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,	*	Case No. C-02-CV-21-001773
v.	*	
LINDA H. LAMONE, in her official capacity as State Administrator of the Maryland State Board of Elections and WILLIAM G. VOELP, Chair of the Maryland State Board of Elections, and STATE OF MARYLAND,	*	
Defendants.	*	

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT

Plaintiffs 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") respectfully submit this brief in opposition to Defendants' Motion to Dismiss Or, In the Alternative, For Summary Judgment, filed January 31, 2022 (the "Motion," cites are to "Mot."), in *Szeliga v. Lamone*, No. C-02-CV-21-001816, which has been consolidated with this case for the purposes of briefing and arguing the Motion.

BACKGROUND

This is a challenge to Maryland's new congressional district plan, which was enacted December 9, 2021 on a veto override vote in both houses of the Maryland legislature. Plaintiffs are twelve registered voters in Maryland residing in each of the eight congressional districts of the new plan. The complaint in this action, filed December 21, 2021, alleges that the new plan is a partisan gerrymander. The factual allegations supporting this claim include:

- Partisan maneuvers that led to the adoption of the plan, including the rejection of a simple, fair plan drawn by an independent citizens' commission, the party-line votes to initially adopt the plan, and the party-line veto overrides that led to its passage. Complaint, ¶¶ 21-38.
- The egregious noncompactness of the plan's districts. Complaint, ¶¶ 45-50, 56-63.
- Partisan explanations underlying specific district distortions. Complaint, ¶¶ 51-55.
- The extent to which the plan ignores the boundaries of existing political subdivisions. Complaint, ¶¶ 64-69.
- The likely political effects of the new district boundaries, which strongly favor the partisans who drew the map. Complaint, ¶¶ 71-75.

Plaintiffs allege that the plan violates two provisions of the Maryland Constitution: Article 7 of the Declaration of Rights, which guarantees the right to "free and frequent" elections and the "right of suffrage"; and Article III, Section 4 of the Maryland Constitution, which requires that legislative districts, including congressional districts, "consist of adjoining territory, be compact in form" and give "[d]ue regard" to "the boundaries of political subdivisions." Md. Dec. of R. Art. 7; Md. Const. Art. III, § 4. Plaintiffs seek declaratory and injunctive relief preventing the use of the new district plan.

Plaintiffs in *Kathryn Szeliga, et al. vs. Linda Lamone, et al.*, Civil No. C-02-CV-

21-001816, filed their complaint on December 23, 2022, alleging violations of the provisions relied on by the *Parrott* Complaint, and other claims, and seeking similar relief. Defendants' Motion now seeks to dismiss all of those claims which, of necessity, include the claims made here. Plaintiffs have moved to consolidate the two cases for the purposes of briefing and arguing this motion.

As set forth below, Plaintiffs state two wholly independent causes of action for violations of Maryland's Constitution that are due to Maryland's gerrymandered congressional districts.

STANDARDS

For motions to dismiss for failure to state a claim under Md. Rule 2-322(b), "a court must assume the truth of all well pleaded facts and all inferences that can be reasonably drawn from those pleadings." *Hrehorovich v. Harbor Hosp. Ctr., Inc.*, 93 Md. App. 772, 781 (1992) (citing *Sharrow v. State Farm Mut. Auto. Ins. Co.*, 306 Md. 754, 768 (1986)). The "court [is] not permitted to consider additional facts not plead by the plaintiff, especially facts set forth by the defendant." *Id.* (citing *Beach v. Mueller*, 32 Md. App. 219, 224 (1976)).

If "matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 2-501." *Hrehorovich*, 93 Md. App. at 782 (quoting Md. Rule 2-322(c)). "Summary judgment is appropriate only where there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law." *Id.* at 789 (citations omitted). "In determining whether a factual dispute exists, all inferences should be drawn in the light

most favorable to the non-moving party." *Id.* at 790 (citing *King v. Bankerd*, 303 Md. 98, 111 (1985)). Judicial notice may be taken "at any stage of the proceedings," including summary judgment. Md. Rule 5-201(f).

ARGUMENT

I. Maryland's Gerrymandered Congressional District Plan Violates Article 7 of the Declaration of Rights.

A. Gerrymandering Inflicts Real Harm on Maryland's Voters.

To understand how Article 7 of the Maryland Declaration of Rights is violated by the State's congressional district plan, it is important to understand how gerrymandering works and how it injures voters.

Partisan gerrymandering involves manipulating electoral district lines to include and exclude partisan voters in a way that maximizes their electoral power. Because partisans reside more or less randomly throughout a state, boundaries must be distorted to ensure the mix of voters in each district that is best for the party drawing the map. In the process, districts become noncompact and cross existing political boundaries. *See Parrott* Complaint, ¶¶ 39-43; *see Vieth v. Jubelirer*, 541 U.S. 267, 271 n.1 (2004) (plurality opinion). The ultimate point of gerrymandering is to enhance one party's electoral prospects—as is alleged to have happened here, where Maryland Democrats, who cast 65% of the congressional ballots in 2020, might win 100% of the congressional races in 2022. *Parrott* Complaint, ¶¶ 71-75.

Gerrymandering, however, is not just a partisan act. It is a way for government agents to acquire from voters the power to select legislators. *See id.*, ¶ 84. Viewed in this way, gerrymandering is not only something that Democrats and Republicans do to each

other. It is something that *legislators* do to *voters*.

Courts have long noticed that gerrymandering involves an illegitimate transfer of power from voters to mapmakers. As one put it, the "final result" is "not one in which the people select their representatives, but in which the representatives have selected the people." *Vera v. Richards*, 861 F. Supp. 1304, 1334 (S.D. Tex. 1994) (three-judge court), *aff'd sub nom. Bush v. Vera*, 517 U.S. 952 (1996); *see Vieth*, 541 U.S. at 331-32 (Stevens, J., dissenting) ("The problem, simply put, is that the will of the cartographers rather than the will of the people will govern.") (citing *Session v. Perry*, 298 F. Supp. 2d 451, 516 (E.D. Tex. 2004) (three-judge court) (Ward, J., concurring in part and dissenting in part) ("extreme partisan gerrymandering leads to a system in which the representatives choose their constituents, rather than vice-versa")).

Voters also notice the theft of their voting power. As a terrible consequence, they come to view voting as a pointless exercise, a waste of time—and they stop voting. In this way, gerrymandering discourages voter participation. Among the "adverse consequences of partisan gerrymandering," the Supreme Court of Pennsylvania listed the "risk of unfairly rendering votes nugatory, artificially entrenching representative power, and discouraging voters from participating in the electoral process because they have come to believe that the power of their individual vote has been diminished to the point that it 'does not count.'" *League of Women Voters v. Commonwealth*, 645 Pa. 1, 117 (2018); *see also Ariz. State Legis. v. Ariz. Indep. Redistricting Comm'n*, 576 U.S. 787, 796 (2015) (noting that Arizona's independent redistricting commission was intended to "end[] the practice of gerrymandering and improv[e] voter and candidate participation in elections").

The Court of Appeals has identified other antidemocratic effects associated with the districts that result from gerrymandering. A district that is "extremely elongated and not 'closely united' significantly impedes vital constituent-representative communication, thus preventing the achievement of a legislative process which is, in fact, representative." *In re Legislative Districting of State*, 299 Md. 658, 689 (1982) (citation and internal quotations omitted). Gerrymandered districts also ignore natural and existing political boundaries, which "preserve those fixed and known features which enable voters to maintain an orientation to their own territorial areas." *Id.* at 681. Gerrymandering does violence to "[p]olitical subdivisions" which "have played, and continue to play, a critical role in the governance structure of this State." *In re Legislative Districting of the State*, 370 Md. 312, 357 (2002) (citations omitted). Further, those representing "legislative districts which cross jurisdictional boundaries" may "face conflicting allegiances as to legislative initiatives which benefit one of their constituencies at the expense of the other." *Id*. at 363 (citation and internal quotations omitted).[1]

There is widespread agreement about the "incompatibility of severe partisan gerrymanders with democratic principles." *Vieth*, 541 U.S. at 292; *see generally* John Locke, TWO TREATISES OF GOVERNMENT, §§ 212, 216 (J.M. Dont & Sons 1924) (1690) (the "constitution of the legislat[ure] is the first and fundamental act of the society," and if "others than those whom the society hath authorised … choose" its members, "those

[1] See *Parrott* Complaint, ¶¶ 77, 79, 80. The complaint also alleges that gerrymandering causes voter confusion (*id*., ¶ 78), higher campaign costs (*id*., ¶ 81), diminished ability to cast a meaningful partisan vote (*id*., ¶ 82), retaliation for expressing political views (*id*., ¶ 83), and fractured communities of interest (*id*., ¶ 85).

chosen are not the legislat[ure] appointed by the people."). Indeed, no one openly defends the practice of partisan gerrymandering or cites a single point in its favor. It is an antidemocratic power play, and everyone involved knows it. Yet it is inevitably employed in every Maryland redistricting cycle. It was employed again in December 2021.

B. Plaintiffs State a Claim Under Article 7.

Article 7 of the Maryland 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.

Md. Dec. of R. Art. 7. This provision has been in the Maryland Constitution in some form from 1776 to the present.[2]

The Court of Appeals repeatedly has emphasized that this provision is to be liberally construed in order to achieve its purpose. "In accordance with [Article 7], in cases involving voting rights ... we construe the relevant constitutional provisions in relation to their purpose of providing and encouraging the fair and free exercise of the elective franchise." *State Bd. of Elections v. Snyder*, 435 Md. 30, 61 (2013) (citing *Kemp v. Owens*, 76 Md. 235, 241 (1892)). "The rationale for this policy, as made clear by Article 7 of the

[2] *See* Article V of the Maryland Declaration of Rights of 1776 (available at https://avalon.law.yale.edu/17th_century/ma02.asp):

> That the right in 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 man, having property in, a common interest with, and an attachment to the community, ought to have a right of suffrage.

Declaration of Rights, is that the '[right to vote]' is one of, if not, the most important and 'fundamental right[s] granted to Maryland citizens as members of a free society.'" *Id.* (quoting, *inter alia*, *Nader for President 2004 v. Maryland State Bd. Of Elections*, 399 Md. 681, 686 (2007)). As noted well over a century ago:

> The elective franchise is the highest right of the citizen, and the spirit of our institutions requires that every opportunity should be afforded for its fair and free exercise. However ambiguously or obscurely statutes or Constitutions may be phrased, it would not be just to give them a construction in hostility to the principles on which free governments are founded.

Kemp, 76 Md. at 241 (Bryan, J. concurring). With respect to Article 7 in particular, it "has been held to be even more protective of rights of political participation than the provisions of the Federal Constitution." *Snyder*, 435 Md. at 61 (quoting *Md. Green Party v. Md. Bd. of Elections*, 377 Md. 127, 150 (2003)).

The Court of Appeals has applied Article 7 in the context of federal elections. In *Md. Green Party*, 377 Md. at 139, the Court reversed a circuit court ruling upholding certain provisions in the Maryland Election Code and practices by the Board which had the effect of preventing the Green Party from nominating its preferred candidate for U.S. Congress. Although there were federal constitutional claims, the Court made clear that its decision was "based entirely upon Article I of the Maryland Constitution and Articles 7 and 24 of the Maryland Declaration of Rights." *Id*. In *Nader for President 2004*, 399 Md. at 683, 708, the Court relied on the same state constitutional provisions, including Article 7, to invalidate a "county-match" requirement under which signatures needed to certify a party and nominate its candidate for President of the United States were rejected.

To summarize, the Court of Appeals has determined (1) that Article 7 should be

interpreted in relation to the "purpose of providing and encouraging the fair and free exercise of the elective franchise" (*Snyder*, 435 Md. at 61); (2) that Article 7 is "even more protective of rights of political participation than the provisions of the federal Constitution" (*Md. Green Party*, 377 Md. at 150); and (3) that Article 7 applies to U.S. congressional elections (*id*. at 139). Given this jurisprudence, Plaintiffs clearly state a claim by alleging that Maryland's egregiously gerrymandered congressional districts violate Article 7 of the Declaration of Rights. The numerous, real burdens these districts inflict on voters generally, and on partisan voters in particular, deny and discourage, rather than "provid[e] and encourag[e]," the "fair and free exercise of the elective franchise." And Republican voters' "rights of political participation" are diminished, both in an absolute sense, and compared to the rights of political participation of Democratic voters.

In 2018, the Supreme Court of Pennsylvania applied a similar state constitutional provision to strike down that state's gerrymandered congressional district plan. Article I, Section 5 of the Declaration of Rights of the Pennsylvania Constitution provides: "Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." *League of Women Voters* ("*LWV*"), 645 Pa. at 100. Like Maryland's Article 7, this provision first appeared in Pennsylvania's Constitution "in 1776, 11 years before the United States Constitution was adopted." *Id*. The Court noted that the broad text of this clause revealed

> the framers' intent that all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth, and, also, conducted in a manner which guarantees, to the greatest degree possible, a voter's right to equal participation in the electoral process for the selection of his or her representatives in government.

Id. Like the Maryland Court of Appeals in *Snyder*, the Pennsylvania Supreme Court endorsed a "broad interpretation" of the relevant provision, to guard against "the risk of unfairly rendering votes nugatory, artificially entrenching representative power, and discouraging voters from participating in the electoral process." *Id*. at 117; *see Snyder*, 435 Md. at 61. The Court held that a district plan would violate Pennsylvania's Constitution if it subordinated "the neutral criteria of compactness, contiguity, minimization of the division of political subdivisions, and … population equality among congressional districts" to "extraneous considerations such as gerrymandering for unfair partisan political advantage." *LWV*, 645 Pa. at 122. Pennsylvania's congressional districts were found to do so. *Id*. at 123-28, 134-35.

On February 4, 2022, just days after Defendants' motion to dismiss was filed, the Supreme Court of North Carolina issued an order enjoining the use of North Carolina's congressional and state district maps on the grounds that they "are unconstitutional beyond a reasonable doubt under the free elections clause, the equal protection clause, the free speech clause, and the freedom of assembly clause of the North Carolina Constitution." *Harper v. Hall*, No. 413PA21, 2022 N.C. LEXIS 71, at *7 (N.C. Sup. Ct. February 4, 2022). As of the filing of this opposition, the Court has yet to issue its full opinion accompanying the order. However, it is worth noting that the "free elections clause" of North Carolina's Declaration of Rights provides, in its entirety, that "All elections shall be free." N.C. Const. Art. I, § 10. Of necessity, the Court had to apply a broad reading to that provision to use it to invalidate the State's district maps. In any event, the North Carolina Supreme Court has become the latest court to enjoin gerrymandering as a violation of broad

state constitutional guarantees.[3]

Defendants argue that the term "Legislature" in the first part of Article 7 refers to the state legislature, and that the context of Article 7's passage in 1776 and the debates concerning it in 1851 addressed issues pertaining to the state legislature. The conclusion they wish to draw from all of this is that Article 7 only applies to "State legislative elections." Mot. at 24-27. These arguments may be simply disposed of by pointing out that the Court of Appeals in *Md. Green Party*, 377 Md. at 139, applied Article 7 to a federal congressional election, and in *Nader for President 2004*, 399 Md. at 683, applied it to a U.S. presidential race. If Defendants were correct, the Court of Appeals would not have ruled as it did in these cases. In an effort to explain these rulings, Defendants argue in a footnote that Article 7 is only applied expansively in the context of "challenges to statutes that applied equally to both State and federal elections in Maryland." Mot. 24 n.10. This attempted distinction is only expressed in Defendants' brief, and not in any decision by the Court of Appeals. Nor does it help Defendants get around the fact that, in the two cases cited above, Article 7 *was* applied in the context of a federal election.

Defendants seize on the statement in *Snyder* that "Article 1, § 1 of the Constitution embodies the same principles represented in Article 7 of the Maryland Declaration of Rights," as a way to try to limit the meaning of Article 7. Mot. at 27; *Snyder*, 435 Md. at

[3] Although the U.S. Supreme Court ultimately determined that claims of partisan gerrymandering were not justiciable under the U.S. Constitution, it reiterated that partisan gerrymanders are incompatible with democratic principles and noted that its decision did not preclude state courts from enjoining redistricting statutes under state law. *Rucho v. Common Cause*, 139 S. Ct. 2484, 2506-07 (2019) ("Provisions in state statutes and state constitutions can provide standards and guidance for state courts to apply.").

60. Article 1, § 1 provides that "All elections shall be by ballot," and that "every citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote." Mot. at 28; Md. Const. Art. 1, § 1. Defendants conclude that "as Article I, § 1 makes clear, the rights embodied by Article 7 relate to"—by which Defendants mean, are limited to—"the right of citizens to participate in elections." Mot. at 28.

There are two major problems with this argument. The first is that it misreads *Snyder*, getting it exactly backwards. At the point in the opinion when the Court compares these two provisions (435 Md. at 60), it is not suggesting that Article 7 is *limited* by Article 1, § 1. Rather, it is suggesting the opposite, that Article 1, § 1 is infused with the same broad, democratic principles contained in Article 7. Immediately after the Court compares these two provisions, it sets forth these principles at great length, noting that Article 7 supports the "fair and free exercise" of voting rights, which are fundamental to members of a free society, and that it is "even more protective" of those rights than the U.S. Constitution, and quoting the soaring language from *Kemp*. *See* 435 Md. at 61. In any case, as discussed in point I.A above, gerrymandering's many bad effects include the fact that it diminishes voter participation. Thus, even if Article 7 only concerned issues relating to voter participation, it would concern issues relating to gerrymandering.

As a final point, Defendants claim it is "noteworthy" that "the draft Constitution of 1967 eliminated the 'free and frequent' and 'right of suffrage' provisions from the Declaration of Rights" in favor of alternative language. Mot. at 28. They use this fact to suggest that the alternative language (or some version of it) is closer to what was really

intended. *Id*. This argument has no possible force here. First, the change was never adopted. This means either that the proposed alternative is completely irrelevant to this discussion, or—worse for Defendants—that it was emphatically rejected when Article 7 was readopted. *See Cty. of Maui v. Haw. Wildlife Fund*, 140 S. Ct. 1462, 1472 (2020) (inferring intent from the fact that a proposed amendment was rejected). Second, the alternative language used in the draft cited by the motion, "All political power originates in the people and all government is instituted for their liberty, security, benefit and protection" (Mot. at 28), would also have proscribed gerrymandering, which transfers political power *away from* the people.

For the foregoing reasons, Plaintiffs state a cause of action under Article 7 of the Maryland Declaration of Rights.

III. Maryland's Gerrymandered Congressional District Plan Violates Article III, Section 4 of the State Constitution.

Article III, Section 4 of the Maryland Constitution provides: "Each legislative district shall consist of adjoining territory, be compact in form, and of substantially equal population. Due regard shall be given to natural boundaries and the boundaries of political subdivisions." Md. Const. Art III, § 4.

Plaintiffs have abundantly alleged that Maryland's congressional districts are noncompact, cross political boundaries, and divide Maryland counties into "fragments." *See generally* Complaint, ¶¶ 45-50, 56-63, 64-69; *see*, *e.g.*, *id*., ¶ 45 ("Anne Arundel County is split in half, connected to the Eastern Shore's First Congressional District … via the Chesapeake Bay Bridge"); ¶ 50 (a "roughly 20-mile trip north on the Baltimore-Washington Parkway … would cross congressional boundaries six times and lead a traveler

through five different congressional districts"); ¶ 57 (applying mathematical standard to show noncompactness); ¶ 67 ("Eight Maryland counties" including Anne Arundel "are divided by the Plan's district boundaries into a total of 24 'fragments.'").

These "contiguity and compactness requirements, and particularly the latter, are intended to prevent political gerrymandering." *In re Legislative Districting of the State*, 370 Md. at 360 (citations and internal quotations omitted). As set forth above, the Court of Appeals has observed that noncompact districts can "impede[] vital constituent-representative communication." *In re Legislative Districting of State*, 299 Md. at 689 (citation and internal quotations omitted). Districts that show no regard for political subdivisions fail to "preserve those fixed and known features which enable voters to maintain an orientation to their own territorial areas." *Id*. at 681; *see In re Legislative Districting of the State*, 370 Md. at 363 (districts that "cross jurisdictional boundaries" confront representatives with "conflicting allegiances as to legislative initiatives") (citation and internal quotations omitted). The latter case in particular relied on Article III, Section 4 to strike down Maryland's 2002 state legislative redistricting plan. *Id*. at 375.

To date, Article III, Section 4 has not been used to strike down federal congressional districts. Three federal district court decisions, however, have stated or suggested that this provision does not apply to congressional districts. *Olson v. O'Malley*, No. WDQ-12-0240, 2012 U.S. Dist. LEXIS 29917, at *9-10, 13 (D. Md. Mar. 5, 2012); *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 907 (D. Md. 2011) (Titus, J., concurring); *Duckworth v. State Bd. of Elections*, 213 F. Supp. 2d 543, 552 n.1 (D. Md. 2002), *aff'd sub nom. Duckworth v. State Admin. Bd. of Election L.*, 332 F.3d 769 (4th Cir. 2003).

Defendants agree. Mot. at 17-22.

Plaintiffs respectfully submit that these district courts, and Defendants, have it wrong. Basic principles of statutory construction mandate that the plain text of Article III, Section 4 governs its interpretation. "[A]ll statutory interpretation begins, and usually ends, with the statutory text itself … for the legislative intent of a statute primarily reveals itself through the statute's very words." *Price v. State*, 378 Md. 378, 387 (2003) (citations omitted). "A court may neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute; nor may it construe the statute with forced or subtle interpretations that limit or extend its application." *Id*. (citation omitted).

In this case, the requirements of Article III, Section 4 apply to "[e]ach legislative district." Congressional districts *are* legislative districts, albeit for the U.S. House of Representatives. When the drafters of the Maryland Constitution wished to restrict their references to Maryland's state legislative districts, they certainly knew how to do so. *See*, *e.g.*, Md. Const. Art. III, § 3 ("legislative districts *for the election of members of the Senate and the House of Delegates*"); Md. Const. Art. III, § 5 ("the legislative districts *for the election of members of the Senate and the House of Delegates*"; and "the legislative districting *of the State*") (emphases added). But they did not do so in Article III, Section 4. The Court "cannot assume authority to read into" an act "what the Legislature apparently deliberately left out." *Price*, 378 Md. at 388 (citation and internal quotations omitted).

As a final point, Defendants argue that even Article III, Section 4 was not intended to eliminate all political considerations from redistricting. Mot. at 11-13. This is a straw-

man argument. Plaintiffs would never be so naïve as to suggest that it is possible to remove all political considerations from redistricting. But, as in any area of the law, there is such a thing as "going too far." Courts deal with issues requiring judgments along a spectrum all the time, as when they are called on to determine what is reasonable, or material, or negligent, or reckless. Indeed, even though the Court of Appeals acknowledged that "the redistricting process is a political exercise," it went on to determine that Maryland's 2002 legislative districts violated the State Constitution. *In re Legislative Districting of the State*, 370 Md. at 361, 375.

As Plaintiffs' allegations in this case make clear, if ever a redistricting plan went "too far" in the direction of partisan gerrymandering, it the congressional district plan adopted by the Maryland legislature this past December. If this is not a gerrymander, there is no such thing.

For the foregoing reasons, Plaintiffs state a cause of action under Article III, Section 4 of the Maryland Constitution.

CONCLUSION

For the foregoing reasons, Defendants' Motion to Dismiss Or, In the Alternative, For Summary Judgment, should be denied.

Dated: February 11, 2022 Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on February 11, 2022 the foregoing Plaintiffs' Opposition to Defendants' Motion To Dismiss Or, In the Alternative, For Summary Judgment, was filed and served electronically via the Court's MDEC system, and served by U.S. Mail and e-mail to counsel for Plaintiffs in *Szeliga v. Lamone* at the following address:

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