

IN THE SUPREME COURT OF VIRGINIA

Record No. _____

G. Paul Nardo, in his official capacity as
Clerk of the Virginia House of Delegates, et al.,

Appellants,

against Court of Appeals Record No. 0189-26-3
Circuit Court No. CL25-1582-00

Ryan T. McDougle, Virginia State Senator and
Legislative Commissioner for the
Virginia Redistricting Commission, et al.,

Appellees.

Don Scott, in his official capacity as
Speaker of the Virginia House of Delegates, et al.,

Appellants,

against Court of Appeals Record No. 0190-26-3
Circuit Court No. CL25-1582-00

Ryan T. McDougle, Virginia State Senator and
Legislative Commissioner for the
Virginia Redistricting Commission, et al.,

Appellees.

MOTION FOR CERTIFICATION UNDER CODE § 17.1-409

The Court of Appeals of Virginia moves the Supreme Court of Virginia to certify these cases for review under Code § 17.1-409(B)(1). Appellants challenge an order of the Tazewell County Circuit Court that, among other things, declared void ab initio “any and all matters, motions, actions and votes” in the General Assembly regarding House Joint Resolution 6007 during the 2024 Special Session I. House Joint Resolution 6007 proposed an amendment to the Constitution of Virginia that would allow the General Assembly, under certain circumstances, “to modify one or more congressional districts, outside of the standard decennial redistricting cycle.” 2024 Va. Acts Spec. Sess. I ch. 5 (H.J. 6007); *see also* House Joint Res. 4 (Jan. 16, 2026) (approving same amendment). The circuit court’s order also acknowledged that the General Assembly “has attempted or is attempting to repeal [Code] Section 30-13” but declared that “any


attempt to repeal” the statute “which does not comply with” Article IV, Section 13 of the Constitution of Virginia “is NULL and VOID.” *See* H.B. 1384 (2026). In addition to repealing Code § 30-13, House Bill 1384 would appropriate \$5,000,000 to fund an April 21, 2026 special election on whether to adopt the proposed constitutional amendment. House Bill 1384 was approved by the House on January 26 and approved by the Senate on January 29, 2026. *See* <https://lis.virginia.gov/bill-details/20261/HB1384>.

The Court of Appeals submits that these appeals present questions “of such imperative public importance as to justify the deviation from normal appellate practice and to require prompt decision in the Supreme Court.” Code § 17.1-409(B)(1). Accordingly, the Court of Appeals respectfully requests that the Supreme Court certify the appeals for review.

Attached to this motion are the filings in the Court of Appeals and correspondence issued in these cases.

Judges Chaney and Bernhard respectfully note they do not support the filing of this motion at this time. Prior to considering certification of the case to the Supreme Court of Virginia, Judges Chaney and Bernhard believe this Court should first adjudicate the appellants’ Emergency Motion to Stay the circuit court’s judgment, filed in this Court January 28, 2026, taking into account among other issues whether the trial court was divested of subject-matter jurisdiction pending the electorate’s vote on the proposed amendment, and whether the trial court’s action contravened the constitutional principle of separation of powers.

WHEREFORE, the Court of Appeals of Virginia respectfully requests

by 
A. John Vollino, Clerk of Court

CERTIFICATE OF SERVICE

The Court of Appeals certifies that on Wednesday, February 4, 2026, it emailed a copy of this motion to counsel of record, as follows:

- 1) John E. Lichtenstein
Gregory L. Lyons
Jacob B. Lichtenstein
Lichtenstein Law Group PLC
347 Highland Avenue, SW (24016)
P.O. Box 601
Roanoke, Virginia 24004-0601
Tel: (540)343-9711
john.lichtenstein@lichtensteinlawgroup.com
greg.lyons@lichtensteinlawgroup.com
jake.lichtenstein@lichtensteinlawgroup.com
- 2) Aria C. Branch
Richard A. Medina
Derek A. Zeigler
Elias Law Group LLP
250 Massachusetts Ave NW, Suite 400
Washington, DC 20001
Tel: (202)968-4490
abbranch@elias.law
rmedina@elias.law
dzeigler@elias.law
- 3) Michael A. Thomas
Gillespie, Hart, Pyott & Thomas, P.C.
179 Main Street
Tazewell, Virginia 24651
Tel: (276)988-5525
mthomas @ghartlaw.com
- 4) Thomas R. McCarthy
Conor Woodfin
Consovoy McCarthy PLLC
1600 Wilson Boulevard, Suite 700
Arlington, Virginia 22209
Tel: (703)243-9423
tom@consovoymccarthy.com
conor@consovoymccarthy.com

Additionally, a courtesy copy of this motion is being provided to:

Tillman Breckenridge
Solicitor General
Office of the Attorney General
202 North 9th Street
Richmond, VA 23219
tbreckenridge@oag.state.va.us

Respectfully submitted, _____



RETRIEVED FROM DEMOCRACYDOCKET.COM