

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

STEPHEN M. SHAPIRO, *et al.*,

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*Plaintiffs,*

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v.

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Case No. 13-cv-3233

DAVID J. MCMANUS, JR., *et al.*,

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*Defendants.*

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**DEFENDANTS ANSWER TO PLAINTIFFS’  
SECOND AMENDED COMPLAINT**

Defendants David J. McManus, Jr., Chairman of the Maryland State Board of Elections (“State Board”), and Linda H. Lamone, State Administrator of Elections, having been sued in their official capacities, through their undersigned counsel, file this Answer to Plaintiffs’ Amended Complaint.

**INTRODUCTION**

1. Paragraph 1 characterizes plaintiffs’ lawsuit and legal theory and does not require a response. To the extent any response is required, the defendants deny the allegations of paragraph 1.

2. Paragraph 2 consists of plaintiffs’ opinion, characterizations, and legal arguments to which no response is required. To the extent that a response is required, the defendants deny the allegations.

3. The defendants admit that Andy Harris, the Republican candidate, won the 2010 election for Congressional District 1, and that Roscoe G. Bartlett, the Republican candidate, won the 2010 election for Congressional District 6. The defendants further admit that Maryland elects eight members to the House of Representatives. The defendants further admit that, as of October 31, 2010, registered Republicans constituted 26.7% of all registered Maryland voters and 31.5% of the Maryland voters registered in all categories other than “unaffiliated.” The defendants lack sufficient information to admit or deny which voters elected the candidates for Congressional Districts 1 and 6. The remainder of paragraph 3 consists of characterization and legal arguments to which no response is required. To the extent that a response is required, the defendants deny the allegations.

4. The defendants admit that Department of Legislative Services data reflects that after adoption of the 2011 plan, the number of registered Republicans in the Sixth District changed from 188,195 to 121,581 and that the number of registered Democrats changed from 148,046 to 172,185. The defendants further admit that Roscoe G. Bartlett served in the House of Representatives from 1993 to 2013. And, the defendants admit that in the 2012 and 2014 elections, John Delaney, the Democratic candidate, won election as Representative for Congressional District 6. The remainder of paragraph 4 states opinions, characterizations, and legal arguments regarding the purpose and effect of the Plan, and plaintiffs’ predictions about future elections; these allegations require no response. To the extent that any further response is required, the defendants deny the allegations.

5. Paragraph 5 consists of plaintiffs’ characterizations and legal arguments, to which no response is required. Paragraph 5 also purports to selectively quote from judicial

opinions, which are publicly available documents and speak for themselves. To the extent that a response is required, the defendants deny the allegations of paragraph 5.

6. Paragraph 6 states plaintiffs' legal arguments, to which no response is required. To the extent that a response is required, the defendants deny the allegations of paragraph 6.

7. Paragraph 7 states plaintiffs' legal theory and arguments, to which no response is required. To the extent a response is required, the defendants deny the allegations. The paragraph selectively quotes from a judicial opinion, a publicly available document which speaks for itself.

8. The defendants admit that the following people won election as representative from Maryland's Sixth Congressional District between January 1943 and January 2013: J. Glenn Beall, Republican (1943 through 1953); DeWitt S. Hyde, Republican (1953 through 1959); John R. Foley, Democrat (1959 through 1961); Charles McC. Mathias, Jr., Republican (1961 through 1969); J. Glenn Beall, Jr., Republican (1969 through 1971); Goodloe E. Byron, Democrat (1971 through October 1978, deceased); Beverly Barton Butcher Byron, Democrat (1979 through 1993); Roscoe G. Bartlett, Republican (1993 through 2013). The defendants further admit that since 1943, Maryland added two congressional districts, bringing the total from six to eight. The remainder of paragraph 8 consists of characterization, opinion, and legal argument, to which no response is required. To the extent a response is required, allegations not expressly admitted in paragraph 8 are denied.

9. Paragraph 9 states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations of paragraph 9.

10. Paragraph 10 states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations of paragraph 10.

### **JURISDICTION AND VENUE**

11. Admitted.

12. Admitted.

### **THE PARTIES**

13. The defendants admit that the plaintiffs' names are included in the voter registration list as registered voters. The remainder of paragraph 13 consists of legal argument, to which no response is required. To the extent a response is required, the defendants deny the allegations.

14. The defendants admit that Stephen M. Shapiro was a registered voter in Maryland's 8<sup>th</sup> Congressional District before 2011 and that his voter registration address remained in that district after enactment of the Plan. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations.

15. The defendants admit that the voter registration list includes a "Maria A. Pycha," but state that she is registered in Prince George's County. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations. By way of further explanation, the voter registration list

also includes a “Maria B. Pycha,” registered in Baltimore County and identified in State Board records as a member of the Baltimore County Republican Central Committee.

16. The defendants admit that O. John Benisek was a registered voter in Maryland’s 6<sup>th</sup> Congressional District before 2011 and that his voter registration address remained in that district after enactment of the Plan. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations.

17. The defendants admit that Edmund Cueman was a registered voter in Maryland’s 6<sup>th</sup> Congressional District before 2011 and that his voter registration address is now in the 8<sup>th</sup> Congressional District after enactment of the Plan. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations.

18. The defendants admit that Jeremiah DeWolf was a registered voter in Maryland’s 6<sup>th</sup> Congressional District before 2011 and that his voter registration address remained in that district after enactment of the Plan. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations.

19. The defendants admit that Charles W. Eyler, Jr. was a registered voter in Maryland’s 6<sup>th</sup> Congressional District before 2011 and that his voter registration address is now in the 8<sup>th</sup> Congressional District after enactment of the Plan. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations.

20. The defendants admit that Kat O'Connor (Kathleen O'Connor) was a registered voter in Maryland's 6<sup>th</sup> Congressional District before 2011 and that her voter registration address remained in that district after enactment of the Plan. The defendants further admit that she is a member of the Montgomery County Republican Central Committee. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations.

21. The defendants admit that Alonnie L. Ropp was a registered voter in Maryland's 6<sup>th</sup> Congressional District before 2011 and that her voter registration address is now in the 8<sup>th</sup> Congressional District after enactment of the Plan. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations.

22. The defendants admit that Sharon Strine was a registered voter in Maryland's 6<sup>th</sup> Congressional District before 2011 and that her voter registration address is now in the 8<sup>th</sup> Congressional District after enactment of the Plan. The defendants lack sufficient information to admit or deny the remaining allegations of the paragraph and therefore deny those allegations.

23. Admitted.

24. Admitted.

25. Admitted.

## **CONCEPTUAL AND LEGAL FRAMEWORK**

26. Paragraph 26 consists of characterizations and legal arguments to which no response is required. To the extent that a response is required, the defendants deny the allegations of paragraph 26.

27. Paragraph 27 consists of plaintiffs' characterizations and legal arguments, to which no response is required. Paragraph 27 also purports to selectively quote from judicial opinions, which are publicly available documents and speak for themselves. To the extent that a response is required, the defendants deny the allegations.

28. Paragraph 28 consists of characterizations and legal arguments, to which no response is required. To the extent that a response is required, the defendants deny the allegations.

29. Paragraph 29 consists of characterizations and legal arguments, to which no response is required. To the extent that a response is required, the defendants deny the allegations.

30. Paragraph 30 consists of characterizations and legal arguments, to which no response is required. Paragraph 30 purports to quote from a publicly available website, which speaks for itself. To the extent that a response is required, the defendants deny the allegations.

31. Paragraph 31 states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

32. Paragraph 32 states a legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

33. Paragraph 33 states a legal argument to which no response is required, and selectively quotes from judicial opinions, which speak for themselves. To the extent that a response is required, the defendants deny these allegations.

34. Paragraph 34 states a legal argument to which no response is required, and selectively quotes from judicial opinions, which speak for themselves. To the extent that a response is required, the defendants deny these allegations.

35. Paragraph 35 consists of legal argument to which no response is required and selectively quotes from judicial opinions, which speak for themselves. To the extent that a response is required, the defendants deny these allegations.

36. Paragraph 36 consists of legal argument to which no response is required and selectively quotes from judicial opinions, which speak for themselves. To the extent that a response is required, the defendants deny these allegations.

37. Paragraph 37 consists of characterization and legal argument to which no response is required and selectively quotes from judicial opinions, which speak for themselves. To the extent that a response is required, the defendants deny these allegations.

38. Paragraph 38 contains characterizations and legal argument to which no response is required. To the extent that a response is required, the defendants deny the allegations.

### **FACTUAL ALLEGATIONS**

39. The defendants admit that the Governor's Redistricting Advisory Committee developed the 2011 draft redistricting plan. The remainder of paragraph 39

contains characterizations to which no response is required. To the extent a response is required, any allegation not expressly admitted is denied.

40. The defendants admit that beginning with the legislative session of 1868, Democrats have held the majority in the State Senate in every year but two (1898–99) and been the majority in the House of Delegates for every year but six (1896–99 and 1918–19). The remainder of paragraph 40 is characterization to which no response is required. To the extent that a response is required, the defendants deny the allegations.

41. Paragraph 41 consists of characterization and legal argument to which no response is required. The second sentence characterizes and selectively quotes a portion of a judicial opinion, which is a publicly available document that speaks for itself. To the extent that a response is required, the allegations of paragraph 41 are denied.

42. The defendants admit that the Maryland Court of Appeals declared the State's redistricting plan invalid in 2002 in its opinion *In re Legislative Districting of the State*, 805 A.2d 292 (2002). The defendants further admit that the 2011 State redistricting plan was unsuccessfully challenged in more than one lawsuit. The remainder of paragraph 42 consists of characterization to which no response is required. To the extent a response is required, any portion of the allegation not expressly admitted is denied.

43. Defendants admit that Governor O'Malley appointed the following people to serve on the Governor's Redistricting Advisory Committee, which he authorized in 2011: Jeanne D. Hitchcock, Esq, Secretary of Appointments (Chair) and former Deputy Mayor; Michael E. Busch, Speaker of the House, Democrat; former Delegate James J. King, who served in the House of Delegates from 2007 to 2011, Republican; Thomas V. Mike Miller,

Jr, President of the Senate, Democrat; and Richard Stewart. Defendants lack information to admit or deny whether Delegate King was chosen with or without input from Republican leadership or whether Mr. Stewart held a position in Governor O'Malley's re-election campaign and therefore deny those allegations. The remainder of Paragraph 43 consists of characterization to which no response is required. To the extent a response is required, any portion of the allegation not expressly admitted is denied.

44. The first sentence of paragraph 44 is admitted. The GRAC held twelve public hearings across the State, which were attended by approximately 1,000 Marylanders and received 350 total public comments, including third party plans, comments at meetings, and written comments. The remainder of paragraph 44 consists of characterization to which no response is required. To the extent a response is required, any part of the allegation not expressly admitted is denied.

45. The defendants admit that the GRAC was exempt by law from the Open Meetings Act. The remainder of paragraph 45 consists of characterizations, to which no response is required. To the extent a response is required to the remainder of paragraph 45, any part of the allegations not expressly admitted are denied.

46. The defendants admit that the State Board reports and makes publicly available certain voter registration and voter turnout data. The defendants lack sufficient information to admit or deny the remaining allegations of paragraph 46 and therefore deny those allegations.

47. The defendants admit that the State Board reports and makes publicly available certain precinct-level data, including voter registration data, election day turnout

by precinct and party affiliation, if any, and votes cast during early voting, on election day, and by absentee or provisional ballot. The defendants deny that the State Board posts data as to “voter consistency.” The defendants lack sufficient information to admit or deny the remaining allegations of paragraph 47 and therefore deny those allegations.

48. The defendants admit that the GRAC approved its final map on October 4, 2011, by a 4-to-1 vote, and further admit that Former Delegate King cast the dissenting vote.

49. The defendants admit that Governor O’Malley announced he would submit a proposed map that was “substantially similar” to the one developed by the GRAC on October 15, 2011. The remainder of paragraph 49 consists of characterization to which no response is required. To the extent a response is required, all allegations in paragraph 49 not expressly admitted are denied.

50. Defendants admit that SB1 of the 2011 Special Session was introduced and read for the first time in the Senate on October 17, 2011. SB1 was passed out of the Senate Reapportionment and Redistricting Committee on October 17, 2011. After an amendment introduced by Senator Robey was adopted, the full Senate passed the third reading of the bill on October 18, 2011, allowing consideration of SB1 in the House of Delegates. The House of Delegates passed the third reading of the bill after rejecting several floor amendments on October 18, 2011. On October 19, 2011, an additional amendment was adopted and the Senate passed the amended House version on October 20, 2011. To the extent paragraph 50 is inconsistent with this legislative history, it is denied. The remainder of paragraph 50 contains characterization to which no response is required. To the extent

a response is required to such characterizations, any part of the allegations not expressly admitted is denied.

51. The defendants admit the Governor approved the enrolled bill on October 20, 2011. The remainder of paragraph 51 contains characterizations to which no response is required. To the extent a response is required, any part of the allegations not expressly admitted is denied.

52. The defendants admit that no Republican Senator or Delegate voted for SB1 in committee or on the floor in recorded roll call votes, and further admit that former Delegate King did not vote for the final map approved by the GRAC. The remainder of paragraph 52 contains characterizations to which no response is required. To the extent a response is required, all allegations not expressly admitted are denied.

53. Admitted.

54. Paragraph 54 consists of characterizations to which no response is required and selective quotations from a publicly available article, which speaks for itself. To the extent a response is required, paragraph 54 is denied.

55. Defendants lack sufficient information to admit or deny the authenticity or content of the graphic depicted at paragraph 55 and therefore deny it.

56. Paragraph 56 consists of characterization to which no response is required and selective quotation of judicial opinions and publicly available articles, which speak for themselves. To the extent a response is required, paragraph 56 is denied.

57. Paragraph 57 consists of characterization to which no response is required and selective quotation of judicial opinions and publicly available articles which speak for themselves. To the extent a response is required, paragraph 57 is denied.

58. Paragraph 58 consists of characterization of the shape of Maryland Congressional districts to which no response is required and does not contain enough information for the defendants either to admit or deny the characterization. To the extent a response is required, paragraph 58 is denied.

59. Paragraph 59 consists of characterization, opinion, and legal argument, to which no response is required. To the extent that a response is required, paragraph 59 is denied.

60. Paragraph 60 consists of characterization, opinion, and legal argument, to which no response is required and selectively quotes from judicial opinions, which speak for themselves. To the extent that a response is required, the defendants deny paragraph 60.

61. The defendants admit the first sentence of Paragraph 61. The remaining allegations in Paragraph 61 consist of characterization to which no response is required. To the extent a response is required, these allegations are denied.

62. Defendants admit that as a result of the 2010 general election, Maryland's congressional delegation to the House of Representatives contained six Democrats and two Republicans. The defendants admit that Democratic candidate John Delaney defeated Republican incumbent Roscoe Bartlett in the 2012 general election, and that Representative Delaney won reelection in 2014, defeating Republican candidate Dan

Bongino by approximately 1.5 percentage points. The defendants lack sufficient knowledge concerning the allegations in paragraph 62 referring to plaintiffs Strine and Pycha and therefore deny those allegations. All allegations not expressly admitted are denied.

63. Defendants admit that as a result of the 2012 and 2014 general elections, Maryland's congressional delegation to the House of Representatives contained seven Democrats and one Republican. The defendants admit that Democratic candidates received approximately 63% of the votes cast in congressional races across Maryland in 2012, and approximately 58% of the votes cast in congressional races across Maryland in 2014. All allegations not expressly admitted are denied.

64. Defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that the 1<sup>st</sup> District includes Maryland's Eastern Shore and portions of Baltimore, Harford, and Carroll Counties. The defendants admit that Republican Andy Harris was elected to represent the 1<sup>st</sup> District in the 2010 general election and further admit that Representative Harris was the only Republican elected to Maryland's congressional delegation in the 2012 and 2014 general elections. All allegations not expressly admitted are denied.

65. The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 65 at this time, and, thus, the allegations are denied.

66. The defendants admit that Department of Legislative Services data reflects that the 1<sup>st</sup> District population declined by approximately 21,500 residents after adoption

of the 2011 Plan. The defendants admit that in the 2010 general election, the Republican candidate in the 1<sup>st</sup> District received 54.1% of the votes, and that in 2012, the same candidate received 63.4% of the vote and won by a 36-point margin. The defendants admit the existence of the article quoted in paragraph 65, but deny the substance of the allegations on which the plaintiffs rely. All allegations not expressly admitted are denied.

67. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that the 2<sup>nd</sup> District includes parts of Baltimore City and Howard, Harford, Baltimore, and Anne Arundel Counties. The defendants admit that Democrat Dutch Ruppertsberger, who represents the 2<sup>nd</sup> District, garnered 64.2% of the vote in the 2010 general election, 65.6% of the vote in the 2012 general election, and 61.3% of the vote in the 2014 general election. All allegations not expressly admitted are denied.

68. The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 68 at this time, and, thus, the allegations are denied.

69. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 69 at this time, and, thus, the allegations are denied.

70. The defendants admit the existence of the judicial opinion quoted in Paragraph 70, but deny the plaintiffs' attempt to characterize the Plan, a written document

that speaks for itself. The defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that the 3<sup>rd</sup> District includes portions of Baltimore City and Baltimore, Montgomery, Howard, and Anne Arundel Counties. All allegations not expressly admitted are denied.

71. The first sentence of paragraph 71 contains a vague quasi-factual statement incapable of verification and amounting to mere characterization, to which no response is required. To the extent a response is required, the allegation is denied. The defendants admit that Democrat John Sarbanes, who represents the 3<sup>rd</sup> District, garnered 61.1% of the vote in the 2010 general election, 66.8% of the vote in the 2012 general election, and 59.5% of the vote in the 2014 general election. All allegations not expressly admitted are denied.

72. The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 72 at this time, and, thus, the allegations are denied.

73. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that the 4<sup>th</sup> District includes portions of Anne Arundel and Prince George's Counties. The third sentence of paragraph 73 contains a vague quasi-factual statement incapable of verification amounting to mere characterization and to which no response is required. To the extent a response is required, the allegation is denied. The defendants admit that Democrat Donna Edwards, who represents the 4<sup>th</sup> District, garnered 83.4% of the vote in the 2010 general election, 77.2% of the vote in the 2012 general election, and 70.2% of the vote in the 2014 general election. All allegations not expressly admitted are denied.

74. The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 74 at this time, and, thus, the allegations are denied.

75. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that the 5<sup>th</sup> District includes Charles, Saint Mary's, and Calvert Counties, and portions of Prince George's and Anne Arundel Counties. The defendants admit that Democrat Steny H. Hoyer, who represents the 5<sup>th</sup> District, garnered 64.3% of the vote in the 2010 general election, 69.4% of the vote in the 2012 general election, and 64% of the vote in the 2014 general election. All allegations not expressly admitted are denied.

76. The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 76 at this time, and, thus, the allegations are denied.

77. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that the 6<sup>th</sup> District includes Garrett, Allegany, and Washington Counties, and portions of Montgomery and Frederick Counties. The defendants admit the existence of the judicial opinion quoted in the second sentence of paragraph 77, but the defendants deny the substance of the allegation. All allegations not expressly admitted are denied.

78. The defendants admit that the following people won election as representative from Maryland's Sixth Congressional District between January 1943 and January 2013: J. Glenn Beall, Republican (1943 through 1953); DeWitt S. Hyde,

Republican (1953 through 1959); John R. Foley, Democrat (1959 through 1961); Charles McC. Mathias, Jr., Republican (1961 through 1969); J. Glenn Beall, Jr., Republican (1969 through 1971); Goodloe E. Byron, Democrat (1971 through October 1978, deceased); Beverly Barton Butcher Byron, Democrat (1979 through 1993); Roscoe G. Bartlett, Republican (1993 through 2013). The defendants further admit that since 1943, Maryland added two congressional districts, bringing the total from six to eight. The defendants admit that Republican Roscoe Bartlett was first elected to represent the 6<sup>th</sup> District in 1992 and won re-election through the 2010 general election, and that Roscoe Bartlett won reelected in 2010 by a 28-point margin. Paragraph 78 contains characterization to which no response is required. To the extent a response is required, the defendants deny the remaining allegations contained in paragraph 78. All allegations not expressly admitted are denied.

79. The defendants deny the plaintiffs' characterization of the 2001 redistricting map contained in Senate Bill 805, a written document that speaks for itself.

80. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1).

81. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). Defendants admit that Department of Legislative Services data reflects that the number of registered Republicans in the Sixth District changed from 188,195 in 2002 to 121,581 in 2011. The defendants admit that the 6<sup>th</sup> District does not

include Carroll County, and the defendants further admit that in the 2010 general election, approximately 67% of voters from Carroll County voted for the Republican candidate and 27% of voters from Carroll County voted for the Democratic candidate. All allegations not expressly admitted are denied.

82. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). Defendants admit that Department of Legislative Services data reflects that the number of registered Republicans in the Sixth District changed from 188,195 in 2002 to 121,581 in 2011. All allegations not expressly admitted are denied.

83. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that Department of Legislative Services data reflects that the portions of Montgomery County included in the 6<sup>th</sup> District in 2011 contain 50.9% registered Democrats and 24.9% registered Republicans. All allegations not expressly admitted are denied.

84. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that Department of Legislative Services data reflects that the number of registered Republicans in the Sixth District changed from 188,195 in 2002 to 121,581 in 2011 and that the number of registered Democrats changed from 148,046 in 2002 to 172,185 in 2011. All allegations not expressly admitted are denied.

85. The defendants admit the existence of the editorial quoted by the plaintiffs in paragraph 85, a publicly available document that speaks for itself. All allegations not expressly admitted are denied.

86. The defendants admit that Democrat John Delaney defeated Representative Bartlett in the 2012 election by a 21-point margin and that Mr. Bartlett's share of the vote dropped from 61.4% in 2010 to 37.9% in 2012. All allegations not expressly admitted are denied.

87. The defendants admit that Representative John Delaney won reelection in 2014, defeating Republican challenger Dan Bongino. The defendants lack sufficient knowledge to admit or deny the allegations in paragraph 87 concerning plaintiffs Strine and Pycha.

88. The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 88 at this time, and, thus, the allegations are denied.

89. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that the 7<sup>th</sup> District includes portions of Baltimore City and Baltimore County. All allegations not expressly admitted are denied.

90. The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 90 at this time, and, thus, the allegations are denied.

91. The defendants deny the plaintiffs' characterization of the Plan, a written document that speaks for itself, and the defendants refer the plaintiffs to 2011 Md. Laws 1st Sp. Sess. Ch. 1 (S.B. 1). The defendants admit that the 8<sup>th</sup> District includes portions of

Montgomery, Frederick, and Carroll Counties. The defendants admit that Department of Legislative Services data reflect that, in the 8<sup>th</sup> District, the adjusted white population increased by approximately 97,000 residents from 2002 to 2011 and the adjusted African American population decreased by approximately 38,400 residents from 2002 to 2011. The defendants admit that Democrat Chris Van Hollen, who represents the 8<sup>th</sup> District, garnered 73%.3 of the vote in the 2010 general election, 63.4% of the vote in the 2012 general election, and 60.7% of the vote in the 2014 general election. All allegations not expressly admitted are denied.

92. The defendants lack sufficient knowledge to verify the accuracy of the graphic reprinted in paragraph 92 at this time, and, thus, the allegations are denied.

93. Denied.

94. Denied.

95. The defendants admit the existence of the article quoted in paragraph 95, but deny the plaintiffs' attempt to characterize the article's contents. All allegations not expressly admitted are denied.

96. The defendants admit the existence of the articles quoted in paragraph 96, but deny the plaintiffs' attempt to characterize the articles' contents. All allegations not expressly admitted are denied.

97. The defendants admit the existence of the article quoted in paragraph 97, but deny the plaintiffs' attempt to characterize the article's contents. All allegations not expressly admitted are denied.

98. The defendants admit the existence of the article quoted in paragraph 98, but deny the plaintiffs' attempt to characterize the article's contents. All allegations not expressly admitted are denied.

99. The defendants admit the existence of the article quoted in paragraph 99, but deny the plaintiffs' attempt to characterize the article's contents. All allegations not expressly admitted are denied.

100. The defendants admit the existence of the article quoted in paragraph 100, but deny the plaintiffs' attempt to characterize the article's contents. All allegations not expressly admitted are denied.

101. Denied.

102. Denied.

103. Denied.

104. The defendants lack sufficient knowledge to affirm or deny the allegations contained in paragraph 104 at this time, and, thus, the allegations are denied.

105. The allegations in paragraph 105 quote a judicial opinion that speaks for itself.

106. The allegations in paragraph 106 are insufficiently specific, and therefore the defendants lack sufficient knowledge to affirm or deny the allegations contained in paragraph 106 at this time, and, thus, the allegations are denied.

107. The allegations in paragraph 107 are insufficiently specific, and therefore the defendants lack sufficient knowledge to affirm or deny the allegations contained in paragraph 107 at this time, and, thus, the allegations are denied.

108. The defendants admit that the current composition of Maryland's congressional delegation is 7 Democrats and 1 Republican. The remaining allegations in paragraph 108 are insufficiently specific, and therefore the defendants lack sufficient knowledge to affirm or deny the remaining allegations at this time, and, thus, the allegations are denied.

109. The allegations in paragraph 109 are insufficiently specific, and therefore the defendants lack sufficient knowledge to affirm or deny the allegations contained in paragraph 109 at this time, and, thus, the allegations are denied.

110. Denied.

111. Denied.

112. Denied.

113. Denied.

114. Denied.

115. The defendants admit that Maryland's principal political parties employ a closed primary system, such that a voter must be a registered member of the political party to vote in that party's primary. The defendants admit that in that system, registered Republicans cannot vote in Democratic primaries, and registered Democrats cannot vote in Republican primaries. The defendants deny the plaintiffs' characterization that the closed primary system "chills" Maryland voters' political speech. The defendants further deny all other allegations contained in paragraph 115.

116. The defendants admit that Maryland's principal political parties employ a closed primary system, such that a voter must be a registered member of the political party

to vote in that party's primary. The defendants admit that in that system, registered Republicans cannot vote in Democratic primaries, and registered Democrats cannot vote in Republican primaries. The defendants deny all other allegations contained in paragraph 116.

117. The defendants lack sufficient information to affirm or deny the allegations that some Maryland voters who would otherwise register as Republicans have registered as members of the Democratic Party to be able to vote in the Democratic Party's closed primary, and, thus, those allegations are denied. The defendants deny the plaintiffs' characterization of this alleged conduct and all remaining allegations in paragraph 117. All allegations not expressly admitted are denied.

118. Denied.

119. The defendants deny the substance of paragraph 119 but admit the existence of the judicial opinion quoted therein. The defendants deny that the Plan "casts a chill" on the First Amendment.

120. Denied.

121. Denied.

122. The defendants deny the plaintiffs' attempt to characterize a written document that speaks for itself in the second sentence of paragraph 122. The defendants deny all of the remaining allegations in paragraph 122.

123. The defendants admit that the committee received alternative plans from third-parties. The defendants deny all of the remaining allegations in paragraph 123.

124. The defendants deny the plaintiffs' attempt to characterize the alternative plans referenced in paragraph 124.

125. The defendants admit that the Maryland Republican Party submitted a proposed plan, but deny the plaintiffs' attempt to characterize the proposed plan.

126. The defendants deny the plaintiffs' attempt to characterize the alternative plans referenced in paragraph 126.

127. Denied.

128. The allegations in paragraph 128 purport to state a legal conclusion and no response is required. To the extent a response is required, the allegations are denied.

#### **CLAIMS FOR RELIEF**

129. Paragraph 129 requires no response.

130. The defendants deny the allegations in paragraph 130 to the extent they allege that the plaintiffs were "targeted and retaliated against by the legislature for the exercise of their First Amendment rights."

131. The defendants lack sufficient knowledge or information to admit or deny the allegations in paragraph 131 concerning what the Maryland legislature expressly and deliberately considered when it enacted the Plan, and, thus, the allegations are denied.

132. Denied.

133. Denied.

134. Denied.

135. Paragraph 135 requires no response.

136. The defendants lack sufficient knowledge or information to admit or deny the allegations in paragraph 136 concerning what the Maryland legislature expressly and deliberately considered when it enacted the Plan, and, thus, the allegations are denied.

137. Denied.

138. Denied.

139. Denied.

140. Denied.

141. Denied.

142. Denied.

#### **PRAYER FOR RELIEF**

WHEREFORE, the defendants pray that the plaintiffs be denied the relief requested in the Second Amended Complaint.

ALL ALLEGATIONS IN THE SECOND AMENDED COMPLAINT NOT SPECIFICALLY ADMITTED ARE DENIED, AND DEFENDANTS DEMAND STRICT PROOF THEREOF.

#### **DEFENDANT'S FIRST AFFIRMATIVE DEFENSE**

Plaintiffs' Second Amended Complaint, and each and every allegation thereof, fails to state a claim upon which relief can be granted.

#### **DEFENDANT'S SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of laches.

#### **DEFENDANT'S THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.

**DEFENDANT'S FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by estoppel.

**WHEREFORE**, having fully answered the plaintiffs' Second Amended Complaint, the defendants respectfully request that the Court deny the plaintiffs' relief requested in the Second Amended Complaint; enter judgment in favor of the defendants and against the plaintiffs; award the defendants their costs and attorney fees incurred in defending this action; and grant such further relief as this Court may deem just and appropriate.

Respectfully submitted,

BRIAN E. FROSH  
Attorney General of Maryland

\_\_\_\_\_/s/\_\_\_\_Jennifer L. Katz\_\_\_\_\_  
JENNIFER L. KATZ , Bar No. 28973  
JEFFREY L. DARSIE, Bar No. 19485  
Assistant Attorneys General  
Office of the Attorney General  
200 St. Paul Place, 20th Floor  
Baltimore, Maryland 21202  
jkatz@oag.state.md.us  
jdarsie@oag.state.md.us  
(410) 576-7005  
(410) 576-6955 (facsimile)

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Attorneys for the Defendants