

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

BALTIMORE COUNTY BRANCH OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE, *et al.*,

Plaintiffs,

v.

BALTIMORE COUNTY, MARYLAND, *et al.*,

Defendants.

Civil Action No. LKG-21-03232

**PLAINTIFFS' MOTION FOR LEAVE TO RESPOND TO DEFENDANT BALTIMORE
COUNTY'S NOTICE OF "SUPPLEMENTAL" AUTHORITY (ECF 42) AND
UNTIMELY DECLARATIONS (ECF 45)**

Pursuant to this Court's Local Rules 105.2(a) and (b), Plaintiffs request permission to file the attached Response to Defendant Baltimore County's Notice of "Supplemental" Authority (ECF 42) and Untimely Declarations (ECF 45). As explained in the proposed Response, the County's purported "Notice," without the Court's permission, introduced additional issues and argument in the nature of a surreply to which Plaintiffs have not had an opportunity to respond. Similarly, the County tendered declarations attempting to present new evidence, again without the Court's permission, after 4 p.m. on the afternoon preceding the last business day before the February 15 hearing scheduled in this action (i.e., last Friday afternoon). In order to provide a fair opportunity to address the County's submissions, Plaintiffs seek permission to submit the brief Response proposed, which is directed exclusively to the County's latest filings.

Respectfully submitted,

/s/ Deborah A. Jeon

Deborah A. Jeon (Bar #06905)
Tierney Peprah (Bar # 21986)
AMERICAN CIVIL LIBERTIES UNION
OF MARYLAND
Clipper Mill Road Suite 350
Baltimore, MD 21211
(410) 889-8555
jeon@aclu-md.org

/s/ John A. Freedman

John A. Freedman (Bar #20276)
Mark D. Colley (Bar #16281)
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave, N.W.3600
Washington, D.C. 20001
(202) 942-5000
john.freedman@arnoldporter.com

/s/ Andrew D. Freeman

Andrew D. Freeman (Bar #03867)
BROWN GOLDSTEIN & LEVY LLP
120 E. Baltimore Street, Suite 2500
Baltimore, MD 21202-6701
(410) 962-1030
adf@browngold.com

Michael Mazzullo (admitted pro hac vice)
ARNOLD & PORTER KAYE SCHOLER LLP
250 W. 55th Street
New York, NY 10019
(212) 836-8000
michael.mazzullo@arnoldporter.com

Counsel for Plaintiffs

Dated: February 14, 2022

EXHIBIT 1

**IN THE MATTER OF
2022 LEGISLATIVE
DISTRICTING OF THE STATE**

*** IN THE
* COURT OF APPEALS
* OF MARYLAND
* MISC. NOS.
* 21, 24, 25, 26, 27
* SEPTEMBER TERM, 2021**

ORDER

The Court of Appeals of Maryland, pursuant to the provisions of Article III, § 5 of the Constitution of Maryland and vested with original jurisdiction to review the legislative districting plan upon petition of any registered voter, has received timely-filed petitions on or before February 10, 2022, challenging the validity of the 2022 legislative districting plan enacted by the General Assembly of Maryland as Senate Joint Resolution 2.

Now, therefore, it is this 11th day of February, 2022, ORDERED, by the Court of Appeals of Maryland, that

- (1) Miscellaneous Numbers 21, 24, 25, 26, and 27 are consolidated for purposes of oral argument to be scheduled by future Order(s) of this Court;
- (2) Pursuant to this Court's February 3, 2022 Amended Order, these consolidated petitions are hereby referred to Special Magistrate Alan M. Wilner;
- (3) Subject to the Special Magistrate's February 7, 2022 Scheduling Conference Order, the Special Magistrate shall conduct a virtual scheduling conference to schedule future proceedings;
- (4) The following deadlines are amended for the 2022 Primary for the Gubernatorial Elections, scheduled for June 28, 2022:
 - (a) The deadline of Tuesday, February 22, 2022, established pursuant to Maryland Code, (1957, 2017 Repl. Vol., 2021 Supp.), Election Law ("EL") § 5-303, for filing of certificates of candidacy, is extended to Tuesday, March 22, 2022 at 9:00 p.m.;

(b) The deadline of Friday, March 4, 2022, established pursuant to EL § 5-502(a), for candidates to withdraw a certificate of candidacy, is extended to Thursday, March 24, 2022;

(c) The deadline of Tuesday, March 8, 2022, established pursuant to EL § 5-901, to fill a vacancy in candidacy for a primary election, is extended to Monday, March 28, 2022;

(d) The deadline of Wednesday, March 9, 2022, established pursuant to EL § 5-305, to challenge a candidate's residency, is extended to Tuesday, March 29, 2022;

(e) Upon review of the Attorney General of Maryland's Motion, filed Friday, January 28, 2022, and related submissions, and pursuant to EL § 9-207, the Maryland State Board of Elections is authorized to adjust any deadlines related to certifying, displaying, and printing ballots.

/s/ Joseph M. Getty
Joseph M. Getty
Chief Judge
Court of Appeals of Maryland

Filed: February 11, 2022

/s/ Suzanne C. Johnson
Suzanne C. Johnson
Clerk
Court of Appeals of Maryland

Pursuant to Maryland Uniform Electronic Legal
Materials Act
(§§ 10-1601 et seq. of the State Government Article) this document is authentic.



2022-02-11
16:07-05:00

Suzanne C. Johnson, Clerk

*Judge Gould did not participate in the Court's deliberations concerning this Order.

EXHIBIT 2

PRINCE GEORGE'S COUNTY

* IN THE

* COURT OF APPEALS

* OF MARYLAND

v.

* Petition Docket No. 405
September Term, 2021

*

(No. 1865, Sept. Term, 2021
Court of Special Appeals)

*

* (No. CAL22-01728, Circuit Court
for Prince George's County)

ROBERT E. THURSTON, et al.

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals, the answer filed thereto, the Emergency Motion for Expedited Consideration and Relief of the Petition for a Writ of Certiorari, and the response to the motion, in the above-captioned case, it is this 11th day of February, 2022

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, **GRANTED**, and a writ of certiorari to the Court of Special Appeals shall issue; and it is further

ORDERED, that said case shall be transferred to the regular docket as No. 63, September Term, 2021 (COA-REG-0063-2021); and it is further

ORDERED, that the Emergency Motion for Expedited Consideration and Relief of the Petition for a Writ of Certiorari be, and it is hereby, **GRANTED IN PART** and **DENIED IN PART**; and it is further

ORDERED, that counsel shall e-file briefs and printed record extract in accordance with Md. Rules 8-501, 8-502, 20-403, 20-404 and 20-406, Appellant's brief and record extract to be filed on or before February 18, 2022; Appellees' brief(s) to be filed on or before February 25, 2022; Appellant's reply brief, if any, to be filed on or before March 1, 2022; and it is further

ORDERED, that the parties shall include, in the record extract or in appendices to their briefs, the relevant legislative history concerning §§ 305 and 317 of the Prince George's County Charter; and it is further

ORDERED, that this case shall be set for argument on Friday, March 4, 2022; and it is further

ORDERED, that Appellant's request for a stay of the order of the Circuit Court for Prince George's County be, and it is hereby, DENIED; and it is further

ORDERED, that the Appellees' request for a summary affirmance of the order of the Circuit Court for Prince George's County be, and it is hereby, DENIED.

/s/ Joseph M. Getty
Chief Judge

*Judge Gould did not participate in the Court's deliberations concerning this Order.

PRINCE GEORGE'S COUNTY

* **IN THE**
* **COURT OF APPEALS**
* **OF MARYLAND**

v.

* **Petition Docket No. 405**
* **September Term, 2021**
* **(No. 1865, Sept. Term, 2021**
* **Court of Special Appeals)**
* **(No. CAL22-01728, Circuit Court**
for Prince George's County)

ROBERT E. THURSTON, et al.

WRIT OF CERTIORARI

STATE OF MARYLAND, to wit:

TO THE HONORABLE JUDGES OF THE
COURT OF SPECIAL APPEALS OF MARYLAND:

WHEREAS, PRINCE GEORGE'S COUNTY v. ROBERT E. THURSTON, et al, No. 1865, September Term, 2021 is pending before your Court and the Court of Appeals is willing that the record and proceedings therein be certified to it.

YOU ARE HEREBY COMMANDED TO HAVE THE RECORD TRANSMITTED TO THE COURT OF APPEALS OF MARYLAND ON OR BEFORE February 25, 2022, together with this writ, for the said Court to proceed thereon as justice may require.

WITNESS the Chief Judge of the Court of Appeals of Maryland this 11th day of February, 2022.

/s/ Suzanne C. Johnson
Clerk
Court of Appeals of Maryland