

IN THE COURT OF APPEALS OF  
OF MARYLAND

IN THE MATTER OF

2022 LEGISLATIVE

DISTRICTING OF THE STATE

PETITIONERS:

MISC. NO. 25

MARK N. FISHER

September Term, 2021

NICHOLAUS R. KIPKE

KATHRYN SZELIGA

PETITION

Pursuant to Article III, § 5 of the Maryland Constitution, Petitioners respectfully submit this Petition challenging the constitutionality of the General Assembly’s 2022 legislative districting plan (the “Plan”).

**I. Introduction**

1. Petitioners challenge the legality of the Plan under Maryland’s Constitution and Declaration of Rights. For the reasons detailed below, the Plan violates: (a) Article III, § 4 of the Maryland Constitution; (b) Articles 7, 24, and 40 of the Maryland Declaration of Rights; and (c) Article I, § 7 of the Maryland Constitution.

2. The Court should: (a) declare that the Plan violates Article III, § 4 of the Maryland Constitution, Articles 7, 24, and 40 of the Maryland Declaration of Rights, and Article I, § 7 of Maryland’s Constitution; (b) direct the General Assembly to enact a new legislative districting plan that complies with the Maryland Constitution and Declaration of Rights; and (c) if the General Assembly fails to enact a constitutional legislative districting plan in a timely fashion, order the adoption of the legislative districting plan prepared by the Maryland Citizens Redistricting

Commission (the “MCRC”) that was introduced to the General Assembly as Senate Joint Resolution No. 3 and House Joint Resolution No. 1.

## **II. Petitioners**

3. Petitioners are:

a. Mark N. Fisher is a registered voter in Maryland. Mr. Fisher currently serves as a member of Maryland’s House of Delegates and has been a member of the House of Delegates since 2011. He is a Republican elected official who represents Maryland citizens in Calvert County.

b. Nicholaus R. Kipke is a registered voter in Maryland. Mr. Kipke currently serves as a member of Maryland’s House of Delegates and has been a member of the House of Delegates since 2007. He is a Republican elected official who represents Maryland citizens in Anne Arundel County.

c. Kathryn Szeliga is a registered voter in Maryland. 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 Harford Counties.

## **III. Jurisdiction**

4. This Court has jurisdiction over this Petition pursuant to Article III, § 5 of the Maryland Constitution.

## **IV. Petitioner’s Objections to the Plan**

### **A. Summary of Objections**

5. The Plan violates Maryland’s Constitution and Declaration of Rights because many of its legislative districts are the product of unlawful gerrymandering. Among others, the offending districts include 7, 9, 12, 21, 22, 23, 24, 25, 27, 31, 33, 42, and 47. These districts violate

Article III, § 4 of Maryland’s Constitution because they are not contiguous or compact and/or do not give due regard to natural boundaries and the boundaries of political subdivisions. These districts further violate: (a) Articles 7, 24, and 40 of the Maryland Declaration of Rights by infringing on Marylanders’ rights to free elections, freedom of speech, and equal protection; and (b) Article I, § 7 of Maryland’s Constitution by contradicting the General Assembly’s obligation to pass laws ensuring the purity of elections.

**B. Legal and Factual Bases for Petitioners’ Objections**

**1. Maryland’s Redistricting Requirements**

6. Article 3, § 2 of the Maryland Constitution requires there to be 47 Senators and 141 Delegates in the General Assembly. Article 3, § 3 of the Maryland Constitution requires that the State be divided into legislative districts for the election of members to the Senate and House of Delegates, and that each district contain one Senator and three Delegates. Thus, Maryland has 47 legislative districts.

7. Article 3, § 5 of the Maryland Constitution requires the State to redraw its 47 legislative districts following each decennial census of the United States. Under § 5, the Governor first prepares a redistricting plan and submits that plan to the General Assembly on the first day of its regular session. The General Assembly may then adopt the Governor’s plan or adopt its own redistricting plan through a joint resolution, which is not subject to gubernatorial veto. If the General Assembly fails to adopt its own redistricting plan, the Governor’s plan becomes law.

8. Whether the redistricting plan is created by the Governor or the General Assembly, Article 3, § 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.” Section 4 further requires that “[d]ue regard shall be given to natural boundaries and the boundaries of political subdivisions.”

9. After a redistricting plan is adopted, Article III, § 5 of the Maryland Constitution permits “any registered voter” to submit a petition to the Court of Appeals challenging the adopted plan. The Court of Appeals “may grant appropriate relief, if it finds that the districting of the State is not consistent with requirements of either the Constitution of the United States of America, or the Constitution of Maryland.”

## **2. Enactment of the Plan**

10. On or about January 12, 2021, Governor Hogan issued an Executive Order establishing the Maryland Citizens Redistricting Commission (the “MCRC”). The MCRC was charged with creating State legislative and congressional redistricting plans. The MCRC was further directed to hold open and transparent meetings to develop its redistricting plans.

11. The MCRC was a bi-partisan commission, comprised of three representatives from the Democratic Party, three representatives from the Republican Party, and three individuals not registered with either the Democratic Party or Republican Party.

12. The MCRC followed transparent and publicly accessible procedures, held public hearings across the State, and developed bi-partisan redistricting plans that complied with the United States and Maryland Constitutions. Importantly, the MCRC’s plans were made without regard to the interests of any political party or candidate. The MCRC submitted its redistricting plans to Governor Hogan on November 5, 2021.

13. On January 12, 2022, the first day of the 2022 legislative session of the General Assembly, Governor Hogan submitted the MCRC’s State legislative districting plan without change to the General Assembly. It was introduced to the Maryland General Assembly as Senate Joint Resolution No. 3 and House Joint Resolution No. 1. The MCRC’s redistricting plan was referred to committee and never acted upon.

14. In July 2021, 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 also was charged with preparing congressional and State legislative redistricting plans.

15. 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.

16. Although purportedly bipartisan, the LRAC was controlled by its Democratic members. So was the redistricting process. The Republican LRAC members were given copies of proposed redistricting plans but were not privy to the actual process by which the proposed plans were created (*e.g.*, how the maps were created, what factors were emphasized in the drawing of the legislative maps, and who had material input into the shaping of district lines). Additionally, although the Republican members of the LRAC were allowed to review and comment upon proposed plans, they were not given a real opportunity to make significant or material changes.

17. On or about January 7, 2022, the LRAC adopted the Plan. Both Republican members of the LRAC opposed the plan.

18. On or about January 12, 2022, the Plan was submitted to the General Assembly as Senate Joint Resolution No. 2 and House Joint Resolution No. 2. It moved swiftly through committee. On or about January 27, 2022, the Plan was passed by the General Assembly and became law.

### 3. The Requirements of Article III, § 4

19. Article III, § 4 of Maryland's 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." These requirements are mandatory. *In re Legislative Districting of the State*, 370 Md. 312, 356 (2002). They may not "be subordinated to justifications not mandated by the Federal or State Constitutions." *In re 2012 Legislative Districting of the State*, 436 Md. 121, 135 (2013).

20. The requirements of § 4 are mandatory because they protect important interests. "[T]he contiguity and compactness requirements, and particularly the latter, are intended to prevent political gerrymandering." *In re Legislative Districting of State*, 299 Md. 658, 675 (1982). Indeed, "[e]qual apportionment, contiguity and compactness have been referred to as the trinity of equitable representation." *Id.* at 676 n.9.

21. "The contiguity requirement mandates that there be no division between one part of a district's territory and the rest of the district; in other words, contiguous territory is territory touching, adjoining and connected, as distinguished from territory separated by other territory." *Id.* at 675-76. Compactness requires "a close union of territory (conducive to constituent-representative communication)." *Id.* at 688. There are several generally accepted mathematical tests for measuring geographical compactness. Two of those, which will be referenced below, are the Reock test and the Polsby-Popper test. Under both tests, electoral districts are evaluated on a scale of 0-1, with a score closer to 1 indicating a more compact district and score closer to 0 indicating a less compact district. As a general matter, Maryland's legislative districts perform poorly under both the Reock and Polsby Popper tests. Specifically, a preliminary analysis shows that the statewide average for Maryland's legislative districts is .381 under the Reock test and .271 under the Polsby-Popper test.

22. The “due regard” requirement is “integrally related to the compactness and contiguity requirements” and is intended “to preserve those fixed and known features which enable voters to maintain an orientation to their own territorial areas.” *Id.* at 681. The “due regard” requirement also recognizes the critical role that political subdivisions, particularly Maryland’s counties, play in the governance of the State. *In re Legislative Districting of the State*, 370 Md. at 357-60; *see also id.* at 362 (recognizing that the term “political subdivisions” includes incorporated municipalities). In sum, the “due regard provision works to preserve local political interests, insofar as it ensures geographically concurrent political representation, and acts as a deterrent to the gerrymandering of legislative districts.” *In re 2012 Legislative Districting of the State*, 436 Md. at 152.

#### **4. The Violations of Article III, § 4**

23. Numerous legislative districts created under the Plan violate the clear mandates of Article III, § 4, including the following: Districts 12, 21, 31, and 33, which are located partially or entirely within Anne Arundel County; District 27, which is located partially in Calvert County; Districts 7 and 42, which are located partially in Baltimore County; District 9, which is split between Howard and Montgomery Counties; and Districts 22, 23, 24, 25, and 47, which are located in Prince George’s County. Non-constitutional political considerations were the primary criteria underlying the creation of these districts. Article III, § 4 was either ignored or subordinated to these non-constitutional considerations and was not fairly considered or applied in view of all relevant considerations.

##### **a. Challenged Districts Located Partially or Entirely Within Anne Arundel County**

###### ***District 12***

24. District 12 violates Article III, § 4 in at least two ways.

25. A simple eye test reveals that this district is not compact in form. Its shape defies description. It stretches from southcentral Howard County in the west and, through several twists and turns, ends in Glen Burnie and Marley Heights in Anne Arundel County in the east.

26. The eye test is matched by poor scores on the Reock and Polsby-Popper tests. Its Reock score is .14 and its Polsby-Popper score is .11. It has some of the worst scores under these tests of any legislative district in Maryland, which is significant given Maryland's poor average district compactness scores under the Reock and Polsby-Popper tests.

27. The House Districts within District 12 also score poorly on the Reock and Polsby-Popper tests. District 12A has scores of .25 (Reock) and .22 (Polsby-Popper). District 12B has scores of .23 (Reock) and .16 (Polsby-Popper).

28. District 12 also does not give due regard to political subdivisions because it is divided between Howard County and Anne Arundel County. It further divides the towns or localities of Columbia, Elkridge, Linthicum, and Ferndale.

29. Upon information and belief, District 12 is designed as it is for political reasons—to protect an incumbent Democratic member of the House of Delegates who formerly resided in District 31 and ensure the continued election of a Democratic Senator from District 12. Because these political concerns were prioritized above the constitutional requirements of Article III, § 4, District 12 is unconstitutional.

### ***District 21***

30. District 21 violates Article III, § 4 in at least two ways.

31. First, it is not geographically compact. It is shaped like a boomerang that includes the College Park area in the southwest, Laurel and Maryland City in the north, and a divided Crofton in the southeast. Given this odd shape, it not surprisingly scores poorly on the Reock and Polsby-Popper tests. Its Reock score is .29 and its Polsby-Popper score is .13.

32. District 21 also does not give due regard to political subdivisions because it is divided between Prince George's County and Anne Arundel County. It further divides the towns or localities of Crofton, Odenton, Fort Meade, Maryland City, Adelphi, Hillandale, Calverton, and Langley Park.

33. Upon information and belief, District 21's distorted shape, lack of regard for political subdivisions, and division of towns and localities has a primarily political purpose. It removes Republican voters from western Anne Arundel County who formerly resided in District 33 and places them into District 12, which is a heavily Democratic, multi-member district centered in Prince George's County. The intent behind this design is to dilute Republican votes in District 33 and thereby assist in flipping Senate District 33 to Democratic control. District 21's design places partisan politics above the constitutional requirements of Article 3, § 4, and it is unconstitutional.

### ***District 31***

34. District 31 violates Article III, § 4 because it is not geographically compact.

35. District 31's eastern half stretches from Gibson Island to Severna Park and Pasadena; its western half includes a barbell-shaped part of Anne Arundel County between Pasadena and Severn/Gambrills. Its Polsby-Popper score is .26.

36. District 31 also divides the towns or localities of Severn, Gambrills, Odenton, and Severna Park.

37. Upon information and belief, District 31 was designed to pack Republican voters into a single legislative district to dilute Republican votes in District 33 and protect the Democratic incumbent in House District 33C. Indeed, District 31 seems to have been drawn specifically to include within its geographic footprint a sitting Republican member of the House of Delegates, who formerly represented District 33, and who now resides in a bizarrely shaped section of District

31 that sits on the very edge of its border with District 33 (and House District 33C). Because District 31's design places non-constitutional political criteria above the constitutional requirements of Article 3, § 4 it is unconstitutional.

### ***District 33***

38. District 33 violates Article III, § 4 because it is not geographically compact.

39. District 33 is yet another legislative district with a shape that defies easy explanation and does not belong on an electoral map.

40. It performs poorly on both the Reock and Polsby-Popper tests. It has a Reock score of .34 and scores a dismal .14 under the Polsby-Popper test.

41. District 33 also divides the towns or localities of Crofton, Odenton, Severna Park, and Arnold.

42. Upon information and belief, District 33's odd and non-compact shape is the result of an intentional partisan gerrymander designed dilute Republican votes, make District 33 a majority Democratic district, and flip District 33's Senate seat to a Democratic candidate. It also has been gerrymandered to make more likely the election of two Democratic candidates to the House of Delegates from individual House Districts (33A and 33C) when District 33 formerly elected only one such candidate as a multi-member district. District 33 is yet another Anne Arundel County legislative district designed with politics as the primary consideration, rather than the constitutional requirements of Article 3, § 4. It is unconstitutional.

### **b. Challenged District Located Partially Within Calvert County**

#### ***District 27***

43. District 27 violates Article III, § 4 in several ways.

44. First, it gives no regard for the boundaries of political subdivisions. District 27 crosses the borders of and includes within its geographic footprint three counties: Calvert, Charles,

and Prince George's. It even cuts off a small part of southern Calvert County, putting that part of the county into a different legislative district than the rest. Calvert County is a peninsula county that has nearly enough residents for an entire Senate District. There is simply no good reason or need to slice Calvert County into multiple districts or to include within Calvert County's primary legislative district the residents of two other counties.

45. District 27 further divides the towns or localities of Accokeek, Clinton, Rosaryville, Croom, Waldorf, and Hughesville.

46. District 27 also does not consist of adjoining territory and gives no regard for natural boundaries. Specifically, it crosses the Patuxent River to combine Calvert, Charles, and Prince George's Counties. Indeed, House District 27B is divided between Prince George's and Calvert Counties by a stretch of the Patuxent River that has no bridge crossings. In other words, for a resident of House District 27B in Calvert County to visit a Prince George's resident of House District 27B, the Calvert County resident would have to drive about 35-40 minutes to find a bridge crossing in another House (or Senate) District.

47. District 27 is another sad example of a partisan gerrymander. Upon information and belief, it is designed to isolate Republican voters in Calvert County into a single House District within a Senate District controlled by Democrats. It thus protects a Democratic Senator and two Democratic Delegates at the expense of the residents of Calvert County. Because it places non-constitutional, political criteria above the constitutional mandates of Article III, § 4, it is unconstitutional.

**c. Challenged Districts Located Partially Within Baltimore County**

***District 7***

48. District 7 violates Article III, § 4 in at least two ways.

49. First, it is not geographically compact. It stretches from Seneca Park (and the Chesapeake Bay) in the southeast to the Pennsylvania border in the north. There is no direct or easy way to travel from one end of the district to the other.

50. Not surprisingly, it scores poorly on the Reock and Polsby-Popper tests. Its Reock score is .24 and its Polsby-Popper score is .19.

51. The House Districts within District 7 also score poorly on the Reock and Polsby-Popper tests. District 7A has scores of .36 (Reock) and .25 (Polsby-Popper). District 7B has scores of .19 (Reock) and .20 (Polsby-Popper).

52. District 7 also fails to give due regard to political subdivisions because it is split between Baltimore County and Harford County. It further divides the towns or localities of Jarrettsville, Fallston, Bel Air, Edgewood, Joppatown, Hampton, Carney, White Marsh, Perry Hall, and Middle River.

53. Upon information and belief, District 7 is intentionally comprised of a disproportionate number of Republican voters to enable preferred Democratic candidates to prevail elsewhere—particularly in District 8. In fact, the odd border between District 7 and District 8 appears to have been designed to ensure the reelection of a Democratic incumbent in District 8. Because District 7 places non-constitutional, political criteria above the constitutional mandates of Article III, § 4, it is unconstitutional.

#### ***District 42***

54. District 42 violates Article III, § 4 in at least two ways.

55. First, it is not geographically compact. It stretches from Hampton in the southeast to the Pennsylvania border and then crosses the Baltimore County-Carroll County border to include a bizarrely shaped portion of Carroll County.

56. While District 42 performs above the (poor) Maryland average on the Reock test (a score of .46) its Polsby-Popper score is .18. Its score under the Polsby-Popper test is well below Maryland's already poor average district compactness score.

57. Two of the House Districts within District 42 also score poorly on the Reock and Polsby-Popper tests. District 42B has scores of .23 (Reock) and .13 (Polsby-Popper), some of the worst scores of all the House Districts in the State. District 42C has scores of .36 (Reock) and .18 (Polsby-Popper).

58. District 42 also does not give due regard to political subdivisions because it is divided between Baltimore County and Carroll County. It further divides the towns or localities of Cockeysville, Timonium, Lutherville, Hampton, and Towson.

59. Upon information and belief, District 42 appears to have been created in a way to favor an incumbent Democratic Delegate. Because this interest was placed above the constitutional requirements of Article III, § 4, District 42 is unconstitutional.

**d. Challenged District Located Within Howard and Montgomery Counties**

*District 9*

60. District 9 violates Article III, § 4 in at least two ways.

61. First, it is not geographically compact. It stretches from Columbia/Ellicott City in the east to Clarksburg in the west. Its Reock score is .26 and its Polsby-Popper score is .23.

62. District 9 also fails to give due regard to political subdivisions because it is split between Montgomery County and Howard County. It further divides the towns or localities of Ellicott City, Columbia, Highland, Damascus, and Clarksburg.

63. Upon information and belief, District 9 was constructed to intentionally remove a portion of Republican-leaning voters in southern Carroll County, replace them with Democratic-leaning voters in northern Montgomery County, and ensure the election of a Democratic senator.

Because these political interests were placed above the constitutional requirements of Article III, § 4, District 9 is unconstitutional.

**e. Challenged Districts Located Within Prince George’s County**

***Districts 22, 23, 24, 25, and 47***

64. Districts 22, 23, 24, 25, and 47 blatantly violate Article III, § 4’s geographic compactness requirement.

65. The eye-test says it all regarding these districts. They are all shaped so irregularly that no serious claim can be made that they are geographically compact.

66. The Reock and Polsby-Popper scores confirm this conclusion:

| <b>District</b> | <b>Reock Score</b> | <b>Polsby-Popper Score</b> |
|-----------------|--------------------|----------------------------|
| 22              | .45                | .12                        |
| 23              | .23                | .13                        |
| 24              | .22                | .08                        |
| 25              | .45                | .18                        |
| 47              | .27                | .13                        |

67. Although they all are located within Prince George’s County—a fact that makes their lack of geographical compactness inexcusable—Districts 22 and 24 divide the political subdivision of Glenarden. These districts also divide numerous towns and localities, including Woodmore, Glenn Dale, Lanham, Mitchellville, Springdale, Landover, Suitland, Clinton, Adelphi, Langley Park, and Hyattsville.

68. Upon information and belief, these legislative districts were crafted with political interests—the reelection of incumbent Senators and Delegates—subordinating the constitutional requirements of Article III, § 4. These districts are therefore unconstitutional.

## **5. Additional Constitutional Violations**

69. As explained above, the contiguity and compactness requirements of Article III, § 4 are intended to prevent political gerrymandering. As further set forth above, the Plan contains numerous districts that were politically gerrymandered in violation of Article III, § 4. Indeed, the violations of § 4 can be found across the State—from Calvert County to the Pennsylvania border.

70. These wide-ranging violations of § 4 demonstrate the extent of the political gerrymandering from which the Plan was born. This extreme gerrymandering violates not only Article III, § 4, but other Maryland constitutional provisions as well.

### **a. Article 7 of the Declaration of Rights**

71. 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.” This provision is intended to guarantee the “fair and free exercise of the electoral franchise,” *State Bd. of Elections v. Snyder*, 435 Md. 30, 61 (2013), and 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).

72. Article 7, therefore, provides the citizens of Maryland with a right to an equally effective power to select the legislative representatives of their choice, and bars the creation of electoral districts that ensure the election of candidates from one political party and/or dilute 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.

73. As set forth above, the Plan violates Marylanders’ right to the “fair and free exercise of the electoral franchise” under Article 7 in numerous ways, including:

a. Many parts of the Plan were designed specifically for partisan purposes and with an intent to preserve and expand the political power of Democrats, and thus the 2021 Plan unlawfully seeks to predetermine election outcomes in the above legislative districts, among others.

b. The Plan intentionally divides Republican voters into legislative districts in a way that unlawfully favors Democratic candidates in the above legislative districts, among others.

74. Any district map created through political gerrymandering and with the intent to dilute votes on a partisan basis is not free. Through the Plan, the General Assembly has installed a system whereby voters are cherry-picked to ensure or unlawfully favor the election of candidates from one political party. In this way, the 2021 Plan violates Article 7.

**b. Article I, § 7 of the Maryland Constitution**

75. Article I, § 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.

76. The Plan is not fair or evenhanded. Through intentional partisan manipulation, it divides Republican voters into legislative districts across Maryland in a way that unlawfully favors Democratic candidates in the above legislative districts, among others. Thus, the Plan intentionally dilutes the voting power of many Republicans and renders their votes nearly meaningless in legislative elections in the above districts.

77. The Plan also legalizes political corruption. Through intentional partisan manipulation, the Plan unlawfully rigs elections in certain legislative districts. Election rigging is the epitome of political corruption.

**c. Article 24 of the Declaration of Rights**

78. 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.

79. The Plan violates Article 24 by unconstitutionally discriminating against Republican voters and infringing on their fundamental right to vote. Specifically, the 2021 Plan intentionally discriminates against Republican voters in the above legislative districts 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 legislative representatives.

80. The Plan’s systemic dilution of the weight of Republican votes in the above districts unconstitutionally degrades Republican voters’ influence on the political process and infringes on their fundamental right to have their votes count fully.

81. The State of Maryland lacks any compelling interest in upholding the Plan and diluting the weight of Republican votes in the above districts or depriving Republican voters in the above districts of the opportunity for full, effective, and equal participation in the election of their legislative representatives.

**d. Article 40 of the Declaration of Rights**

82. 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.”

83. The Plan violates Article 40 by burdening protected speech based on political viewpoint. Specifically, in numerous legislative districts, including those referenced above, the

Plan benefits certain preferred speakers (Democratic voters), while targeting certain disfavored speakers (Republican voters) based on the views they express when they vote.

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

85. The Plan further violates Article 40 by retaliating against Republican voters based on their political speech. The Plan takes adverse action against Republican voters in the above districts and would not have done so but for a retaliatory intent to punish those Republican voters because of their voting history, party affiliation, and expression of their political views.

86. The Plan further violates Article 40 by infringing on Republican voters' rights of association. The Plan targets voters based on party affiliation and association and retaliates against Republican voters for those associations.

87. The State of Maryland has no legitimate or compelling interest in discriminating and retaliating against Republican voters 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 Plan.

## **V. Request for Relief**

WHEREFORE, Petitioners respectfully request that the Court enter Judgment in their favor, and:

(a) Determine and declare that the Plan is unconstitutional and invalid because it violates: (i) Article III, § 4 of the Maryland Constitution; (ii) Articles 7, 24, and 40 of Maryland's Declaration of Rights; and (iii) Article I, § 7 of the Maryland Constitution;

(b) Direct the General Assembly to enact a new legislative districting plan that complies with the Maryland Constitution and Declaration of Rights;

(c) Should the General Assembly fail to enact a new legislative districting plan that complies with the Maryland Constitution and Declaration of Rights in a timely fashion, order the adoption of the legislative districting plan prepared by the MCRC that was submitted to the General Assembly as Senate Joint Resolution No. 3 and House Joint Resolution No. 1; and

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

Respectfully submitted,

*/s/ Strider L. Dickson*

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### **CERTIFICATE OF SERVICE**

I certify that the foregoing Petition was filed using the Court's MDEC filing system and was served on the Attorney General of Maryland in accordance with Rules 2-124 and 20-205 by sending a copy of the complaint to [civil\\_service@oag.state.md.us](mailto:civil_service@oag.state.md.us).

*/s/ Strider L. Dickson*

\_\_\_\_\_  
Strider L. Dickson