

JOHN DOE, <i>et al.</i> ,	*	IN THE
<i>Plaintiffs,</i>	*	CIRCUIT COURT
v.	*	FOR ANNE ARUNDEL COUNTY
MARYLAND STATE BOARD OF ELECTIONS, <i>et al.</i> ,	*	Case No. 02-C-11-163050
<i>Defendants.</i>	*	
	*	
* * * * *		

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
MDPETITIONS.COM'S MOTION TO INTERVENE**

MDPetitions.com, by counsel, respectfully submits this memorandum of points and authorities in support of its motion to intervene in this matter, and states as follows:

**I. Introduction.**

In this action, Plaintiffs challenge the placement of the Maryland DREAM Act on the ballot in the November 2012 general election. The statute, which was enacted by the Maryland General Assembly during its 2011 session and signed by Governor Martin O'Malley on May 10, 2011, creates a new, taxpayer subsidized public benefit for certain eligible, unlawfully present aliens, namely the ability to pay the lowest, in-state rate of tuition at Maryland community colleges and public senior higher education institutions.

MDPetitions.com is the sponsor of the successful petition drive that placed the Maryland DREAM Act on the November 2012 ballot. In the seven week time period between May 10, 2011 and June 30, 2011, MDPetitions.com conceived of, organized, and led a state-wide campaign that collected 132,071 signatures in support of the petition and submitted the signatures to the Secretary of State. Of these 132,071 signatures, a total of 108,923 signatures

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were validated, verified, and accepted as being the signatures of registered Maryland voters. This total is nearly twice the amount required by law to put the new public benefit for eligible unlawfully present aliens to referendum. In terms of sheer numbers, it is perhaps the most successful petition drive in Maryland's history. On July 22, 2011, the State Administrator of Elections certified the Maryland DREAM Act for placement on the November 2012 ballot.

As the sponsor of this overwhelmingly successful petition, MDPetitions.com obviously has a compelling interest in ensuring that voters across the State of Maryland have the opportunity to vote on the Maryland DREAM Act in the November 2012 election. In addition, MDPetitions.com represents not only its leaders and organizers and the hundreds of volunteers who worked to make the successful petition possible, but also the 108,923 confirmed registered voters who signed the petition in the exercise of their rights under Article XVI, Section 2 of the Maryland Constitution. Equally important is that, as the creator of a web-based computer program that as many as 28,860 confirmed registered voters used to generate, print, sign, and mail in clear and accurate petition pages, MDPetitions.com has a unique interest in preserving the availability of this very helpful and effective tool for use by registered voters in future petition drives. MDPetitions.com seeks intervention as of right and permissive intervention to protect these clear and direct interests against the unfounded allegations of the Amended Complaint. MDPetitions.com's proposed Answer to the Amended Complaint is attached hereto as Exhibit 1.

## **II. Argument.**

### **A. MDPetitions.com Is Entitled to Intervene As of Right.**

MDPetitions.com has the right to intervene directly in this matter pursuant to Md. Rule 2-214(a)(2). A party moving for intervention as of right must establish the following: (1) that the

applicant has an interest in the subject matter of the action; (2) that disposition of the action would at least potentially impair the applicant's ability to protect its interest; and (3) that the applicant's interest be inadequately represented by the existing parties. *Chapman v. Kamara*, 356 Md. 426, 739 A.2d 387 (1999); *see also* Md. Rule 2-214(a)(2).

**1. MDPetitions.com Has Multiple, Demonstrable Interests in the Subject Matter of this Action.**

MDPetitions.com has at least three, clear, obvious, and demonstrable interests in the subject matter of this action. First, Plaintiffs seek to nullify and overturn the results of the tremendously successful petition drive conceived of, organized, and led by MDPetitions.com to place the Maryland DREAM Act on the November 2012 ballot. The Amended Complaint repeatedly recognizes MDPetition.com as the petition's sponsor. Amended Complaint at ¶¶ 10, 45, and 51. It confirms MDPetitions.com's key role in collecting "signatures for a petition to refer repeal of the Maryland DREAM Act to the 2012 General Election ballot." *Id.* at ¶ 33. It also recognized that MDPetitions.com submitted tens of thousands of signatures to the Secretary of State seeking to refer the Maryland DREAM Act to referendum on May 31, 2011 (*id.* at ¶ 34) and tens of thousands more on June 30, 2011. *Id.* at ¶ 35. It then alleges that MDPetitions.com's petition should be nullified and overturned for reasons that include: (i) whether the Maryland DREAM Act is subject to referendum (*id.* at ¶¶ 38-43); (ii) voters' use of MDPetition.com's web-based computer program to generate, print, sign, and mail in petitions (*id.* at ¶¶ 45-57); and (iii) other alleged defects in the petition. *Id.* at ¶¶ 58-82. Thus, one obvious interest of MDPetitions.com is in preserving and protecting its substantial efforts as the sponsor of the petition and as the entity that conceived of, organized, and lead the petition to a highly successful outcome.

Second, as the sponsor of the petition, MDPetitions.com represents not only its leaders and organizers and the hundreds of volunteers who worked to make the petition a tremendous success, but also the 108,923 confirmed registered voters who signed the petition. By participating in the petition process, either by leading and organizing the petition drive, volunteering for the drive, or signing the petition, each and every one of these persons exercised their right under Article XVI, Section 2 of the Maryland Constitution. As the sponsor of the petition, MDPetitions.com's interest in this action includes the compelling interest of protecting the constitutional rights of all of the persons who participated in the petition to place the Maryland DREAM Act on the November 2012 ballot.

Third, MDPetitions.com also is the creator of a web-based computer program that Plaintiffs allege as many as 28,860 registered voters used to generate, print, sign, and mail in accurate petitions. Amended Complaint at ¶¶ 56 and 57. One of the main benefits of this program is that it helps registered voters to sign petitions in the same manner in which their names appear on the statewide voter registration list (*e.g.*, John H. Smith for John Henry Smith, but not John Smith for John Henry Smith), thus avoiding a common reason for rejecting a signature. *See Montgomery County Volunteer Fire-Rescue Assoc. v. Montgomery County Bd. of Elections*, 418 Md. 463, 475-76 (2011). Plaintiffs challenge registered voters' use of the program, claiming that it constitutes an allegedly unlawful "pre-filled petition form." Amended Complaint at ¶¶ 45-57. As the creator of this very helpful and highly effective computer program that helps registered voters to complete petitions clearly and properly, MDPetitions.com has a unique interest in preserving the program's availability for use by registered voters in future petition drives.

In sum, MDPetitions.com has multiple, important interests in this action, including the compelling interest of protecting the constitutional rights of the leaders, organizers, volunteers, and 108,923 confirmed registered voters it represents as sponsor of the petition.

**2. The Disposition of the Action Will Undoubtedly Impair the Ability of MDPetitions.com to Protect Its Interests.**

The disposition of this action will undoubtedly impair the ability of MDPetitions.com to protect its interests. As the sponsor of the petition, representative of the leaders, organizers, and volunteers who made the successful petition possible and the 108,923 confirmed registered voters who signed the petition, as well as the creator of the web-based computer program used by as many as 28,860 confirmed registered voters, MDPetitions.com's interests would be affected directly and significantly if this Court were to grant the relief requested by Plaintiffs. Indeed, a ruling in Plaintiffs' favor overturning the petition will negate all of MDPetitions.com's substantial efforts as well as the constitutional rights of the 108,923 confirmed registered voters who participated in the petition process. A ruling that registered voters' use of MDPetitions.com's web-based computer program was unlawful not only would negate MDPetitions.com's substantial efforts with respect to the petition drive being challenged in this action, but it also would undermine MDPetitions.com's interest in preserving the program's availability for use by registered voters in future petition drives. Moreover, the deadline to submit a petition to refer the Maryland DREAM Act to referendum has long since expired, so no opportunity would exist to submit a new petition. An adverse disposition in this case will plainly impair MDPetitions.com's ability to protect its multiple interests.

**3. MDPetitions.com's Interests Are Not Likely to be Represented Adequately by the Existing Parties.**

The burden of showing that existing representation may be inadequate is minimal for purposes of intervention. *Stewart v. Tuli*, 82 Md. App. 726, 573 A.2d 109 (Ct. Sp. App. 1990). It is not necessary that there be a positive showing of inadequacy of representation to intervene; it is sufficient that representation *may* be inadequate. *Id.* (emphasis added). The Court of Appeals has explained:

A serious possibility that the applicant's interest may not be adequately represented is sufficient to satisfy the rule. It has been said that the most important factor in determining adequacy of representation is how the interest of the absentee compares with the interests of the present parties. Where the applicant's interest is similar to, but not identical with, that of an existing party, he ordinarily should be allowed to intervene unless it is clear that the (existing) party will provide adequate representation for the absentee.

*Citizens Coordinating Comm. on Friendship Heights, Inc. v. TKU Associates*, 276 Md. 705, 713, 351 A.2d 133, 139 (Md. 1976) (intervention should have been granted because interest in appealing an adverse decision was potentially greater for applicant interveners) (internal citations omitted).

MDPetitions.com's interests may not be adequately represented by the existing parties. Obviously, Plaintiffs will not represent MDPetition.com's interest. They seek to nullify everything MDPetitions.com has accomplished as well as the rights of the 108,923 confirmed registered voters who signed the petition. They also apparently seek to block the use of web-based computer programs that assist registered voters to complete petitions accurately. Defendants, on the other hand, will likely emphasize and focus on the processes and procedures utilized by the State Board of Elections in validating and verifying signatures and otherwise certifying that the Maryland DREAM Act will be placed on the November 2012 ballot. Defendants' efforts are thus likely to be centered on the institutional interests of the State Board

of Elections, the State Administrator of Elections, and the Secretary of State, not the interests of MDPetition.com as the sponsor of the petition and the representative of the leaders, organizers, volunteers, and confirmed registered voters who signed the petition. Nor is it likely that Defendants will defend MDPetitions.com's unique interest in preserving its web-based computer program for use by registered voters in future petition drives. In addition, by virtue of counsel's discretion to select and emphasize certain legal arguments and exclude others, Defendant may decide not to press important interests raised by MDPetitions.com, such as defending the integrity of the signature-gathering process as opposed to the verifying and validating process. Likewise, counsel for Defendants would not be required to appeal an adverse ruling on the merits. Because it is more than likely that Defendants will not adequately represent the interest of MDPetitions.com, as opposed to Defendants' procedural and institutional interest, MDPetitions.com should be allowed to intervene in this action as a matter of right to protect its own unique interest as well as the constitutional rights of the 108,923 confirmed registered voters who signed the petition.

**B. The Court Should Allow Permissive Intervention in the Unlikely Event Intervention As of Right is Not Allowed.**

Any person may be permitted to intervene in an action when the person's claim or defense has a question of law or fact in common with the action. Md. Rule 2-214(b)(1). Permissive intervention "lies within the sound discretion of the circuit court, and on appeal may be reviewed only for an abuse of that discretion." *Jabine v. Priola*, 45 Md. App. 218, 224-25, 412 A.2d 1277, 1281 (1980). Permissive intervention "is warranted when a person's claim or defense has a question of law or fact in common with the action." *Simpson v. Consolidated Const. Services, Inc.*, 143 Md. App. 606, 636, 795 A.2d 743, 771 (Md. App. 2002) (citations and internal quotations omitted). Given the obvious substantial role of MDPetitions.com in the

petition -- indeed, the Maryland DREAM Act would not be on the November 2012 ballot were it not for MDPetition.com's efforts -- the defense of MDPetitions.com to the relief sought by Plaintiffs has questions of law and fact in common with the instant action.

As set forth above, the issues of law and fact in this action relate solely to the petition submitted by MDPetitions.com. MDPetition.com's defense has more than a mere question of law or fact in common with the action; the questions of fact and law that will be raised by MDPetition.com have a substantial, if not a complete overlap with the claims and anticipated defenses of the current parties. On behalf of itself and the 108,932 confirmed registered voters who signed the petitions, MDPetitions.com should be permitted the opportunity to defend against Plaintiffs' claims, many of which challenge directly the integrity and propriety of MDPetitions.com's actions. Accordingly, MDPetitions.com respectfully requests intervention pursuant to Md. Rule 2-214(b)(2).

**C. MDPetitions.com's Motion Is Timely and Will Not Prejudice the Current Parties.**

Plaintiffs initiated this action on August 1, 2011 and filed an Amended Complaint on September 6, 2011. MDPetitions.com is filing its motion to intervene on the same day that Defendants are due to answer or otherwise respond to the lawsuit. Thus, MDPetitions.com's motion is timely, and allowing MDPetitions.com to intervene will not unduly delay or prejudice the adjudication of the rights of the original parties in any way.

**III. Conclusion.**

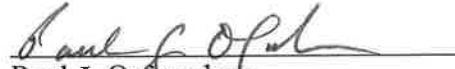
For the foregoing reasons, MDPetitions.com respectfully requests intervention, both as a matter of right and permissively, in this action, and to be declared a defendant therein.



Dated: September 21, 2011

Respectfully submitted,

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**EXHIBIT 1**

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<i>Plaintiffs,</i>	*	CIRCUIT COURT
v.	*	FOR ANNE ARUNDEL COUNTY
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<i>Defendants,</i>	*	
and	*	
MDPETITIONS.COM,	*	
Intervener.	*	

\* \* \* \* \*

**ANSWER OF INTERVENER MDPETITIONS.COM TO PLAINTIFFS’  
AMENDED COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

Intervener MDpetitions.com, by counsel and pursuant to Rules 2-303 and 2-323 of the Maryland Rules of Civil Procedure, hereby answers Plaintiffs’ Amended Complaint for Declaratory and Injunctive Relief as follows:

**I.**

**NATURE OF THE ACTION**

1. Plaintiffs’ allegations in paragraph 1 are introductory in nature and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that the Amended Complaint purports to be an action for judicial review of a determination made by the Maryland State Board of Elections (“State Board”) regarding the Maryland DREAM Act. Intervener denies Plaintiffs’ remaining allegations in paragraph 1.

2. Plaintiffs' allegations in paragraph 2 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the Maryland DREAM Act is not subject to referral to referendum pursuant to Article XVI, § 2 of the Maryland Constitution, denies that the petition submitted by the petition sponsors contained only 41,597 valid signatures, and denies that at least 67,326 of the signatures submitted to and validated by the Maryland State Board of Elections ("State Board") are invalid. Intervener also denies Plaintiffs' remaining allegations in paragraph 2.

3. Plaintiffs' allegations in paragraph 3 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the State Board's determination and certification regarding the referral of the Maryland DREAM Act to referendum are not supported by substantial evidence or are premised on erroneous conclusions of law.

4. Intervener denies Plaintiffs' allegations in paragraph 4. Intervener avers that on May 31, 2011, it submitted at least 57,505 signed petitions to the Secretary of State, of which 47,288 were verified and accepted and 10,217 were rejected. Intervener also avers that the 47,288 verified and accepted signatures exceeded by 28,709 the 18,579 signatures required to place the Maryland DREAM Act on the November 2012 ballot.

5. Plaintiffs' allegations in paragraph 5 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that Plaintiffs are entitled to any of the relief referenced in paragraph 5.

## **II.**

### **BACKGROUND**

6. Intervener admits Plaintiffs' allegations in paragraph 6.

7. Plaintiffs' allegations in paragraph 7 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the eligibility requirements of the Maryland DREAM Act.

8. Intervener admits Plaintiffs' allegations in paragraph 8.

9. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 9 and therefore denies the allegations.

10. Intervener admits Plaintiffs' allegations in paragraph 10.

## **III.**

### **JURISDICTION AND VENUE**

11. Intervener admits that Md. Code Ann., Cts. & Jud. Proc. §§ 1-501 and 3-406 and Md. Code Ann., Elec. Law § 6-209(a) and (b) provide general grants of jurisdiction. Intervener denies that this Court has jurisdiction over Plaintiffs' claims in this particular matter.

12. Intervener admits Plaintiffs' allegations in paragraph 12.

13. Intervener admits Plaintiffs' allegations in paragraph 13.

## **IV.**

### **PARTIES**

14. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 14 and therefore denies the allegations. In addition, Intervener also denies that Plaintiffs John Doe and Jane Doe are entitled to bring suit

under fictitious names as Rule 2-201 of the Maryland Rules of Civil Procedure requires that “[e]very action shall be prosecuted in the name of the real party in interest.”

15. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs’ allegations in paragraph 15 and therefore denies the allegations. Intervener also denies that the facts alleged in paragraph 15 are sufficient to satisfy the eligibility requirements of the Maryland DREAM Act. Intervener further denies that the allegations contained in paragraph 15 are sufficient to demonstrate that Plaintiff John Doe has been “aggrieved” for purposes of judicial review under Md. Code Ann., Elec. Law § 6-209(a). Intervener further denies that the allegations contained in paragraph 15 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff John Doe and Defendants or that Plaintiff John Doe is an “interested party” asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act.

16. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs’ allegations in paragraph 16 and therefore denies the allegations. Intervener also denies that the facts alleged in paragraph 16 are sufficient to satisfy the eligibility requirements of the Maryland DREAM Act. Intervener further denies that the allegations contained in paragraph 16 are sufficient to demonstrate that Plaintiff John Doe has been “aggrieved” for purposes of judicial review under Md. Code Ann., Elec. Law § 6-209(a). Intervener further denies that the allegations contained in paragraph 16 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff John Doe and Defendants or that Plaintiff John Doe is an “interested party” asserting an adverse claim against

Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act.

17. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 17 and therefore denies the allegations. Intervener also denies that the facts alleged in paragraph 17 are sufficient to satisfy the eligibility requirements of the Maryland DREAM Act. Intervener further denies that the allegations contained in paragraph 17 are sufficient to demonstrate that Plaintiff Jane Doe has been "aggrieved" for purposes of judicial review under Md. Code Ann., Elec. Law § 6-209(a). Intervener further denies that the allegations contained in paragraph 17 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Jane Doe and Defendants or that Plaintiff Jane Doe is an "interested party" asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act.

18. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 18 and therefore denies the allegations. Intervener also denies that the facts alleged in paragraph 18 are sufficient to satisfy the eligibility requirements of the Maryland DREAM Act. Intervener further denies that the allegations contained in paragraph 18 are sufficient to demonstrate that Plaintiff Jane Doe has been "aggrieved" for purposes of judicial review under Md. Code Ann., Elec. Law § 6-209(a). Intervener further denies that the allegations contained in paragraph 18 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Jane Doe and Defendants or that Plaintiff Jane Doe is an "interested party" asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act.

19. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 19 and therefore denies the allegations. Intervener also denies that the allegations contained in paragraph 19 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Jesus Alberto Martinez and Defendants or that Plaintiff Jesus Alberto Martinez is an "interested party" asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act and Md. Code Ann. Elec. Law § 6-209(b).

20. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 20 and therefore denies the allegations. Intervener also denies that the allegations contained in paragraph 20 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Abby Hendrix and Defendants or that Plaintiff Abby Hendrix is an "interested party" asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act and Md. Code Ann. Elec. Law § 6-209(b).

21. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 21 and therefore denies the allegations. Intervener also denies that the allegations contained in paragraph 21 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Katherine Ross-Keller and Defendants or that Plaintiff Katherine Ross-Keller is an "interested party" asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act and Md. Code Ann. Elec. Law § 6-209(b).

22. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 22 and therefore denies the allegations.



Intervener also denies that the allegations contained in paragraph 22 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Kim Samele and Defendants or that Plaintiff Kim Samele is an “interested party” asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act and Md. Code Ann. Elec. Law § 6-209(b).

23. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs’ allegations in paragraph 23 and therefore denies the allegations.

Intervener also denies that the allegations contained in paragraph 23 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Camden Douglas Lee and Defendants or that Plaintiff Camden Douglas Lee is an “interested party” asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act and Md. Code Ann. Elec. Law § 6-209(b).

24. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs’ allegations in paragraph 24 and therefore denies the allegations.

Intervener also denies that the allegations contained in paragraph 24 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Catherine Brennan and Defendants or that Plaintiff Catherine Brennan is an “interested party” asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act and Md. Code Ann. Elec. Law § 6-209(b).

25. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs’ allegations in paragraph 25 and therefore denies the allegations.

Intervener also denies that the allegations contained in paragraph 25 are sufficient to demonstrate that Plaintiff Casa de Maryland has been “aggrieved” for purposes of judicial review under Md.

Code Ann., Elec. Law § 6-209(a). Intervener further denies that the allegations contained in paragraph 25 are sufficient to demonstrate the existence of a justiciable controversy between Plaintiff Casa de Maryland and Defendants or that Plaintiff Casa de Maryland is an “interested party” asserting an adverse claim against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act.

26. Intervener admits that Defendant John McDonough is the Secretary of State of the State of Maryland. The remainder of Plaintiffs’ allegations in paragraph 26 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the duties, responsibility, and authority of the Secretary of State.

27. Intervener admits that Defendant State Board of Election is the agency mandated by Maryland law to administer the state’s election laws. The remainder of Plaintiffs’ allegations in paragraph 27 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the duties, responsibility, and authority of the Secretary of State.

28. Intervener admits Plaintiffs’ allegations in paragraph 28.

## V.

### **FACTS GIVING RISE TO CAUSE OF ACTION**

29. Intervener admits Plaintiffs’ allegations in paragraph 29.

30. Plaintiffs’ allegations in paragraph 30 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that the relevant number is three percent. Intervener denies the remaining allegations of paragraph 30.

31. Plaintiffs' allegations in paragraph 31 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that the relevant number is 55,736. Intervener denies the remaining allegations of paragraph 31.

32. Plaintiffs' allegations in paragraph 32 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that the relevant number is 18,579. Intervener denies the remaining allegations of paragraph 32.

33. Intervener admits Plaintiffs' allegations in paragraph 33.

34. Intervener admits that, on or about May 31, 2011, Intervener submitted to the Secretary of State a total of 57,505 signatures on a petition to refer the Maryland DREAM Act to referendum. Intervener also admits that, out of these 57,505 signatures, local state boards of election verified and accepted 47,288 signatures and rejected 10,217 signatures. Intervener denies that local state boards of election "certified" any signatures. Intervener further admits that, on or about June 22, 2011, the State Board determined that the number of accepted signatures met and exceeded the minimum initial one-third requirement of the Maryland Constitution for placing the Maryland DREAM Act on the November 2010 ballot in Maryland, thereby extending the date for the filing of at least 8,448 additional signatures until June 30, 2011. Intervener denies the remainder of Plaintiffs' allegations in paragraph 34 and, in particular, denies that the State Board had any obligation to conduct an independent review of the signatures verified and accepted by the local state boards of election.

35. Intervener admits that, on or about June 30, 2011, Intervener submitted 74,566 additional signatures to the Secretary of State. Intervener also admits that, out of these 74,566 signatures, local state boards of election verified and accepted 61,635 signatures and rejected 12,931 signatures. Intervener denies that local state boards of election "certified" any signatures.

Intervener also denies the remainder of Plaintiffs' allegations in paragraph 35 and, in particular, denies that the State Board had any obligation to conduct an independent review of the signatures verified and accepted by the local state boards of election.

36. Intervener admits Plaintiffs' allegations in paragraph 36.

37. Intervener admits Plaintiffs' allegations in paragraph 37.

38. Plaintiffs' allegations in paragraph 38 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the Maryland DREAM Act is a law making appropriations within the meaning of Article XVI, § 2 of the Maryland Constitution and is not subject to referral to referendum.

39. Plaintiffs' allegations in paragraph 39 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the text of Article XVI, § 2 of the Maryland Constitution.

40. Plaintiffs' allegations in paragraph 40 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the Maryland DREAM Act authorizes the withdrawal of any sum of money from the State treasury, much less directly, inherently, or necessarily has the primary object of authorizing the withdrawal of a certain sum of money for a specified public objective or purpose to which such sum is to be applied. Intervener admits that the Fiscal and Policy Note for Senate Bill 167 contains estimates on the effect of the Maryland DREAM Act on enrollment and state expenditures. Intervener denies that the allegations fully and accurately set forth the contents of the Fiscal and Policy Note. Intervener also denies Plaintiffs' remaining allegations in paragraph 40.

41. Plaintiffs' allegations in paragraph 41 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 41.

42. Plaintiffs' allegations in paragraph 42 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 42.

43. Plaintiffs' allegations in paragraph 43 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 43.

44. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 44 and therefore denies the allegations. Intervener also denies that it submitted fewer than the required number of valid signatures of registered voters to refer the Maryland DREAM Act to referendum.

45. Intervener admits that it is the sponsor of the petition to refer the Maryland DREAM Act to referendum and that it maintains a website located at <https://mdpetitions.com/>. Intervener denies that Plaintiffs' remaining allegations in paragraph 45 fully and accurately describe Intervener's website or the web-based computer program available on the website to any registered voter who wished to participate in the petition. Intervener therefore denies the remaining allegations of paragraph 45. Intervener avers that a registered voter who wished to sign the petition could log on to Intervener's website, click on the "Sign the Petition" button, and enter certain unique, identifying information to generate his or her own petition, in a format pre-approved by the State Board of Elections, that included the voter's name, residence, address, city, zip code, and date of birth as reflected in the State Board's statewide list of registered

voters. Intervener also avers that the petition generated by the registered voter also included the full text of the Maryland DREAM Act in a format pre-approved by the State Board of Elections.

46. Intervener denies that Plaintiffs' allegations in paragraph 46 fully and accurately describe the instructions that Interveners' web-based computer program provided to registered voters about how to download, print, complete, and mail in their self-generated petitions and therefore denies the allegations of paragraph 46. Intervener avers that its web-based computer program included instructions to registered voters about how to properly download, print, complete, and mail in their self-generated petitions, including instructions on how to complete the Circulator's Affidavit and how to complete the petition when more than one registered voter residing at the same address wished to sign the petition.

47. Intervener denies that Plaintiffs' allegations in paragraph 47 fully and accurately describe Interveners' web-based computer program and therefore denies the allegations of paragraph 47. Intervener avers that a registered voter who wished to sign the petition could log on to Intervener's website, click on the "Sign the Petition" button, and enter certain unique, identifying information to generate his or her own petition, in a format pre-approved by the State Board of Elections, that included the voter's name, residence, address, city, zip code, and date of birth as reflected in the State Board's statewide list of registered voters. Intervener also avers that the petition generated by the registered voter also included the full text of the Maryland DREAM Act in a format pre-approved by the State Board of Elections. Intervener further avers that its web-based computer program included instructions to registered voters about how to properly download, print, complete, and mail in their self-generated petitions, including instructions on how to complete the Circulator's Affidavit and how to complete the petition when more than one registered voter residing at the same address wished to sign the petition.

48. Intervener denies that Plaintiffs' allegations in paragraph 48 fully and accurately describe Interveners' web-based computer program and therefore denies the allegations of paragraph 48. Intervener avers that its web-based computer program included instructions to registered voters about how to properly download, print, complete, and mail in their self-generated petitions, including instructions on how to complete the Circulator's Affidavit and how to complete the petition when more than one registered voter residing at the same address wished to sign the petition.

49. Plaintiffs' allegations in paragraph 49 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the text of Md. Code Ann., Elec. Law § 6-203(a).

50. Plaintiffs' allegations in paragraph 50 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the requirements of COMAR § 33.06.03.06(B).

51. Plaintiffs' allegations in paragraph 51 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 51.

52. Intervener denies Plaintiffs' allegations in paragraph 52.

53. Plaintiffs' allegations in paragraph 53 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the current versions of the State Board's "Frequently Asked Questions" posted on the State Board's website or that the State Board's "Frequently Asked Questions" have the force of law.

54. Plaintiffs' allegations in paragraph 54 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 54.

55. Plaintiffs' allegations in paragraph 55 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 55.

56. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 56 about any signatures Plaintiffs claim to have reviewed and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 56.

57. Plaintiffs' allegations in paragraph 57 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 57 about any signatures Plaintiffs claim to have reviewed and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 57.

58. Plaintiffs' allegations in paragraph 58 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the text of Article XVI, § 4 of the Maryland Constitution.

59. Plaintiffs' allegations in paragraph 59 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the requirements of Md. Code Ann., Elec. Law §§ 6-201(c) and 6-101(h).



60. Plaintiffs' allegations in paragraph 60 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the requirements of the Maryland Constitution or the Election Law Article.

61. Intervener denies that Plaintiffs' allegations in paragraph 61 fully or accurately describe Interveners' efforts to obtain approval of the sufficiency of the text of the Maryland DREAM Act and therefore denies the allegations of paragraph 61. Intervener avers that it submitted a proposed full text of the Maryland DREAM Act to the State Board of Elections for approval and that the State Board of Elections approved Intervener's proposed texts on April 21, 2011, after consultation with the Attorney General.

62. Intervener denies that Plaintiffs' allegations in paragraph 62 fully or accurately describe Interveners' efforts to obtain approval of the sufficiency of the text of the Maryland DREAM Act and therefore denies the allegations of paragraph 62. Intervener avers that it submitted a proposed full text of the Maryland DREAM Act to the State Board of Elections for approval and that the State Board of Elections approved Intervener's proposed text on April 21, 2011, after consultation with the Attorney General.

63. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 63 about any petitions Plaintiffs may claim to have reviewed and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 63.

64. Plaintiffs' allegations in paragraph 64 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in

paragraph 64 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 64.

65. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 65 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 65.

66. Plaintiffs' allegations in paragraph 66 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the requirements of Md. Code Ann., Elec. Law §§ 6-204(a) and 6-203(b)(4).

67. Plaintiffs' allegations in paragraph 67 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 67 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 67.

68. Plaintiffs' allegations in paragraph 68 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the requirements of Md. Code Ann., Elec. Law § 6-203(b)(5).

69. Plaintiffs' allegations in paragraph 69 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in

paragraph 69 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 69.

70. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 70 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener denies Plaintiffs' remaining allegations in paragraph 70.

71. Plaintiffs' allegations in paragraph 71 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 71 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 71.

72. Plaintiffs' allegations in paragraph 72 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the requirements of Md. Code Ann., Elec. Law § 6-203(a)(1).

73. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 73 and therefore denies the allegations.

74. Plaintiffs' allegations in paragraph 74 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 74 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 74.

75. Plaintiffs' allegations in paragraph 75 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 75 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 75.

76. Plaintiffs' allegations in paragraph 76 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 76 about any petitions Plaintiffs may claim to have reviewed and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 76.

77. Plaintiffs' allegations in paragraph 77 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 77 about any petitions Plaintiffs may claim to have reviewed and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 77.

78. Plaintiffs' allegations in paragraph 78 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 78 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 78.

79. Plaintiffs' allegations in paragraph 79 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that

the allegations fully and accurately set forth the requirements of Md. Code Ann., Elec. Law § 6-201(c)(7).

80. Plaintiffs' allegations in paragraph 80 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the requirements of COMAR § 33.06.03.06.

81. Plaintiffs' allegations in paragraph 81 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies that the allegations fully and accurately set forth the requirements of COMAR § 33.06.03.06. Intervener admits that a "Notice to Signer" appeared on the sample petition page for the Maryland DREAM Act that received an advance determination of sufficiency from the State Board.

82. Plaintiffs' allegations in paragraph 82 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 82 about any petitions Plaintiffs may claim to have reviewed and therefore denies the allegations. Intervener denies Plaintiffs' remaining allegations in paragraph 82.

## **V.**

### **CAUSES OF ACTION**

#### **COUNT I - JUDICIAL REVIEW - REFERABILITY**

83. Intervener hereby refers to and incorporates by reference its response to paragraphs 1-82, above.

84. Plaintiffs' allegations in paragraph 84 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 84.

85. Plaintiffs' allegations in paragraph 85 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 85.

86. Plaintiffs' allegations in paragraph 86 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 86.

#### **COUNT II - JUDICIAL REVIEW - JUNE 22, 2011 DETERMINATION**

87. Intervener hereby refers to and incorporates by reference its response to paragraphs 1-86, above.

88. Plaintiffs' allegations in paragraph 88 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 88 about any signatures Plaintiffs claim to have examined and therefore denies the allegations. Intervener also denies Plaintiffs' remaining allegations in paragraph 88.

89. Plaintiffs' allegations in paragraph 89 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that 47,288 signatures submitted on May 31, 2011 were verified and accepted. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 89 about any signatures Plaintiffs may claim to have examined and therefore denies Plaintiffs' remaining allegations in paragraph 89.

90. Plaintiffs' allegations in paragraph 90 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that, on June 22, 2011, the State Board determined that more than one-third of the required number of verified and accepted signatures had been submitted for purposes of referring the Maryland DREAM Act to referendum. Intervener denies Plaintiffs' remaining allegations in paragraph 90.

91. Plaintiffs' allegations in paragraph 91 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that, on June 22, 2011, the State Board determined that the number of verified and accepted signatures met and exceeded the minimum initial one-third requirement for placing the Maryland DREAM Act on the November 2012 general election ballot. Intervener denies Plaintiffs' remaining allegations in paragraph 91.

92. Plaintiffs' allegations in paragraph 92 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that, on June 22, 2011, the State Board determined that the number of verified and accepted signatures met and exceeded the minimum initial one-third requirement for placing the Maryland DREAM Act on the November 2012 general election ballot. Intervener denies Plaintiffs' remaining allegations in paragraph 92.

### **COUNT III - JUDICIAL REVIEW - JULY 22, 2011 DETERMINATION**

93. Intervener hereby refers to and incorporates by reference its response to paragraphs 1-92, above.

94. Plaintiffs' allegations in paragraph 94 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that a total of 108,923 signatures were verified and accepted. Intervener is without knowledge or

information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 94 about any signatures Plaintiffs may claim to have examined and therefore denies Plaintiffs' remaining allegations in paragraph 94.

95. Plaintiffs' allegations in paragraph 95 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that a total of 55,736 verified and accepted signatures were required to place the Maryland DREAM Act on the November 2012 general election ballot. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 95 about any signatures Plaintiffs may claim to have examined and therefore denies Plaintiffs' remaining allegations in paragraph 95.

96. Plaintiffs' allegations in paragraph 96 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that, on July 22, 2011, the State Board (i) determined that the number of verified and accepted signatures submitted by Intervener met and exceeded the amount required to place the Maryland DREAM Act on the November 2012 general election ballot; and (ii) certified that the petition process has been completed and that the MD DREAM Act has qualified to be placed on the November 2012 general election ballot. Intervener denies Plaintiffs' remaining allegations in paragraph 96.

97. Plaintiffs' allegations in paragraph 97 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener admits that, on July 22, 2011, the State Board (i) determined that the number of verified and accepted signatures submitted by Intervener met and exceeded the amount required to place the Maryland DREAM Act on the November 2012 general election ballot; and (ii) certified that the petition



process has been completed and that the MD DREAM Act has qualified to be placed on the November 2012 general election ballot. Intervener denies Plaintiffs' remaining allegations in paragraph 97.

#### **COUNT IV - DECLARATORY JUDGMENT**

98. Intervener hereby refers to and incorporates by reference its response to paragraphs 1-97, above.

99. Intervener admits that it is Plaintiffs' legal conclusion that the Maryland DREAM Act cannot, under the Maryland Constitution, be referred to referendum and that the petition submitted to the Secretary of State to refer it to referendum is legally deficient. Intervener denies that Plaintiffs' legal conclusion is correct. Intervener also denies that the Maryland DREAM Act cannot, under the Maryland Constitution, be referred to referendum. Intervener further denies that the petition submitted to the Secretary of State to refer the Maryland DREAM Act to referendum is deficient in any way. Intervener also denies Plaintiffs' remaining allegations in paragraph 99.

100. Intervener is without knowledge or information sufficient to form a belief as to the truth of Plaintiffs' allegations in paragraph 100. Intervener avers that the Maryland DREAM Act is referable to referendum under the Maryland Constitution and that the petition submitted to the Secretary of State to refer the Maryland DREAM Act to referendum is legally sufficient and meets all of the requirements of the Maryland Constitution for placing the Maryland DREAM Act on the November 2010 general election ballot in Maryland.

101. Plaintiffs' allegations in paragraph 101 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 101.

102. Plaintiffs' allegations in paragraph 102 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 102.

103. Plaintiffs' allegations in paragraph 103 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 103.

104. Plaintiffs' allegations in paragraph 104 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 104.

#### **COUNT V - INJUNCTION**

105. Intervener hereby refers to and incorporates by reference its response to paragraphs 1-104, above.

106. Plaintiffs' allegations in paragraph 106 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 106.

107. Plaintiffs' allegations in paragraph 107 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 107.

108. Plaintiffs' allegations in paragraph 108 are legal conclusions and do not require a response from Intervener. To the extent a response is deemed required, Intervener denies Plaintiffs' allegations in paragraph 108.

109. Intervener denies Plaintiffs' allegations in paragraph 109.

## VI

### PRAYER FOR RELIEF

1. Intervener denies that Plaintiffs are entitled to the order requested in paragraph A of the Prayer for Relief.

2. Intervener denies that Plaintiffs are entitled to the order requested in paragraph B of the Prayer for Relief.

3. Intervener denies that Plaintiffs are entitled to the judgment requested in paragraph C of the Prayer for Relief.

4. Intervener denies that Plaintiffs are entitled to the judgment requested in paragraph D of the Prayer for Relief.

5. Intervener denies that Plaintiffs are entitled to the injunction requested in paragraph E of the Prayer for Relief.

6. Intervener denies that Plaintiffs are entitled to the judgment requested in Paragraph F of the Prayer for Relief.

7. Intervener denies that Plaintiffs are entitled to any other relief requested in paragraph G of the Prayer for Relief.

### GENERAL DENIAL

Any and all allegations not heretofore expressly admitted are denied.

### AFFIRMATIVE DEFENSES

By pleading the following Affirmative Defenses, Intervener does not concede that each of the matters covered by the numbered defenses is to be proven by Intervener, and Intervener reserves its position that Plaintiffs retain the burden of proof on all matters necessary to establish the claims asserted in the Amended Complaint.

### **FIRST AFFIRMATIVE DEFENSE**

The Amended Complaint, in whole or in part, fails to state a claim either in law or in fact upon which relief can be granted.

### **SECOND AFFIRMATIVE DEFENSE**

Plaintiffs John Doe and Jane Doe are not entitled to bring suit under fictitious names, as Rule 2-201 of the Maryland Rules of Civil Procedure requires that “[e]very action shall be prosecuted in the name of the real party in interest.”

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiffs John Doe, Jane Doe, and Casa de Maryland have not been been “aggrieved” for purposes of judicial review under Md. Code Ann., Elec. Law § 6-209(a).

### **FOURTH AFFIRMATIVE DEFENSE**

No justiciable controversy exists between (i) Plaintiffs John Doe, Jane Doe, or Casa de Maryland and (ii) Defendants, and Plaintiffs John Doe, Jane Doe, and Casa de Maryland are not “interested parties” asserting adverse claims against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act.

### **FIFTH AFFIRMATIVE DEFENSE**

No justiciable controversy exists between (i) Plaintiffs Jesus Alberto Martinez, Abby Hendrix, Katherine Ross-Keller, Kim Samele, Camden Douglas Lee, or Catherine Brennan and (ii) Defendants, and Plaintiffs Jesus Alberto Martinez, Abby Hendrix, Katherine Ross-Keller, Kim Samele, Camden Douglas Lee, and Catherine Brennan are not “interested parties” asserting adverse claims against Defendants for purposes of a declaratory judgment under the Maryland Uniform Declaratory Judgment Act and Md. Code Ann., Elec. Law § 6-209(b).

### **SIXTH AFFIRMATIVE DEFENSE**

The Amended Complaint, in whole or in part, fails to sufficiently plead facts with respect to each and every Plaintiff requisite for standing. The Court therefore lacks subject matter jurisdiction over this action.

### **SEVENTH AFFIRMATIVE DEFENSE**

Based on the allegations contained in the Amended Complaint, each and every local state board of elections is an indispensable party. The Amended Complaint, in whole or in part, fails to join the local board of election as necessary parties pursuant to Rule 2-211 of the Maryland Rules of Civil Procedure, and therefore the requested relief should be denied.

### **EIGHTH AFFIRMATIVE DEFENSE**

The State Board of Elections and/or the various local boards of election rejected the signatures of registered voters that should have been included among the total number of signatures of registered voters accepted in the June 22, 2001 and July 22, 2011 determinations.

### **RESERVATION OF RIGHTS**

Intervener reserves the right to prepare and present additional affirmative defenses and to supplement or amend its Answer and Affirmative Defenses.

WHEREFORE, having fully answered Plaintiffs' Amended Complaint, Intervener respectfully requests that the Amended Complaint be dismissed, that Intervener be awarded its costs, and that the Court order such other relief as it deems just and proper.

Dated: September 21, 2011

Respectfully submitted,

JUDICIAL WATCH, INC.



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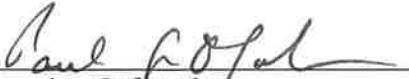
**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of September, 2011, I caused a true and correct copy of the foregoing MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MDPETITIONS.COM'S MOTION TO INTERVENE to be served, via first-class U.S. mail, postage prepaid, on the following:

Elizabeth F. Getman  
Joseph E. Sandler  
SANDLER, REIFF, YOUNG & LAMB, P.C.  
1025 Vermont Avenue, N.W., Suite 300  
Washington, DC 20005

Brett Marston  
Michael Harris  
Patricio Grané  
Laura Cofer Taylor  
Margarita R. Sánchez  
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Paul J. Orfanedes