

**IN THE COURT OF APPEALS OF MARYLAND**

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September Term, 2011

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No. 133

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DENNIS WHITLEY III, *et al.*,  
*Appellants,*

v.

MARYLAND STATE BOARD OF ELECTIONS, *et al.*,  
*Appellees.*

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**BRIEF OF APPELLEE-INTERVENER  
MDPETITIONS.COM**

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**ON WRIT OF CERTIORARI TO THE  
COURT OF SPECIAL APPEALS OF MARYLAND**

*Trial Court:*

Circuit Court of Anne Arundel County, Case No. 02-C-12-171365  
The Honorable Ronald A. Silkworth

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## **INTRODUCTION**

In this action, five alleged registered Maryland voters (“Appellants”) seek to prevent the people of Maryland from deciding for themselves whether to accept or reject a congressional redistricting scheme that has been described as a “barefaced manipulation that stands as an embarrassment to the state” and a blatant act of “impermissible political gerrymandering that ‘crossed the line.’” “Righting the tilted system of a gerrymandered map in Maryland,” *The Washington Post*, July 21, 2012; *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 905 (D. Md. 2011) (Titus, J., concurring). A total of 59,201 confirmed registered Maryland voters signed a petition calling for Senate Bill 1, Chapter 1 of the 2011 Special Session of the Maryland General Assembly, also known as the Congressional Districting Plan, to be subject to referendum in the November 2012 general election. On July 20, 2012, the State Board of Elections certified the measure for placement on the November 2012 ballot. Not content to let Maryland voters consider the Congressional Districting Plan for themselves, Appellants sued to stop the referendum.

## **QUESTIONS PRESENTED**

1. Whether Appellants properly pled and proved a claim under §§ 6-209(a) or 6-209(b) of the Election Law Article.
2. Whether the Maryland State Board of Elections properly certified petition signatures where the signer attested to his or her own signature in the circulator’s affidavit.

3. Whether the Maryland State Board of Elections properly certified petition signatures where the signer used an internet-based software program in signing the petition.

### **STATEMENT OF THE FACTS**

The Congressional Districting Plan was enacted by the Maryland General Assembly during a special session in 2011. Governor Martin O'Malley signed it into law on the same day it was enacted.

At least 55,735 valid signatures of registered Maryland voters are required to refer a law enacted by the General Assembly to referendum in the 2012 General Election. In 2011, Appellee-Intervener MDPetitions.com ("Intervener") had organized and sponsored a successful campaign to petition Senate Bill 167, Chapter 191 of the 2011 Laws of Maryland, to referendum. *See* Affidavit of Neil C. Parrott, Appendix to Brief of Appellants, at App. 21, ¶ 2. As part of this successful campaign, Intervener created an internet-based software program that registered Maryland voters could use in signing the petition. *Id.* More than 26,000 registered Maryland voters used Intervener's internet-based software program to sign the petition to refer Senate Bill 167 to referendum, and the State Board of Elections accepted these signatures. *Id.*

Intervener also subsequently organized and led a campaign to refer the Congressional Districting Plan to referendum. *Id.* at App. 22, ¶ 3. In early March 2012, Intervener asked the State Board of Elections for an advance determination of the sufficiency of Intervener's petition materials, and, on March 15, 2012, the State Board of Elections determined that, with a few minor revisions, Intervener's petition materials

were sufficient. *Id.* at App. 22, ¶ 5. Intervener made the revisions and resubmitted its petition materials to the State Board of Elections for a further determination. *Id.* at App. 23, ¶ 6. On March 26, 2012, the State Board of Elections issued a follow-up determination:

In accordance with Election Law Article, § 6-202 of the Maryland Code Annotated, I have reviewed the format of the submitted petition material, including the map and have determined that it is sufficient under the advanced determination provisions of Election Law Article, § 6-202.

*Id.* at App. 23, ¶ 7.

After receiving the advance determination, Intervener launched its petition campaign. *Id.* at App. 23, ¶ 8. As part of this campaign, Intervener again made its internet-based software program available to registered Maryland voters to use in signing the petition. *Id.* at App. 23, ¶ 9.

In order to use the software program, a registered Maryland voter who wished to sign the petition had to log on to Intervener’s internet website, [www.MDPetitions.com](http://www.MDPetitions.com), click on a box marked “redistricting petition” and follow a series of prompts or commands that led them through different screens. *Id.* at App. 23, ¶ 10.

The first screen showed a map of the State of Maryland and the new boundaries for the State’s congressional districts and asked the rhetorical question, “Does this make any sense to you?” *Id.* at App. 24, ¶ 12. Under this rhetorical question were two buttons stating “Sign the petition now” and “Get volunteer packet.” *Id.* at App. 24, ¶ 13. The screen then asked another rhetorical question, “Why should I care about redistricting?” followed by:

Career politicians would like to tell you that redistricting doesn't matter and that we should just accept the crazy congressional redistricting lines that they've drawn for us.

In fact, redistricting affects every household in the state. Maryland should have districts that represent communities and groups of people. As an example, a district should allow the City of Baltimore to be represented by a congressman devoted to their causes, Anne Arundel County to theirs, Prince George's County to their causes and so on.

Maryland's approved Congressional map purposefully spreads out minority votes so that they cannot compete with establishment politicians. African American and Hispanic Districts are split up to keep white-establishment liberals in control and to minimize minority voting power. Rural voters and Republicans are combined into one large area in District 1 and then separated and combined with densely-populated urban areas in other districts to snuff out their voting power.

The map needs to give fair representation to all, and we have the power to overturn this severely gerrymandered map through the referendum process. Let's demand true representation and overturn the current map by signing the petition today.

*Id.* at App. 24, ¶ 14.

By clicking on either the "Sign the petition now" button or the underlined statement "sign the petition today," the second screen would appear. *Id.* at App. 25, ¶ 15.

The second screen contained two distinct fields. *Id.* at App. 25, ¶ 16. The field on the left hand side of the screen stated, "Get Your Petition," and contained the following instructions:

**Maryland has strict rules regarding how the petition is filled out.**

This site will help insure that your petition is filled out properly in 5 easy steps.

Step 1 – Provide information requested on the petition, as indicated to the right.

Step 2 – Select members of your household who might also want to sign the petition.

Step 3 – Download the petition

Step 4 – Print the petition

Step 5 – Sign and date the petition.

*Id.* at App. 25, ¶ 17. The field on the right hand side of the screen displayed a series of boxes where the user could enter unique identifiers:

**Get Started – It’s Easy**

Fill out the information form with **your** information.

First Name

Last Name

Suffix (optional)

Email Address

Phone Number

Zip Code (5 digit)

Birth Date    Month (Dropdown)    Date (Dropdown)    Year (Dropdown)

*Id.* at App. 25, ¶ 18. Underneath “Birth Date” was a box that could be checked to receive updates about Intervener’s activities. *Id.* at App. 26, ¶ 19. Underneath the “Updates” box was a button that stated “Continue,” followed by this acknowledgement: “By clicking “Continue” you agree to the terms and conditions.” *Id.* at App. 26, ¶ 20.

Intervener’s internet-based program used the most current voter registration rolls made available by the Maryland State Board of Elections to identify whether a user was a

registered Maryland voter. *Id.* at App. 26, ¶ 21. If the user was not a registered Maryland voter, had entered his or her unique identifiers incorrectly, or if there was some other mismatch between the identifiers entered by the user and the voter rolls, the following screen appeared:

Oops, we couldn't find you

This could happen for a couple of reasons:

1. You are not registered to vote in Maryland. If this is the case, you could register to vote and then sign the petition after you get your voter card.
2. The zip code you provided doesn't match the zip code in the voter database.
3. The name entered does not match the name provided to the Board of Elections when you signed up. As an example, Debra may be required instead of Debbie.

If you feel that you've reached this message in error, please contact us (</redistricting/petitions/sb1/contact>).

*Id.* at App. 26, ¶ 22. Clicking on “register to vote” took the user to the State Board of Election’s webpage regarding voter registration information. *Id.* at App. 27, ¶ 23. The screen also contained a “Search Again” button that took the user back to screen one. *Id.* at App. 27, ¶ 24.

If the user was a registered Maryland voter, had entered his or her unique identifiers correctly, and these identifiers matched the voter rolls, screen three appeared. *Id.* at App. 27, ¶ 25. Screen three identified each registered Maryland voter at the same address and instructed the user to deselect the name of any registered Maryland voter at

the address not wishing to sign the petition by clicking on the box next to the voter's name:

### **Voters in Household**

You're almost done **NAME!**

We've selected everyone who's registered to vote at your address. Please unselect anyone who will not be signing the petition:

Box Name 1

Box Name 2

Box Name 3

*Id.* at App. 27, ¶ 26. Beneath the name was a "Continue" button. *Id.*

Clicking on the "Continue" button took the registered Maryland Voter to a fourth screen. *Id.* at App. 27, ¶ 27. Under a caption on the fourth screen stating "**Your Petition is Almost Ready**" was a "Download a Petition" button. *Id.* at App. 27, ¶ 28. Beneath this button were the following instructions:

#### **Instructions:**

**Step 1 – Download** the petition, you may need to save the file to your computer in order to open it

**Step 2 – Open** the File which includes the petition, a self-addressed envelope, and a copy of the bill

**Step 3 – Print** the petition. **The first two pages need to be printed on both sides of 1 page.**

- A) To do this without a duplex printer, print just page 1.
- B) Then insert the paper upside down in the manual feeder and print just page 2.

C) Select pages 3-7 and print as normal

**Step 4 – Sign and date** the petition by your name, have others on the page sign, then **sign and date as the circulator last**.

A) A copy of the actual 4-page bill needs to be available every time someone signs the petition.

NOTE: Unlike other petition efforts, this petition does not have the full bill on the back of the petition, but page 2 is an approved summary of the bill.

*Id.* at App. 27-28, ¶ 29. On the bottom of the fourth screen was another “Download a Petition” button. *Id.*

Clicking on either button marked “Download a Petition” caused a fifth, “pop up” screen to appear along with a tool bar containing a download prompt. *Id.* at App. 28, ¶ 30. This “pop up” screen stated as follows:

Thank you for downloading the petition.

By now you should have seen a download prompt for your Petition.

Please make sure to print pages one and two on the same sheet of paper (double sided).

The remaining pages can be printed single sided.

If you are having trouble downloading or can’t print double sided, you can request to have a petition mailed to you.

*Id.* at App. 28-29, ¶ 31. On the bottom of the “pop up” screen was a button marked “Finish.” *Id.*

Clicking on the “open” button on the download prompt enabled the registered Maryland voter to open and print his or her signature page, summary of the Congressional Districting Plan, and map, as well as the complete text of the

Congressional Districting Plan and a foldable envelope to use in mailing the signature page to Intervener after it had been fully executed. *Id.* at App. 29, ¶ 32. Clicking on the “save” button on the download prompt enabled the registered Maryland voter to save these materials to his or her computer and for printing, execution, and mailing at a later date. *Id.* at App. 29, ¶ 34. Clicking on the “Finish” button led to screen six, which thanked the registered Maryland voter for supporting the petition. *Id.* at App. 29, ¶ 35. At no point did Intervener “pre-fill” or pre-print” any petition signature pages or even use the terms “pre-filled,” “pre-printed,” “pre-filled petition,” or “pre-printed petition.” *Id.* at App. 29, ¶ 36.

Intervener ultimately collected at least 64,744 signatures in support of its petition, including signatures of registered Maryland voters who had used Intervener’s internet-based software program, and submitted these signatures to the Secretary of State. *Id.* at App. 29, ¶ 37. The State Board of elections validated, verified, and accepted a total of 59,201 signatures as being the signatures of registered Maryland voters. *Id.* at App. 30, ¶ 38. On or about July 20, 2012, the State Administrator of Elections certified the Congressional Districting Plan for placement on the November 2012 ballot. *Id.* at App. 30, ¶ 39.

### **STANDARD OF REVIEW**

Orders granting summary judgment are reviewed *de novo*, (*Ross v. State Board of Elections*, 389 Md. 649, 658 (2005)), and the reviewing court must determine whether the trial court ruled correctly on matters of law. *Doe v. Montgomery County Board of Elections*, 406 Md. 697, 711 (2008).

## ARGUMENT

### **I. Appellants Failed to Properly Plead or Prove a Claim Under §§ 6-209(a) or 6-209(b) of the Election Law Article.**

Section 6-209 authorizes two types of judicial review, albeit each with different predicates and different remedies. Under Section 6-209(a), “a person aggrieved by a determination made under § 6-202, § 6-206, or § 6-208(a)(2) of this subtitle may seek judicial review . . . in the case of . . . a petition to refer an enactment of the General Assembly pursuant to Article XVI of the Maryland Constitution,” and the reviewing court is authorized to grant such “relief as it considers appropriate to assure the integrity of the electoral process.” *Doe*, 406 Md. at 715; Md. Code Ann., Elec. Law § 6-209(a). By contrast, Section 6-209(b) authorizes a court to “grant declaratory relief as to any petition with respect to the provisions of this title or any other provisions of law” “[p]ursuant to the Maryland Uniform Declaratory Judgments Act and upon the complaint of any registered voter.” *Doe*, 406 Md. at 715; Md. Code Ann., Elec. Law § 6-209(b).

Appellants invoke the “aggrieved” person provision of Section 6-209(a) and seek both declaratory and injunctive relief. Appellants also invoke Section 6-209(b) in support of a claim for declaratory relief only. The Circuit Court’s judgment should be affirmed because Appellants failed to properly plead or prove claims under either section.

#### **A. Appellants Did Not Claim to Be Aggrieved by Any Determination Made Under § 6-202, § 6-206, or § 6-208(a)(2).**

Section 6-209(a) could not be any clearer about its judicial review provision applying to persons aggrieved by determinations made “under § 6-202, § 6-206, or § 6-208(a)(2).” It does not authorize judicial review of determinations made under Section 6-

208(a)(1). *See, e.g., Comptroller of the Treasury v. Blanton*, 390 Md. 528, 537 (2006) (noting that “Maryland has long accepted the doctrine of *expressio (or inclusio) unius est exclusio alterius*, or the expression of one thing is the exclusion of another”).

While Appellants invoke Section 6-208(a) (*see* Complaint at ¶¶ 77 and 78), they fail to differentiate between the two different subsections contained within this provision.

The provision states:

In general. -- At the conclusion of the verification and counting process, the chief election official of the election authority shall:

(1) determine whether the validated signatures contained in the petition are sufficient to satisfy all requirements established by law relating to the number and geographical distribution of signatures; and

(2) if it has not done so previously, determine whether the petition has satisfied all other requirements established by law for that petition and immediately notify the sponsor of that determination, including any specific deficiencies found.

Md. Code Ann., Elec. Law § 6-208(a).

Appellants clearly challenge the number of signatures validated and verified by the State Board of Elections. They seek to disqualify thousands of signatures of persons confirmed by the State Board of Elections to be registered Maryland voters so that they can then argue that Intervener did not submit the required number of signatures. The Complaint alleges, “Of the signatures submitted to the State Board by the petition sponsors, significantly less than 55,736 are actually valid – less than the number constitutionally required (55,736) for placing [the Congressional Districting Plan] on the November 2012 general election ballot.” Complaint at ¶ 76. The Complaint continues,

“ . . . the State Board’s determination, on July 20, 2012, under Md. Code Ann., Elec. Law § 6-208(a), that the number of accepted signatures exceeds the minimum, is not supported by substantial evidence and/or is premised upon erroneous conclusions of law.” *Id.* at ¶ 77. Appellants’ brief further confirms that they challenge the number of signatures validated by the State Board of Elections: “Because 55,736 valid signatures are required to refer a law to statewide referendum, if either of these groups of signatures was determined to be invalid, the petition is legally sufficient. Brief for Appellants at 2; *see also id.* at 19 (“those signatures are not valid and the Petition is legally deficient for that reason alone”), 26 (“Without those [7,578] signatures, the petition submitted lacks the 55,736 needed for placing [the Congressional Districting Plan] on the 2012 general election ballot), and 27 (“ . . . the Petition lacked sufficient validated and verified signatures to refer [the Congressional Districting Plan] 1 to statewide referendum”).

Because Appellants challenge the number of signatures validated and verified by the State Board of Elections, their claim plainly constitutes a challenge to the State Board of Election’s “numbers” determination under Section 6-208(a)(1), not any determination made by the State Board of Elections “at the conclusion of the verification and counting process” about whether the petition satisfied “all other requirements established by law for [the] petition” under Section 6-208(a)(2). Because Section 6-209(a) does not authorize judicial review of determinations made under Section 6-208(a)(1), Appellants have failed to state a claim for judicial review under Section 6-209(a).

Nor is it sufficient for Appellants to simply assert that that they challenge the State Board of Election’s certification of Intervener’s petition to refer the Congressional

Districting Plan to referendum. *See* Brief of Appellant at 1 (“This case concerns the certification . . . of a petition to refer [the Congressional Districting Plan] . . . to statewide referendum”) and 1-2 (“Appellants, registered Maryland voters, challenge the certification . . .”). Section 6-209(a) does not authorize judicial review of certifications, which constitutes a separate step in the petition process that follows the validation, verification, and counting of petition signatures. *See* Md. Code Ann., Elec. Law § 6-208(b). Consequently, Appellants have failed to properly plead a claim for judicial review under Section 6-209(a).

**B. Appellants Failed to Plead or Prove That They Are “Aggrieved” in Any Way.**

In addition, in order to be “aggrieved” for purposes of judicial review under Section 6-209(a), a plaintiff’s interests must be personally and specifically affected in a way different from the public generally. *Doe*, 406 Md. at 716 (quoting *Sugarloaf Citizens’ Assoc. v. Dep’t of Env’t*, 344 Md. 271, 288 (1996)). An “aggrieved” person must suffer some “special damage” differing in character and kind from that suffered by a member of the general public. *Id.* at 716-717 (quoting *Jordan Towing, Inc. v. Hebbville Auto Repair, Inc.*, 369 Md. 439, 433 (2002)). Moreover, that “special damage” must be caused by a determination made by the State Board of Elections under one of the three specific provisions listed in Section 6-209(a). Md. Code Ann., Elec. Law § 6-209(a).

Appellants failed to plead or present any evidence demonstrating that they suffered any “special damage” at all.<sup>1</sup> While the State Board of Elections may have stipulated in its Answer that Appellants are registered Maryland voters, nowhere did the State Board of Elections or Intervener stipulate that Appellants suffered any “special damage” or were “aggrieved” by a determination made by the State Board of Elections. Defendants’ Answer to Complaint for Declaratory and Injunctive Relief at ¶¶ 16-20; Answer of Intervener MDPetitions.com to Plaintiffs’ Complaint for Declaratory and Injunctive Relief at ¶¶ 16-20. As a result, Appellants cannot maintain a claim for judicial review under Section 6-209(a) for this additional reason.

**C. Appellants Failed to Plead or Prove Any Facts Establishing the Existence of A Justiciable Controversy.**

Nor can Appellants maintain a claim for judicial review under Section 6-209(b). This review provision authorizes a court to “grant declaratory relief as to any petition with respect to the provision of this title or other provisions of law” “[p]ursuant to the Maryland Uniform Declaratory Judgments Act and upon the complaint of any registered voter.” Md. Code Ann., Elec. Law § 6-209(b). The existence of a justiciable controversy is an absolute prerequisite to a declaratory judgment action under the Maryland Uniform Declaratory Judgment Act (“UDJA”). *Boyd’s Civic Ass’n v. Montgomery County Council*, 309 Md. 683, 689 (1987); *Hatt v Anderson*, 297 Md. 42, 45 (1983); Md. Code Ann., Cts. & Jud. Proc. § 3-409(a). A controversy is justiciable when interested parties

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<sup>1</sup> The only entity that alleged it was “aggrieved” by a determination made by the State Board of Elections, and the only plaintiff that sought injunctive relief, was the Maryland Democratic State Central Committee, which is not a party to this appeal. Complaint at ¶¶ 14-15, 79-82.

assert adverse claims upon a statement of facts that must have accrued and on which a legal decision is sought or demanded. *Hatt*, 297 Md. at 45-46. The issue to be decided “must present more than a mere difference of opinion, and there must be more than a mere prayer for declaratory relief.” *Hatt*, 297 Md. at 45 (citations omitted). Moreover, the existence of a justiciable issue “is an especially important principle in cases seeking to adjudicate constitutional rights; in such instances we ordinarily require concrete and specific issues to be raised in actual cases, rather than theoretical or abstract propositions.” *Hatt*, 297 Md. at 46.

Appellants failed to plead or prove any facts establishing the existence of a justiciable controversy between Appellants and Appellees. Appellants failed to plead any facts or present any evidence demonstrating the existence of an “actual controversy” or the presence of “antagonistic claims” between Appellants and Appellees. Md. Code Ann., Cts. & Jud. Proc. §§ 3-409(a)(1) and (2). They also failed to plead any facts or present any evidence demonstrating that a “legal relation, status, right, or privilege” of Appellants was being “challenged or denied” by Appellees. *Id.* at § 3-409(a)(3). Instead, as the Circuit Court noted, Appellants baldly assert that “[t]he justiciable controversy . . . is simply that [Appellants] don’t agree that [the Congressional Districting Plan] is subject to referendum.” Opinion at 7. “[A] mere difference of opinion” does not constitute a justiciable controversy, however. *Hatt*, 297 Md. at 45. Because Appellants failed to plead or prove any facts establishing the existence of a justiciable controversy, they cannot maintain a claim for declaratory relief under Section 6-209(b). Because

Appellants' claims under both Section 6-209(a) and 6-209(b) are neither properly pled nor supported by the requisite evidence, the Circuit Court's judgment should be affirmed.

**II. A Signer May Attest To His or Her Own Signature in the Circulator's Affidavit.**

Section 4 of Article XVI of the Maryland Constitution describes the "circulator" requirement as follows:

There shall be attached to each paper of signatures filed with a petition an affidavit of the person procuring those signatures that the signatures were affixed in his presence and that, based upon the person's best knowledge and belief, every signature on the paper is genuine and bona fide and that the signers are registered voters at the address set opposite or below their names.

Md. Const., art. XVI, § 4.

Section 6-201 of the Election Law Article of the Maryland Code states, in pertinent part, that "Each signature page shall contain . . . a space for the required affidavit made and executed by the circulator." Md. Code Ann., Elec. Law § 6-201(c)(6).

Section 6-203 states, in pertinent part:

- (b) Validation and counting. – The signature of an individual shall be validated and counted if: . . .
  - (4) the signature is attested by an affidavit appearing on the page on which the signature appears;

Md. Code Ann., Elec. Law § 6-203(b)(4). Section 6-204 states, in its entirety:

- (a) In general. --- Each signature page shall contain an affidavit made and executed by the individual in whose presence all of the signatures on that page were affixed and who observed each of those signatures being affixed.

(b) Requirements. – The affidavit shall contain the statements, required by regulation, designed to assure the validity of the signatures and the fairness of the petition proceed.

(c) Age of circulator. – A circulator must be at least 18 years old at the time any of the signatures covered by the affidavit are affixed.

Md. Code Ann., Elec. Law § 6-204.

The relevant regulations, Sections 33.06.03.07 and 33.06.03.08 of the Code of Maryland Regulations, state, in their entirety, as follows:

**.07 Circulator Identification.**

- A. Identification Required. Each signature page shall include an identification of an individual circulator, as required by this regulation.
- B. Information To Be Provided. The identification of the circulator shall include that individual's:
  - (1) Printed or typed name;
  - (2) Residence address, including house number, street name, apartment number (if applicable), town, and ZIP code; and
  - (3) Telephone number.

**.08 Circulator's Signed and Dated Affidavit.**

- A. Affidavit Required. Each signature page shall include an affidavit to be signed and dated by the circulator, as required by:
  - (1) Election Law Article, §6-204(a), Annotated Code of Maryland; and
  - (2) This regulation.
- B. Scope and Tenor. The affidavit shall state that:
  - (1) All of the information given by the circulator under Regulation .07 of this chapter is true and correct;

- (2) The circulator was 18 years old or older when each signature was affixed to the page;
- (3) The circulator personally observed each signer as the page was signed; and
- (4) To the best of the circulator's knowledge and belief, all:
  - (a) Signatures on the petition are genuine, and
  - (b) Signers are registered voters in the State.

COMAR §§ 33.06.03.07 and 33.06.03.08.

None of these provisions prohibit a person who circulates a petition from signing and executing an affidavit as to his or her signature. Nor do the provisions impose any limitation on the identity of the affiant other than the requirement that he or she must be at least 18 years old. Appellants' argument that a person who circulates a petition cannot attest to his or her own signature on a petition signature page is wrong under any plain reading of the provisions.

In addition, the obvious purpose of the "circulator affidavit" is to "bolster the validity of the signature entries." *Montgomery County Volunteer Fire-Rescue Ass'n v. Montgomery County Bd. of Elections*, 418 Md. 463, 479 (2011) ("*Fire-Rescue Ass'n*"). The signer, not a third-party circulator, is probably in the best position of anyone to attest to the fact that he or she signed a petition signature page, that his or her signature is genuine, and that he or she is registered to vote in the State of Maryland.

In this regard, a person who signs a petition obviously observes himself or herself doing so. It would be difficult not to do so. It also would be completely disingenuous for

a person whose signature appears on any document to disavow the signature on the basis that he did not observe himself sign the document.

A person who signs a document also is the best person to attest to the genuineness of his or her signature on the document. A signer undoubtedly knows his or her own signature. A third-party circulator may not know the signer's signature and, if the third-party circulator does not know the signer, he or she is unlikely to know whether the signer's signature is genuine.

Similarly, the signer, not a third-party circulator, also is the best person to attest to whether the signer is registered to vote in the State of Maryland.

A third-party circulator may very well be a complete stranger to the signer. The signer and a third-party circulator may have met for the first time when the circulator approached the signer at a sporting event or movie theater and asked the signer for a moment of his or her time to review the petition. Or, the signer and a third-party circulator may have met for the first time when the signer walked up to a petition booth or table set up outside a grocery store and asked the circulator how to go about signing the petition. The law does not require that the signer and the circulator know each other. Nor does it require that the signer present any proof of identification or proof of registration to a third-party circulator. It only requires that, to the best of the affiant's knowledge and belief, the signer's signature is genuine and that the signer is registered to vote in the State of Maryland.

Appellants have it exactly backwards when they claim the purpose of the affidavit is "utterly defeated" if a signer attests to his or her own signature. Laws are to be

“construed reasonably with reference to the purpose to be accomplished.” *Kaczorowski v. Mayor of Baltimore*, 309 Md. 505 (1987). “Results that are unreasonable, illogical, or inconsistent with common sense should be avoided.” *Id.* (internal quotations and citations omitted); *Town of Oxford v. Koste*, 204 Md. App. 578, 586 (2012) (noting that courts should avoid “absurd or unreasonable” readings of statutes). Signatures on petition pages are the most trustworthy, not the least trustworthy, when the person who signs the petition page also attests under penalty of perjury to having signed the page, to the genuineness of his or her signature, and to the fact that he or she is registered to vote in the State of Maryland. Having signers personally attest to these facts under penalty of perjury plainly “bolsters the validity of the signature entries” more than any third-party circulators ever could. *Fire-Rescue Ass’n*, 418 Md. at 479.

Indeed, the State of Maryland could have required that each signer attest under penalty of perjury to having signed the petition, to the genuineness of his or her signature, and to being registered to vote in the State of Maryland, but it chose not to impose this higher standard of proof. It would be “unreasonable, illogical, [and] inconsistent with common sense” to read Article XVI, Section 4 of the Maryland Constitution, Sections 6-201, 6-203, and 6-204 of the Election Law Article, and Sections 33.06.03.07 and 33.06.03.08 of the Code of Maryland Regulations, to require the rejection of thousands of signatures of confirmed registered Maryland voters because the signatures satisfy a higher level of proof than they would satisfy if they had been attested to by a third-party circulator.

Appellants also claim that “[n]o person can serve as a witness to his or her own actions.” Complaint at ¶ 48. That patently is not the case. Witnesses testify to their own actions all the time. It is among the most common, if not the most common, form of testimony offered. While witnesses may not be compelled to provide self-incriminating testimony, nothing in the law prevents a witness from testifying on his or her own behalf. One of the most common questions posed to witnesses testifying under oath is “Is that your signature?”

Appellants fail to cite a single case holding that a petition signer may not execute a circulator affidavit attesting to his or her own signature. Nor do they cite a single case holding that a person may not attest to his or her own signature generally. Indeed, besides the Circuit Court, the only other Maryland court that considered Appellants’ argument rejected it soundly. In *Doe v. Montgomery County Board of Elections*, 2008 Md. Cir. Ct. LEXIS 7 (Cir. Ct. Montgomery Co., Md. July 24, 2008), the Court found as follows:

Plaintiffs contend that 679 signatures should be disqualified from the February 4 filing, and 332 from the February 19 filing because the circulator executed an affidavit as to his or her own signature.

Although certainly not binding precedent, the court finds persuasive the position of the Attorney General’s office on this subject. By letter dated April 20, 1987 . . . chief counsel to the Attorney General asserted that there is no constitutional or statutory prohibition preventing a person who circulates a petition from signing and executing an affidavit as to his or her signature.

Such a practice is consistent with the State Board’s Guidelines, as well. Plaintiffs have advanced no valid reason why a circulator cannot observe his or her own signature being affixed to a petition, provided that Circulator is a registered voter otherwise eligible to sign. The court disagrees with

Plaintiffs' suggestion that the circulator must sign in the presence of another adult, and has not been directed to case or statutory law that supports that proposition.

All questioned signatures in category C are valid.

*Id.* at \*\*15-16. While this Court subsequently reversed and remanded *Doe* on other grounds, it did not consider the issue of whether a circulator could attest to his or her own petition signature, as the appellants in *Doe*, who were represented by the same counsel who represent Appellants in this case, abandoned the argument. *Doe*, 406 Md. at 709 n.10.

Nor has the State Board of Elections advised the public that a person who circulates a petition may not sign and execute an affidavit attesting to his or her own signature. The State Board of Elections' "Petition Signature Gathering FAQ" states:

**Can the circulator be a petition signer of the petition that he/she is circulating?**

Yes – Provided he/she is otherwise eligible to sign the petition.

State of Maryland, "Petition Signature Gathering FAQ (Revised February 28, 2012) at 2, available at [www.elections.state.md.us/petitions/Petition%20Signature%20Gathering%20FAQ.pdf](http://www.elections.state.md.us/petitions/Petition%20Signature%20Gathering%20FAQ.pdf).

Because no constitutional or statutory provision and no regulation regarding circulator affidavits impose any limitation on the identity of an affiant other than that he or she must be at least 18 years old, Appellants attempt to impose additional limitations by looking to wholly irrelevant statutes. They argue that, because the Estates and Trusts Article requires that "every will shall be (1) in writing, (2) signed by the testator, or by

some other person for him, in his presence and by his express direction, and (3) attested and signed by two or more credible witnesses in the presence of the testator” (Md. Code Ann., Estates & Trusts § 4-102), a signature on a referendum petition governed by the Election Law Article also must be witnessed by a third party. A will obviously is not a referendum petition, and a testator obviously is not a petition signer. The two very different situations are governed by two very different sets of requirements. While both sets of requirements may be intended to prevent fraud, they do so through different mechanisms selected by the General Assembly, presumably based on what the General Assembly believed was appropriate for these very different circumstances. It is Appellants’ analogy to wills – not the reading of these provisions adopted by the Circuit Court, the trial court in *Doe*, and the State Board of Elections – that does not make sense.

In sum, Appellants’ “circulator” argument is plainly incorrect. Nothing in Maryland law prohibits a circulator from attesting under penalty of perjury to his or her own petition signature. Circulator affidavits executed in this manner satisfy both the letter and the purpose of the law. Far from being unreliable or untrustworthy, these signatures are the most reliable and trustworthy of all of the signatures submitted in support of a petition, as not only are they sworn to under penalty of perjury, but they also are supported by direct, personal knowledge of the affiant. The State Board of Elections properly accepted these signatures, and there is no reason at all for excluding them. The judgment of the Circuit Court should be affirmed in this regard.

### III. **A Signer May Use an Internet-Based Software Program in Signing a Petition.**

Appellants also challenge thousands of signatures of confirmed registered Maryland voters on the grounds that these voters used Intervener’s internet-based software program in signing the petition. In essence, Appellants argue that the only way registered voters can sign a petition is to physically write out their names and addresses by hand or use a typewriter. It is the anachronistic argument of Appellants – not the thousands of signatures of confirmed registered Maryland voters who used Intervener’s internet-based software program – that should be rejected.

The Maryland Constitution does not specify how a petition must physically be executed in order for a registered Maryland voter’s signature to be accepted. Rather, Article XVI, Section 4 only states, “The General Assembly shall prescribe by law the form of the petition, the manner for verifying its authenticity, and other administrative procedures which facilitate the petition process and which are not in conflict with this Article.” *Id.* Pursuant to this authority, the General Assembly enacted Section 6-203 of the Election Law Article, which provides, in pertinent part, as follows:

- (a) In general. – To sign a petition, an individual shall:
  - (1) sign the individual’s name as it appears on the statewide voter registration list or the individual’s surname of registration and at least one full given name and the initials of any other names; and
  - (2) **include** the following information, **printed or typed**, in the spaces provided:
    - (i) the signer’s name as it was signed;

- (ii) the signer's address;
- (iii) the date of signing; and
- (iv) other information required by regulations adopted by the State Board.

Md. Code. Ann., Elec. Law § 6-203(a) (emphasis added).

The State Board of Elections, in turn, has adopted the following regulation:

**.06 Signer Identification.**

- A. In General. Each signature page shall contain labeled spaces for providing, adjacent to each signature, the information specified in this regulation.
- B. Required Information. When signing the signature page, each signer shall:
  - (1) Sign the individual's name as it appears on the Statewide voter registration list or the individual's surname of registration and at least one full given name and the initials of any other names; and
  - (2) **Provide** the following information, **to be printed or typed** in the appropriate spaces:
    - (a) Date of signing,
    - (b) Signer's name as it was signed, and
    - (c) Current residence address, including house number, street name, apartment number (if applicable), town, and ZIP code.

COMAR § 33.06.03.06 (emphasis added).

Neither Section 6-203(a) of the Election Law Article or Section 33.06.03.06 of the Code of Maryland Regulations require that registered Maryland voters who wish to sign a petition must physically write out their names and addresses by hand or use a typewriter,

if they can find one. A referendum petition is not a test of penmanship or typing proficiency. What matters is that the information required by the law is present. Nothing in either the statutory provision or the regulation prohibits a person from using a computer keyboard or a dot matrix, inkjet, laser or other type printer to “print,” “type,” “include,” or “provide” any of the required information. Based on a plain reading of Section 6-203(a) of the Election Law Article or Section 3.06.03.06 of the Code of Maryland Regulations, Appellants are wrong as a matter of law. They also fail to cite a single case that supports the proposition that a signer may not use tools as common and ordinary as computers and computer software programs to “print,” “type,” “include,” or “provide” the information required by Section 6-203(a).

Nor is Maryland law so hidebound as to compel the use of the mid-twentieth century definitions of the terms “print” and “type” that Appellants advocate. Maryland law readily accommodates new and innovative technologies like Intervener’s internet-based software program, which is fully consistent with both the letter and the purpose of Maryland’s election laws. In this regard, the Court has declared that the purpose of Section 6-203(a) is “to provide a personal attestation, as a signature is often used, to evidence support for the petition and to provide a unique identifier in conjunction with the printed name, address, date, and other information required by the State Board.” *Fire-Rescue Ass’n*, 418 Md. at 479. The Court also has declared that the “printed” name, address, date, and other information “is used to subsequently verify the eligibility of the petition signer to support the petition,” meaning that it is used by the State Board of

Elections to confirm that the person is a registered Maryland voter. *Id.*; Md. Code. Ann., Elec. Law § 6-207(a)(2).

Persons who used Intervener’s internet-based software program to print their names and addresses on properly formatted petition signature pages, then signed and dated those pages, did everything required of them by Section 6-203(a). They personally attested to their support for the petition by signing and dating the petition page, and they provided all of the unique identifiers required by the State Board of Elections – their printed full names and addresses – as well as their dates of birth, to enable the State Board of Elections to verify that they are registered Maryland voters. They satisfied both the letter and the purpose of the law. Indeed, the State Board of Elections was able to verify that thousands of such persons are registered Maryland voters.

Appellants are wrong when they assert that Intervener “pre-filled” or “pre-printed” the names and addresses of registered Maryland Voters. Intervener did no such thing. Nor did Intervener “type,” “print,” “include,” or “provide” the names and addresses of registered Maryland voters on petition signature pages. It was the registered Maryland voters who did so by logging on to a computer, accessing Intervener’s website, typing in their name and unique identifiers and following the various prompts to create their own petition signature pages. Likewise, it was the registered Maryland voters who then printed the petition signature pages they had created. Registered Maryland voters did the typing and printing, not Intervener. Registered Maryland voters, not Intervener, “typed,” “printed,” “included” and “provided” their names and addresses on the petition signature pages challenged by Appellants.

In addition, Appellants are also wrong when they assert that one member of a household cannot use Intervener's internet-based software program to assist other household members at their request in signing the petition. The law has no such prohibition. Under the Maryland State Board of Elections' guidelines, even a "petition circulator may fill in the information on the petition page, except for signature, only at the request of the signer." Maryland State Board of Elections, "Procedures for Filing a Statewide or Public Law Referendum Petition: Presidential Election November 6, 2012" (Revised March 2011) at 7, available at [www.elections.state.md.us/pdf/6-201-3a.pdf](http://www.elections.state.md.us/pdf/6-201-3a.pdf).

Moreover, it is well settled that "election procedures are to be conducted with due regard to the intent of the voter." *Fire-Rescue Ass'n*, 418 Md. at 477 n.14 (citing *Dutton v. Tawes*, 225 Md. 494, 495 (1961)). Regardless of whether these confirmed registered Maryland voters "typed," "printed," "included," or "provided" their names and addresses with a pen, typewriter, computer, or some other instrument, their intent is clear: they wished to exercise their constitutional right to referendum. In this particular instance, the confirmed registered Maryland voters who used Intervener's internet-based software program to help them sign the petition went to substantial effort to "type," "print," "include" and "provide" their names and addresses on or to petition signature pages. In addition to all of the steps described above, they also signed and dated the petition signature pages, executed or had executed the circulator's affidavit, and then mailed the fully executed materials to Intervener. Not only did the registered Maryland voters "type," "print," "include," and "provide" the required information, but there is no mistaking their clear intent.

The argument of Appellants that it is somehow improper to use an internet-based software program in signing a petition is also directly contrary to the position taken by the State Board of Elections on computer generated signature pages. The State Board of Elections has specifically stated that it accepts signature pages that have been downloaded from a website. Its “Petition Signature Gathering FAQ” states:

**Can a petition be posted on a web site?**

Yes, and signatures on the downloaded signature page will be valid as long as the page is in the proper format and contains all required information.

State of Maryland, “Petition Signature Gathering FAQ” (Revised February 28, 2012) at 4, available at [www.elections.state.md.us/petitions/Petition%20Signature%20Gathering%20FAQ.pdf](http://www.elections.state.md.us/petitions/Petition%20Signature%20Gathering%20FAQ.pdf).

Nor is a registered voter’s use of Intervener’s internet-based software program anything like a signing a “walking list.” *Id.* at 6. “Walking lists” are pre-printed lists of names and addresses that registered voters are merely asked to sign and date. *Id.* A person seeking signatures in support of a petition uses a “walking list” by going door-to-door through a neighborhood with a list of pre-printed names and addresses and asking residents for their signatures. Unlike with Intervener’s internet-based software program, which requires registered voters to type in their names and unique identifiers and go through the series of steps described above to download, print, sign, and date their own petition signature pages, a person who signs a “walking list” has not “typed,” “printed,” “included,” or “provided” his or her name or address at all.

Finally, limiting registered Maryland voters to hand writing their names and addresses or typing them on typewriters in order to sign petition signature pages would unduly burden voters' constitutional right of referendum. Maryland courts have long recognized that "the referendum process is a 'basic instrument of democratic government.'" *Howard County Citizens for Open Gov't v. Howard County Bd. of Elections*, 201 Md. App. 605, 626 (2011) ("*Howard County*") (quoting *Ritchmount P'ship v. Bd. of Supervisors of Elections*, 283 Md. 48, 61 (1978)). The right to referendum therefore "enjoys a considerable degree of constitutional protection." *Howard County*, 201 Md. App. at 623. Because signing or sponsoring a referendum petition implicates a registered voter's constitutional rights, the courts have held that any legislation regulating the referendum process "must be reasonable and must not place any undue burden" on a registered voter. *Barnes v. State*, 236 Md. 564, 573(1964); *see also Burruss v. Bd. of County Comm'rs*, 2012 Md. LEXIS 380, \*\*51-55 (June 25, 2012); *Fire-Rescue Ass'n*, 418 Md. at 476-77 ("Prior decisions of this Court affirm that statutory requirements upon the referendum petition process are viable if not unduly burdensome on the constitutionally protected right to referendum."); *Doe*, 406 Md. at 733; *Howard County*, 201 Md. App. at 623. This standard also applies to rules and regulations promulgated by the State Board of Elections. *Fire-Rescue Ass'n*, 418 Md. at 477 ("The State Board's guidelines, similarly, may not evade the requirement of reasonableness, they must not be unduly burdensome, and they should not frustrate the intent of the petition signer.").

In *Fire-Rescue Ass'n*, the Court reviewed the manner in which the State Board of Elections “approached signature review on submitted petitions as evidenced by the revised ‘State of Maryland Petition Acceptance and Verification Procedures: Statewide or Public Local Law Referendum Petition.’” 418 Md. at 475. At that time, the State Board of Elections required the printed name and the signature to match exactly and that the printed name/signature match the name on the voter registration list. *Id.* The Court ruled that the State Board of Elections’ requirement was unduly burdensome on a registered voter’s right to referendum. *Id.* at 476-477.

There is no reasonable or rational basis, much less a compelling basis, for requiring registered voters to physically write out their names and addresses by hand or use a typewriter to type their names and addresses onto petition signature pages in order to exercise their constitutional right to referendum. Appellants claim that such a requirement is necessary to prevent fraud, but they do not point to a single instance of actual fraud in this particular petition drive or the prior petition drives in which registered voters used Intervener’s internet-based software program in signing petition pages.

Regardless, requiring that petition signature pages be physically written out by hand or with a typewriter would be completely ineffective as an anti-fraud measure. Appellants assert that anyone who knows the “name, zip code, and birth date” of a voter could use Intervener’s internet-based software program to download and sign a petition signature page as the voter. Complaint at ¶ 40. Much more likely is that anyone who knows a voter’s name and address could write in that name and address and sign a

petition signature page as the voter.<sup>2</sup> The latter type of fraud is much more likely than the former because address information is so much more readily available than is date of birth information. *Fire-Rescue Ass'n*, 418 Md. at 492 n.6 (Harrell, J., dissenting) (noting use of telephone books in petition fraud). It would make little sense to require, as an anti-fraud measure, an interpretation of Section 6-203(a)(2) of the Election Law Article and Section 33.06.03.06(B)(2) of the Code of Maryland Regulations that prohibits the use of a tool as helpful and beneficial as Interveners' internet-based software program when that same, restrictive interpretation would do nothing to address a much more likely type of fraud. In any event, it is the task of the General Assembly, not Appellants, or the Court to design appropriate anti-fraud measures that balance the need for integrity in the petition process and the people's constitutional right to referendum.

There also are compelling reasons for not applying the restrictive interpretation of Section 6-203(a)(2) of the Election Law Article and Section 33.06.03.06(B)(2) of the Code of Maryland Regulations advocated by Appellants. Intervener's internet-based software program helps registered Maryland voters to avoid some of the most common errors that prevent signatures from being validated, verified, and counted, such as missing middle initials or other "name standard" issues. *See, e.g., Fire-Rescue Ass'n*, 418 Md. at 475-476. It also greatly benefits disabled or less able voters who may not be able to write or write legibly or use a typewriter with ease. The restrictive interpretation of Section 6-203(a)(2) of the Election Law Article and Section 33.06.03.06 (B)(2) of the Code of

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<sup>2</sup> The State Board of Elections request voters provide their birth dates, but a birth date is not required and a signature will not be rejected if a birth date is not provided. COMAR § 33.06.03.06(C).

Maryland Regulations advocated by Appellants would effectively deprive these persons of their constitutional right to petition. There is no reasonable or rational basis, much less a compelling basis, for rejecting thousands of signatures of confirmed registered Maryland voters simply because they used Intervener's internet-based software program in signing petition pages. Doing so would unduly burden these voters' constitutional rights. The judgment of the Circuit Court must be affirmed in this regard as well.

### CONCLUSION

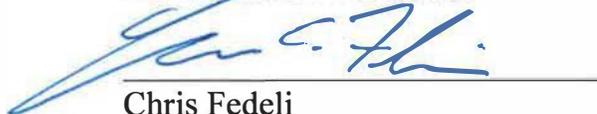
For all the foregoing reasons, the judgment of the Circuit Court should be AFFIRMED.

Dated: August 15, 2012

Respectfully Submitted,



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**CITATION AND VERBATIM TEXT OF  
PERTINENT CONSTITUTIONAL PROVISIONS,  
STATUTES, ORDINANCES, RULES, AND REGULATIONS**

**Md. Courts and Judicial Proceedings Code Ann. § 3-409 (2012)**

**§ 3-409. Discretionary relief**

(a) In general. -- Except as provided in subsection (d) of this section, a court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceeding, and if:

(1) An actual controversy exists between contending parties;

(2) Antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; or

(3) A party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it.

(b) Special form of remedy provided by statute. -- If a statute provides a special form of remedy for a specific type of case, that statutory remedy shall be followed in lieu of a proceeding under this subtitle.

(c) Concurrent remedies not bar for declaratory relief. -- A party may obtain a declaratory judgment or decree notwithstanding a concurrent common-law, equitable, or extraordinary legal remedy, whether or not recognized or regulated by statute.

**Md. Election Law Code Ann. § 6-201 (2012)**

**§ 6-201. Content of petitions**

(a) In general. -- A petition shall contain

(1) an information page; and

(2) signature pages containing not less than the total number of signatures required by law to be filed.

(b) Information page. -- The information page shall contain:

(1) a description of the subject and purpose of the petition, conforming to the requirements of regulations;

- (2) identification of the sponsor and, if the sponsor is an organization, of the individual designated to receive notices under this subtitle;
- (3) the required information relating to the signatures contained in the petition;
- (4) the required affidavit made and executed by the sponsor or, if the sponsor is an organization, by an individual responsible to and designated by the organization; and
- (5) any other information required by regulation.

(c) Signature page. -- Each signature page shall contain:

- (1) a description of the subject and purpose of the petition, conforming to the requirements of regulations;
- (2) if the petition seeks to place a question on the ballot, either:
  - (i) a fair and accurate summary of the substantive provisions of the proposal; or
  - (ii) the full text of the proposal;
- (3) a statement, to which each signer subscribes, that:
  - (i) the signer supports the purpose of that petition process; and
  - (ii) based on the signer's information and belief, the signer is a registered voter in the county specified on the page and is eligible to have his or her signature counted;
- (4) spaces for signatures and the required information relating to the signers;
- (5) a space for the name of the county in which each of the signers of that page is a registered voter;
- (6) a space for the required affidavit made and executed by the circulator; and
- (7) any other information required by regulation.

(d) Petition relating to questions. -- If the petition seeks to place a question on the ballot and the sponsor elects to print a summary of the proposal on each signature page as provided in subsection (c)(2)(i) of this section:

(1) the circulator shall have the full text of the proposal present at the time and place that each signature is affixed to the page; and

(2) the signature page shall state that the full text is available from the circulator.

(e) Signature page to meet requirements at all times. -- A signature page shall satisfy the requirements of subsections (c) and (d)(2) of this section before any signature is affixed to it and at all relevant times thereafter.

### **Md. Election Law Code Ann. § 6-202 (2012)**

#### **§ 6-202. Advance determinations**

(a) In general. -- The format of the petition prepared by a sponsor may be submitted to the chief election official of the appropriate election authority, in advance of filing the petition, for a determination of its sufficiency.

(b) Advice of legal authority. -- In making the determination, the chief election official may seek the advice of the legal authority.

### **Md. Election Law Code Ann. § 6-206 (2012)**

#### **§ 6-206. Determinations at time of filing.**

(a) Review by chief election official. -- Promptly upon the filing of a petition with an election authority, the chief election official of the election authority shall review the petition.

(b) Determinations. -- Unless a determination of deficiency is made under subsection (c) of this section, the chief election official shall:

(1) make a determination that the petition, as to matters other than the validity of signatures, is sufficient; or

(2) defer a determination of sufficiency pending further review.

(c) Declaration of deficiency. -- The chief election official shall declare that the petition is deficient if the chief election official determines that:

- (1) the petition was not timely filed;
  - (2) after providing the sponsor an opportunity to correct any clerical errors, the information provided by the sponsor indicates that the petition does not satisfy any requirements of law for the number or geographic distribution of signatures;
  - (3) an examination of unverified signatures indicates that the petition does not satisfy any requirements of law for the number or geographic distribution of signatures;
  - (4) the requirements relating to the form of the petition have not been satisfied;
  - (5) based on the advice of the legal authority:
    - (i) the use of a petition for the subject matter of the petition is not authorized by law; or
    - (ii) the petition seeks:
      1. the enactment of a law that would be unconstitutional or the election or nomination of an individual to an office for which that individual is not legally qualified to be a candidate; or
      2. a result that is otherwise prohibited by law; or
  - (6) the petition has failed to satisfy some other requirement established by law.
- (d) Consistency with advance determination. -- A determination under this section may not be inconsistent with an advance determination made under § 6-202 of this subtitle.
- (e) Notice. -- Notice of a determination under this section shall be provided in accordance with § 6-210 of this subtitle.

**Md. Election Law Code Ann. § 6-208 (2012)**

**§ 6-208. Certification**

- (a) In general. -- At the conclusion of the verification and counting processes, the chief election official of the election authority shall:
- (1) determine whether the validated signatures contained in the petition are sufficient to satisfy all requirements established by law relating to the number and geographical distribution of signatures; and

(2) if it has not done so previously, determine whether the petition has satisfied all other requirements established by law for that petition and immediately notify the sponsor of that determination, including any specific deficiencies found.

(b) Certification. -- If the chief election official determines that a petition has satisfied all requirements established by law relating to that petition, the chief election official shall certify that the petition process has been completed and shall:

(1) with respect to a petition seeking to place the name of an individual or a question on the ballot, certify that the name or question has qualified to be placed on the ballot;

(2) with respect to a petition seeking to create a new political party, certify the sufficiency of the petition to the chairman of the governing body of the partisan organization; and

(3) with respect to the creation of a charter board under Article XI-A, § 1A of the Maryland Constitution, certify that the petition is sufficient.

(c) Notice. -- Notice of a determination under this section shall be provided in accordance with § 6-210 of this subtitle.

### **Md. Election Law Code Ann. § 6-209 (2012)**

#### **§ 6-209. Judicial review**

(a) In general. –

(1) A person aggrieved by a determination made under § 6-202, § 6-206, or § 6-208(a)(2) of this subtitle may seek judicial review:

(i) in the case of a statewide petition, a petition to refer an enactment of the General Assembly pursuant to Article XVI of the Maryland Constitution, or a petition for a congressional or General Assembly candidacy, in the Circuit Court for Anne Arundel County; or

(ii) as to any other petition, in the circuit court for the county in which the petition is filed.

(2) The court may grant relief as it considers appropriate to assure the integrity of the electoral process.

(3) Judicial review shall be expedited by each court that hears the cause to the extent necessary in consideration of the deadlines established by law.

(b) Declaration relief. -- Pursuant to the Maryland Uniform Declaratory Judgments Act and upon the complaint of any registered voter, the circuit court of the county in which a petition has been or will be filed may grant declaratory relief as to any petition with respect to the provisions of this title or other provisions of law.

**COMAR 33.06.03.07 (2012)**

**.07 Circulator Identification.**

A. Identification Required. Each signature page shall include an identification of an individual circulator, as required by this regulation.

B. Information To Be Provided. The identification of the circulator shall include that individual's:

(1) Printed or typed name;

(2) Residence address, including house number, street name, apartment number (if applicable), town, and ZIP code; and

(3) Telephone number.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15th day of August, 2012, I caused a true and correct copy of the foregoing BRIEF OF APPELLEE-INTERVENER MDPETITIONS.COM to be served, via email and first-class U.S. mail, postage prepaid, on the following:

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Chris Fedeli