph 5(c).
- d. Intervenor is without sufficient information to respond to the allegations in Paragraph 5(d).
- e. Intervenor is without sufficient information to respond to the allegations in Paragraph 5(e).
- f. Intervenor is without sufficient information to respond to the allegations in Paragraph 5(f).
- g. Intervenor is without sufficient information to respond to the allegations in Paragraph 5(g).
- h. Intervenor is without sufficient information to respond to the allegations in Paragraph 5(h).
- i. Intervenor is without sufficient information to respond to the allegations in Paragraph 5(i).

B. Defendants

- 6. Admit.
- 7. Admit.
- 8. Admit.

III. Jurisdiction and Venue

9. Paragraph 9 consists of argument and legal conclusions, to which no response is required.

10. Paragraph 10 consists of argument and legal conclusions, to which no response is required.

IV. The Facts

A. Partisan Gerrymandering

11. Intervenor admits that states redraw legislative and congressional district lines every 10 years following completion of the decennial United States census. The remainder of Paragraph 11 consists of argument and legal conclusions, to which no response is required.

12. Paragraph 12 consists of argument and legal conclusions, to which no response is required.

13. Paragraph 13 consists of argument and legal conclusions, to which no response is required.

14. Paragraph 14 consists of argument and legal conclusions, to which no response is required.

B. The Harms of Partisan Gerrymandering

15. Paragraph 15 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 15.

16. Paragraph 16 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 16.

17. Paragraph 17 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 17.

18. Paragraph 18 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 18.

C. The Congressional Redistricting Process in Maryland

19. Paragraph 19 consists of legal conclusions, opinion, and references to legal authorities, to which no response is required.

20. Admit.

21. Paragraph 21 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 21.

22. Paragraph 22 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies that Article III, Section 4 has any bearing on congressional maps.

D. The 2011 Maryland Congressional Redistricting Plan

23. Intervenor admits that Maryland redrew the lines for its eight congressional districts in 2011 and that Martin O'Malley was governor. Intervenor denies the remaining characterizations in Paragraph 23.

24. Paragraph 24 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 24.

25. Paragraph 25 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 25.

26. Intervenor admits that Governor O'Malley appointed the Governor's Redistricting Advisory Committee ("GRAC") to hold public hearings and recommend a redistricting plan. The remainder of Paragraph 26 consists of opinion and argument, to which no response is required. To the extent that one is required, Intervenor denies the remainder of the allegations in Paragraph 26.

27. Paragraph 27 consists of argument and legal conclusions, to which no response is required.

28. Intervenor is without sufficient information to respond to the allegations in Paragraph 28.

29. Paragraph 29 consists of argument and legal conclusions, to which no response is required.

30. Intervenor admits that GRAC released its proposed congressional redistricting plan to the public on October 4, 2011, and that the plan made changes to Maryland's congressional districts, including Congressional District 6. The remainder of Paragraph 30 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the remainder of the allegations in Paragraph 30.

31. Admit.

32. Intervenor is without sufficient information to respond to the allegations in Paragraph 32. To the extent a response is required, Intervenor denies the allegations in Paragraph 32.

33. Intervenor admits that the GRAC plan was introduced on October 17, 2011, and signed on October 20, 2011. Intervenor is without sufficient information to respond to the remainder of the allegations in Paragraph 33.

34. Paragraph 34 is an image to which no response is required.

35. Intervenor admits that the congressional districts created through the 2011 plan were used in the 2012, and that since 2012 Maryland's congressional delegation has included 7 Democrats and 1 Republican. The remainder of Paragraph 35 contains characterizations to which no response is required.

36. Paragraph 36 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 36.

E. The 2021 Maryland Congressional Redistricting Plan

37. Admit.

38. Admit.

39. Intervenor admits that LRAC held public hearings across Maryland and that LRAC received testimony and comments from numerous citizens. The remainder of Paragraph 39 contains argument and characterization to which no response is required.

40. Intervenor is without sufficient information to respond to the allegations in Paragraph 40.

41. Intervenor is without sufficient information to respond to the allegations in Paragraph 41.

42. Intervenor is without sufficient information to respond to the allegations in Paragraph 42. To the extent a response is required, Intervenor denies the allegations in Paragraph 42.

43. The allegations in Paragraph 43 are comprised of statements of Karl S. Aro, which speak for themselves, and characterizations of those statements, to which no response is required.

44. Intervenor admits that LRAC adopted a final map on November 23, 2021. The remainder of the allegations in Paragraph 44 contain argument and characterization to which no response is required.

45. Paragraph 45 is an image to which no response is required.

46. As to the allegations in Paragraph 46:

a. Intervenor admits that, under the 2021 Plan, District 1 includes Worcester, Somerset, Wicomico, Dorchester, Talbot, Caroline, Queen Anne's, Kent, and Cecil Counties, and portions of Hartford and Anne Arundel Counties. The remainder of the Paragraph 46(a) contains argument and characterization to which no response is required. To the extent that a response is required, Intervenor denies the allegations in Paragraph 46(a).

b. Intervenor admits that, under the 2021 Plan, District 2 includes portions of Baltimore County, Baltimore City, and Anne Arundel County. The remainder of the Paragraph 46(b) contains argument and characterization to which no response is required. To the extent that a response is required, Intervenor denies the allegations in Paragraph 46(b).

c. Intervenor admits that, under the 2021 Plan, District 3 includes portions of Baltimore County, Baltimore City, Carroll County, Howard County, and Montgomery County. The remainder of the Paragraph 46(c) contains argument and characterization to which no response is required. To the extent that a response is required, Intervenor denies the allegations in Paragraph 46(c).

d. Intervenor admits that, under the 2021 Plan, District 4 includes portions of Anne Arundel, Prince George's, and Montgomery Counties. The remainder of the Paragraph 46(d) contains argument and

characterization to which no response is required. To the extent that a response is required, Intervenor denies the allegations in Paragraph 46(d).

e. Intervenor admits that, under the 2021 Plan, District 5 includes Calvert, Charles, and St. Mary's Counties, as well as a portion of Prince George's County. The remainder of the Paragraph 46(e) contains argument and characterization to which no response is required. To the extent that a response is required, Intervenor denies the allegations in Paragraph 46(e).

f. Intervenor admits that, under the 2021 Plan, District 6 includes Garrett, Allegany, and Washington Counties, as well as portions of Frederick and Montgomery Counties. The remainder of the Paragraph 46(f) contains argument and characterization to which no response is required. To the extent that a response is required, Intervenor denies the allegations in Paragraph 46(f).

g. Intervenor admits that, under the 2021 Plan, District 7 includes portions of Baltimore County, Baltimore City, and Howard County. The remainder of the Paragraph 46(g) contains argument and characterization to which no response is required. To the extent that a response is required, Intervenor denies the allegations in Paragraph 46(g).

h. Intervenor admits that, under the 2021 Plan, District 8 includes portions of Carroll, Frederick, and Montgomery Counties. The

remainder of the Paragraph 46(h) contains argument and characterization to which no response is required. To the extent that a response is required, Intervenor denies the allegations in Paragraph 46(h).

47. Intervenor denies the allegations in Paragraph 47.

a. Paragraph 47(a) consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 47(a).

b. Paragraph 47(b) consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 47(b).

48. Paragraph 48 consists of argument and legal conclusions, to which no response is required.

F. Enactment of the 2021 Plan

49. Admit.

50. Paragraph 50 quotes from a statement made by Governor Larry Hogan, to which no response is required. To the extent a response is required, Intervenor denies the allegations contained in Paragraph 50.

51. Admit.

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. Intervenor denies the allegations contained in Paragraph 52.

53. Paragraph 53 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 53.

54. Intervenor denies the allegations contained in Paragraph 54.

a. Paragraph 54(a) contains a statement from Representative Jamie Raskin which speaks for itself, as well as a characterization of that statement, to which no response is required.

b. Paragraph 54(b) contains a statement from multiple Maryland elected officials which speaks for itself, as well as a characterization of that statement, to which no response is required.

55. Paragraph 55 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 55.

56. Paragraph 56 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 56.

57. Paragraph 57 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 57.

58. Paragraph 58 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 58.

V. Claims

Count I - Violation of Maryland's Free Elections Clause

59. Intervenor incorporates by reference Paragraphs 1 – 58 of this Answer.

60. Paragraph 60 consists of references to legal authorities, which speak for themselves. No response is required or provided.

61. Paragraph 61 consists of references to legal authorities, which speak for themselves. No response is required or provided.

62. Paragraph 62 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies that this section provides the relief Plaintiffs seek.

63. Paragraph 63 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 63.

a. Paragraph 63(a) consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 63(a).

b. Paragraph 63(b) consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 63(b).

c. Paragraph 63(c) consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 63(c).

d. Paragraph 63(d) consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 63(d).

e. Paragraph 63(e) consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 63(e).

64. Paragraph 64 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 64.

Count II – Violation of Purity of Elections

65. Intervenor incorporates by reference Paragraphs 1 – 58 of this Answer.

66. Paragraph 66 consists of argument and legal conclusions, to which no response is required.

67. Paragraph 67 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 67.

68. Paragraph 68 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 68.

69. Paragraph 69 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 69.

Count III – Violation of Equal Protection

70. Intervenor incorporates by reference Paragraphs 1 – 58 of this Answer.

71. Paragraph 71 consists of argument and legal conclusions, to which no response is required.

72. Paragraph 72 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 72.

73. Paragraph 73 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 73.

74. Paragraph 74 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 74.

75. Paragraph 75 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 75.

76. Paragraph 76 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 76.

Count IV – Violation of Freedom of Speech

77. Intervenor incorporates by reference Paragraphs 1 – 58 of this Answer.

78. Paragraph 78 consists of argument and legal conclusions, to which no response is required.

79. Paragraph 79 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 79.

80. Paragraph 80 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 80.

81. Paragraph 81 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 81.

82. Paragraph 82 consists of argument and legal conclusions, to which no response is required. To the extent a response is required, Intervenor denies the allegations in Paragraph 82.

VI. Request for Relief

83. Intervenor denies that Plaintiffs are entitled to any relief.

AFFIRMATIVE DEFENSES

84. Intervenor sets forth its defenses below. By setting forth these defenses, Intervenor does not assume the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Plaintiffs. Nothing stated here is intended to or shall be construed as an acknowledgement that any particular issue or subject matter is relevant to Plaintiffs' allegations. As separate and distinct defenses, Intervenor alleges as follows:

FIRST AFFIRMATIVE DEFENSE

Failure to State a Claim

85. Plaintiffs' claims for relief fail to state ultimate facts sufficient to constitute a claim upon which relief could be granted.

SECOND AFFIRMATIVE DEFENSE

Failure to State a Claim

86. The legal basis for Counts I and II are inapplicable to congressional redistricting.

87. The legal basis for Count III does not confer a private right of action.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' Claims are Nonjusticiable

88. Plaintiffs' claims are nonjusticiable as to the relief they seek.

FOURTH AFFIRMATIVE DEFENSE

Plaintiffs Lack Standing

89. Plaintiffs lack standing to assert their claims.

FIFTH AFFIRMATIVE DEFENSE

Unlawful Remedy

90. Plaintiffs have requested an indefinite postponement of candidate filing deadlines for Maryland's 2022 primary and general elections for Congress.

See Request for Relief ¶ (b). Such relief is both unlawful and inequitable.

Date: January 20, 2022

Respectfully submitted,

/s/ Marc E. Elias

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*