

# EXHIBIT 2

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

O. JOHN BENISEK, *et al.*,

*Plaintiffs,*

v.

LINDA H. LAMONE, *et al.*,

*Defendants.*

\*  
\*  
\*  
\*  
\*  
\*

Case No. 13-cv-3233

\* \* \* \* \*

**DEFENDANTS' SUPPLEMENTAL RESPONSES TO  
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Defendants Linda H. Lamone and David J. McManus, Jr., state as follows for their responses and objections to Plaintiffs' First Set of Requests for Admissions.

**PRELIMINARY STATEMENT**

The following responses are based on the Defendants' knowledge, information, and belief, and are complete to the best of their knowledge at this time. The Defendants assume no obligation to supplement or amend voluntarily these responses beyond applicable legal requirements to reflect information, evidence, documents, or things discovered following service of these responses. Furthermore, these responses were prepared based on the Defendants' good faith interpretation and understanding of the Plaintiffs' requests and are subject to correction for inadvertent errors or omissions, if any. These responses are given without prejudice to subsequent revision, amendment, or supplementation based upon any information, evidence, and documentation that hereinafter may be discovered.

The Defendants reserve the right to refer to, or to offer into evidence at the time of trial, any and all facts, evidence, documents, and things developed during the course of discovery and trial preparation, notwithstanding the reference to facts, evidence, documents, and things in these responses.

The Defendants reserve all objections or other questions as to the competency, relevance, materiality, privilege or admissibility of evidence in any subsequent proceeding of their responses and of any information or documents produced in response thereto.

The Defendants state that, except for facts explicitly admitted herein, no admission of any nature whatsoever is to be implied or inferred from their responses. The fact that the Defendants have responded to a request should not be taken as an admission, or a concession of the existence of any fact set forth, inferred or assumed by such request, or that such response constitutes evidence of any fact thus set forth, inferred, or assumed.

The Defendants' decision to respond to any request, notwithstanding the objectionable nature of any of the requests themselves, is not: (a) an acceptance of, or agreement with, any of the characterizations or purported descriptions of the transactions or events contained in the requests; (b) a concession or admission that the material is relevant to this proceeding; (c) a waiver of the General Objections or of the objections asserted in any specific response; (d) an admission that any such information exists; or (e) an agreement that responses for similar information will be treated in a similar manner.

## **GENERAL OBJECTIONS**

The Defendants' responses are subject to, qualified by, and limited by the following General Objections, which apply to each specific request as if incorporated and set forth in full in each response.

1. The Defendants object to these requests to the extent they seek material that is not relevant to the subject matter involved in this action or is beyond the scope of what is required to be provided by the Federal Rules of Civil Procedure, the local rules of this Court, or the Orders of the Court in this matter.

2. The Defendants object to these requests to the extent that they are overbroad, oppressive, duplicative, or cumulative.

3. The Defendants object to these requests to the extent that they are vague, ambiguous, fail to specify with reasonable particularity the information sought, or otherwise are incomprehensible.

4. The Defendants object to these requests to the extent that they require the Defendants to make legal conclusions, and/or presuppose legal conclusions or assume the truth of matters that are disputed.

5. The Defendants object to these requests to the extent that they seek admissions regarding information not available to the Defendants and/or that calls for information that is not within the Defendants' possession, custody, or control.

6. The Defendants object to these requests to the extent that they seek information that is protected from disclosure pursuant to the attorney-client privilege, the

attorney work product doctrine, executive or legislative privilege, or otherwise is privileged, protected, or exempt from discovery.

7. In addition to these General Objections, the Defendants also state, where appropriate, other specific objections to individual requests. By setting forth such specific objections, the Defendants neither intend to, nor do, limit or restrict or waive the General Objections, which shall be deemed incorporated in each of the responses to the specific requests that follow, though not specifically referred to or restated therein.

### **RESPONSES**

1. Members of the GRAC considered Maryland voters' political party affiliations when drawing the boundaries of the Sixth Congressional District.

Response 1: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 1: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without

waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations, and the Defendants further admit that this voter registration data was available to the GRAC.

2. Members of the GRAC considered Maryland voters' voting histories when drawing the boundaries of the Sixth Congressional District.

Response 2: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 2: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories, and the Defendants further admit that this voter registration data was available to the GRAC.

3. The Governor considered Maryland voters' political party affiliations when approving the Proposed Congressional Plan, introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law.

Response 3: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 3: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making and thought processes related to introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations, and the Defendants further admit that this voter registration data was available to the GRAC, which submitted the Proposed Congressional Plan to Governor O'Malley for his approval.

4. The Governor considered Maryland voters' voting histories when approving the Proposed Congressional Plan, introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law.

Response 4: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 4: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making and thought processes related to introducing the Proposed Congressional Plan to the Maryland General Assembly, and/or signing the Proposed Congressional Plan into law. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories, and the Defendants further admit that this voter registration data was available to the GRAC, which submitted the Proposed Congressional Plan to Governor O'Malley for his approval.

5. Members of the Maryland General Assembly considered Maryland voters' political party affiliations when enacting the Proposed Congressional Plan.

Response 5: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations.

Supplemental Response 5: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and the subjective intent of those legislators in voting for the Plan is irrelevant to this case. Subject to and without waiving their objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at:

[http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1\\_senate\\_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1](http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1), that audio recordings of the House Floor proceedings on SB1 are available at: [http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1\\_house\\_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1](http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_house_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1), and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

6. Members of the Maryland General Assembly considered Maryland voters' voting histories when enacting the Proposed Congressional Plan.

Response 6: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' voting histories.

Supplemental Response 6: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and

the subjective intent of those legislators in voting for the Plan is irrelevant to this case. Subject to and without waiving those objections, the Defendants admit that the Maryland State Board of Elections compiles aggregated voter registration data that is available to the public that includes voters' political party affiliations. Defendants further admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at: [http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1\\_senate\\_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1](http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1), that audio recordings of the House Floor proceedings on SB1 are available at: [http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1\\_house\\_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1](http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_house_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1), and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic.

7. A motivation of members of the GRAC in drafting the Proposed Congressional Plan was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 7: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack

knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 7: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges. Through counsel, members of the GRAC have indicated their intent to assert legislative and executive privilege as to their decision making and thought processes related to drawing the Proposed Congressional Plan. Subject to and without waiving those objections, the Defendants admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

8. A motivation of the Governor in introducing the Proposed Congressional Plan to the Maryland General Assembly and in signing it into law was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 8: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and executive privileges and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 8: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative and

executive privileges. Through counsel, Governor O'Malley has indicated his intent to assert legislative and executive privilege as to his decision making and thought processes related to introducing the Proposed Congressional Plan to the General Assembly and signing it into law. Subject to and without waiving those objections, the Defendants admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

9. A motivation of members of the Maryland General Assembly in enacting the Proposed Congressional Plan was to make it more likely that a Democrat would be elected as representative from the Sixth Congressional District.

RESPONSE 9: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

Supplemental Response 9: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. Through counsel, members of the Maryland General Assembly involved in drafting the Proposed Congressional Plan have indicated their intent to assert legislative privilege as to their decision making and thought processes related to the Proposed Congressional Plan. Further, it would be unduly burdensome for the Defendants to make inquiries of all 188 members of the General Assembly who voted for the Proposed Congressional Plan, and the subjective intent of those legislators in voting for the Plan is irrelevant to this case.

Subject to and without waiving those objections, Defendants admit that the articles attributing statements to individual Members of the General Assembly identified in paragraphs 40-50 of the Joint Stipulations (ECF No. 104) are authentic, that videotapes of individual Members of the General Assembly identified in paragraphs 63-65 and 70 of the Joint Stipulations (ECF No. 104) are authentic, that the audio recordings of the Senate Floor proceedings on SB1 are available at: [http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1\\_senate\\_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1](http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_senate_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1), that audio recordings of the House Floor proceedings on SB1 are available at: [http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1\\_house\\_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1](http://mgaleg.maryland.gov/webmga/frmLegislation.aspx?id=2011s1_house_audio&stab=02&pid=legisnlist&tab=subject3&ys=2011s1), and that the audio file of the joint committee hearing on SB1, produced to the plaintiffs as Exhibit 8 to defendants' proposed joint stipulations, is authentic. Defendants further admit that a Democrat has been elected as representative from the Sixth Congressional District in 2012, 2014, and 2016.

10. In her presentation to the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011, GRAC Chair Jeanne Hitchcock stated that the GRAC's proposed map would make it more likely that a Democrat would be elected as the representative from the Sixth Congressional District.

RESPONSE 10: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege and that the Request assumes the truth of matters of which Defendants lack knowledge. Subject to and without waiving those objections, Defendants admit only that GRAC Chair Jeanne

Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011.

SUPPLEMENTAL RESPONSE 10: In addition to their General Objections, Defendants object on the grounds that the Request seeks information protected by legislative privilege. The Defendants admit that GRAC Chair Jeanne Hitchcock briefed the House and Senate Democratic Caucuses about the proposed plan on October 3, 2011. Through counsel, former GRAC Chair Jeanne Hitchcock has indicated her intent to assert legislative privilege as to her statements made during these briefings. Without waiving that privilege as to any particular statement that she may have made at briefings that occurred over five years ago, Ms. Hitchcock does not believe that she made the statement attributed to her in this request for admission.

BRIAN E. FROSH  
Attorney General of Maryland

\_\_\_\_/s/\_\_\_\_Jennifer L. Katz\_\_\_\_\_  
JENNIFER L. KATZ (Bar No. 28973)  
SARAH W. RICE (Bar No. 29113)  
Assistant Attorneys General  
Office of the Attorney General  
200 St. Paul Place, 20th Floor  
Baltimore, Maryland 21202  
(410) 576-7005 (tel.); (410) 576-6955 (fax)  
jkatz@oag.state.md.us

Dated: January 13, 2017

Attorneys for Defendants