

MARYLAND STATE BOARD,
OF ELECTIONS, et al.,

Appellants,

v.

ANTHONY AMBRIDGE, et al.,

Appellees.

IN THE

SUPREME COURT

OF MARYLAND

No. 26

September Term, 2024

SCM-REG-0026-2024

**MAYOR AND CITY COUNCIL OF BALTIMORE’S
RESPONSE IN OPPOSITION TO APPELLEES’ MOTION FOR LEAVE
TO FILE BRIEF BEYOND DEADLINE**

Appellant Mayor and City Council of Baltimore (the “City”), by undersigned counsel, submit the following response in opposition to Appellees’ Motion for Leave to File Brief Beyond the Deadline. In support, the City states as follows:

1. On September 20, 2024, this Court issued an expedited briefing schedule in this matter: all Appellants’ briefs being due on September 27, 2024 at 12:00 p.m. Noon; Appellees’ brief due on October 3, 2024 by 5:00 p.m., and any Reply briefs due on October 4, 2024.

2. The briefing schedule was carefully crafted to ensure that all parties had adequate time to draft their briefs, to receive, review, and draft a responsive brief.

3. Further, the schedule ensured that all briefs would be submitted in advance of oral argument scheduled for the morning of October 7, 2024.

4. Each Appellant timely filed its brief by the Noon deadline on September 27, 2024.

5. Appellees did not submit a brief by the 5:00 p.m. deadline on October 3, 2024, or even after the deadline on that same day.

6. The only submission by Appellees on October 3, 2024 was a last-minute Motion to Exceed Word Limit, which did not specify how many additional words would be needed. The Court denied that Motion at 9:04 p.m. the same day.

7. After the 5:00 p.m. deadline expired, counsel for MCB contacted Appellees' counsel twice on the evening of October 3, inquiring about the Appellees' brief. *See* Emails from Timothy Maloney, attached as Exhibit 1.

8. Counsel for Appellees did not respond to either email.

9. It wasn't until 8:09 a.m. the following morning on October 4, 2024, when Appellants received a flurry of emails from Appellees.

10. Included was the Motion for Leave, a Revised Motion to Exceed Word Limit, and what purports to be Appellees' 181-page brief and appendix.

11. Appellees now seek leave to file their brief by Noon today. The City opposes that request.

12. The City is undoubtedly and unequivocally prejudiced by Appellees' inaction and delay. Had Appellees submitted their brief by the 5:00 pm deadline on October 3, then Appellants would have had 31 hours to review their brief and draft

their Reply brief. By submitting their brief at approximately 8:00 a.m., Appellees have used 15 of those 31 hours.¹

13. Further, the City (and MCB as well) are particularly prejudiced because of the additional issues—substantive as well as procedural—raised in their briefs, meaning more work is required of them in less time.

14. Appellants have thus been prejudiced at great cost, having even less time to review a 94-page brief (181 pages including the appendix), and to file their reply briefs all before midnight tonight. *Cf. Operations Research, Inc. v. Davidson & Talbird, Inc.*, 241 Md. 550, 575 (1966) (observing that an untimely brief by the appellee can result in striking the brief and barring appellees from arguing their position if there is prejudice to the appellant).

15. Appellees’ reasoning for this delay is not only unavailing, but also displays a complete lack of diligence.

16. Appellees assert that their brief could not have been filed by 5:00 pm on October 3, 2024, because they are responding to three individual briefs, and so “the prevailing Order does not provide Appellees with any flexibility or allowance in light of the multiple robust briefs filed by Appellants in this complex and important matter.” Motion for Leave, at ¶ 5.

¹ Moreover, Appellees have requested permission to file their brief by Noon today, indicating that the brief submitted is not even a final version.

17. After the briefing schedule was issued, but in advance of September 27, 2024, Appellees could have reasonably assumed there would be three briefs because there are three distinct Appellants, but did not raise this issue in that timeframe.

18. Yet, Appellees **knew** there were three separate briefs when those briefs were timely filed by Noon on September 27, 2024. Appellees took no action that day, or any following day prior to their October 3, 2024 deadline. Instead, Appellees waited 15 hours to raise this issue for the first time.

19. Appellees also cite as a reason for the delay the fact that counsel for appellees “lost two days over the past week to illness, and as a solo practitioner was unable to obtain immediate coverage.” Motion for Leave, at ¶ 6.

20. Our sympathies lie with the sick, particularly solo practitioners who may not have the resources that others have. However, a request for additional time could have been made **before** the deadline, or, at the very least, on the same day that their brief was due. Instead, it came 15 hours after Appellees’ brief was due.

Wherefore, the Mayor and City Council of Baltimore respectfully requests that the Supreme Court of Maryland (1) deny Appellees’ Motion for Leave, (2) strike any brief(s) filed by the Appellees, and (3) order that Appellees may not present any argument on October 7, 2024.

Respectfully submitted,

EBONY M. THOMPSON
City Solicitor

STEPHEN SALSURY
Deputy Solicitor

MATTHEW BRADFORD
Chief of Staff

HILARY P. RULEY
Chief Solicitor

DEREK VAN DE WALLE
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*Counsel for Appellee Mayor and City
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Font: Times New Roman 14

**CERTIFICATION OF WORD COUNT AND
COMPLIANCE WITH RULE 8-112**

I hereby certify that: 1. This opposition contains 904 words, excluding the parts of the opposition exempted from the word count by Rule 8-503. 2. This opposition complies with the font, spacing, and type size requirements stated in Rule 8-112

A handwritten signature in blue ink, appearing to read "Michael Redmond", is written over a light blue horizontal line.

MICHAEL REDMOND

CERTIFICATE OF SERVICE

I certify that on this 4th day of October 2024, the foregoing Response in Opposition to Motion for Leave to Amend was served via MDEC on all counsel entitled to service.



MICHAEL REDMOND

VanDeWalle, Derek (Law Dept)

Subject: Harborplace

From: Timothy Maloney <tmaloney@jgllaw.com>
Sent: Thursday, October 3, 2024 7:04 PM
To: Thiru Vignarajah <thiru@justiceforbaltimore.com>
Cc: Alyse L. Prawde <APrawde@JGLLAW.COM>; Redmond, Michael (Law Dept) <Michael.Redmond@baltimorecity.gov>; Kobrin, Daniel <dkobrin@oag.state.md.us>; VanDeWalle, Derek (Law Dept) <Derek.VanDeWalle@baltimorecity.gov>
Subject: RE: Harborplace

Thiru
It's now been two hours since the filing deadline for appellees' brief, and we haven't seen it yet, either on MDEC or from a courtesy email from you.
All of us have people on standby tonight waiting for this brief because our reply is due tomorrow. This is complicated by the fact that we are in Rosh Hashanah, which impacts many people working on this.
I wrote you an hour ago and didn't hear back.
Please send us an email copy of your brief, or at least give us the courtesy of some response to let us know what's going on here.
I really don't want to have to have an emergency communication with the court tonight.
Please let us hear from you.
Tim

TIMOTHY F. MALONEY, ESQ
JOSEPH GREENWALD & LAAKE, PA
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Timothy Maloney

Principal



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From: Timothy Maloney
Sent: Thursday, October 3, 2024 6:06 PM
To: Thiru Vignarajah <thiru@justiceforbaltimore.com>
Cc: 'Alyse L. Prawde (APrawde@JGLLAW.COM)' <APrawde@JGLLAW.COM>; Redmond, Michael (Law Dept) <Michael.Redmond@baltimorecity.gov>; Kobrin, Daniel <dkobrin@oag.state.md.us>; VanDeWalle, Derek (Law Dept)

<Derek.VanDeWalle@baltimorecity.gov>

Subject: RE: Harborplace

Thiru

We haven't seen your brief come over MDEC yet.

Because our reply brief is due tomorrow, we have people on standby tonight to work on this. Can you email us a copy of your brief?

Thanks very much.

Tim

TIMOTHY F. MALONEY, ESQ

JOSEPH GREENWALD & LAAKE, PA

tmaloney@jgllaw.com | **OFFICE:** 301.220.2200 | **eFax:** 240.553.1737

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ORDER DENYING MOTION FOR LEAVE

Upon consideration of the Appellees' Motion for Leave to File Brief Beyond the Deadline, the Mayor and City Council of Baltimore's Opposition thereto, any other opposition, it is hereby:

ORDERED, that Appellees' Motion for Leave to File Brief Beyond the Deadline is DENIED; and it is further

ORDERED, that any brief(s) filed by Appellees be and are STRICKEN; and it is further

ORDERED, that Appellees may not present any argument at the oral argument scheduled for October 7, 2024.

Date: Oct. 4, 2024

Justice, Supreme Court of Maryland