

EXHIBIT D

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

O. John Benisek, et al.

Plaintiffs,

vs.

Linda H. Lamone, et al.,

Defendants.

Case No. 13-cv-3233

Three-Judge Court

**PLAINTIFFS' FIRST SUPPLEMENTAL RESPONSES AND OBJECTIONS TO
DEFENDANTS FIRST SET OF INTERROGATORIES**

Pursuant to Federal Rules of Civil Procedure 26 and 33 and Local Rule 104, Plaintiffs hereby submit their Responses and Objections to Defendants' First Set of Interrogatories. Plaintiffs reserve the right to amend and supplement these responses and objections to the extent allowed by the Federal Rules of Civil Procedure and the Orders and Local Rules of the District of Maryland.

GENERAL STATEMENT AND OBJECTIONS

The following General Statement and Objections apply to each of the interrogatories propounded by Defendants and, unless otherwise stated, shall have the same force and effect as if set forth in response to each of the separate interrogatories. By providing their responses to Defendants' First Set of Interrogatories, Plaintiffs do not concede that the information provided is relevant to the claims or defenses of any party, proportionate to the needs of the case, or could lead to the discovery of admissible evidence.

1. Defendants object to the interrogatories to the extent that Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or the preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any theories of liability, facts, documents, testimony, or other evidence that may be discovered or may come to light in this case.

2. Plaintiffs object to the interrogatories to the extent that they seek “each and every theory of liability, . . . all facts, documents, and individuals relevant to such theor[ies].” Contention interrogatories may not be used to require a party to set forth all factual information obtained in discovery. Defendants’ Interrogatories, “insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and legal applications—supporting the identified allegations, are overly broad and unduly burdensome.” *Ritchie Risk-Linked Strategies Trading (Ireland), Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010). This is not a controversial basis for objection; “a number of cases have held that interrogatories seeking identification of all facts supporting a particular allegation are inherently improper.” *Clean Earth Remediation & Constr. Servs. v. Am. Int’l Grp., Inc.*, 245 F.R.D. 137, 141 (S.D.N.Y. 2007) (collecting cases); *see also Susquehanna Comm. Fin., Inc. v. Vascular Resources, Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting “all facts” supporting plaintiffs’ contentions, holding that defendants’ demand for specific and “narrative response[s]” to contention interrogatories was “little more than a make-work request. . . since they do not only have the information, they have the written materials themselves.”); *IBP, Inc. v. Mercantile Bank*, 179 F.R.D. 316, 321 (D. Kan. 1998) (“To the extent [the interrogatories] ask for every fact and every application of law to fact which supports the identified allegations, the court finds them overly broad and unduly burdensome. An interrogatory may reasonably ask for the material or principal facts which support a contention.”); *Grynberg v. Total S.A.*, 2006 U.S. Dist. LEXIS 28854, *16 (D. Colo. 2006) (“blockbuster interrogatories” that seek all facts related to a theory of liability have been “repeatedly condemned by the trial courts” because they “constitute an unduly burdensome request as a matter of law and are an abuse of the

discovery process. Interrogatories should not require a party to provide a narrative account of his case.”); *Hilt v. SFC Inc.*, 170 F.R.D. 182, 186-87 (D. Kan. 1997) (similar).

3. Plaintiffs object to Defendants’ First Set of Interrogatories to the extent that they are contention interrogatories that are more appropriate for the close of discovery. “[C]ontention interrogatories are more appropriate after a substantial amount of discovery has been conducted.” *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) (“the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period”). At this stage, the parties have not completed their document productions, several third parties (including the Democratic National Committee and Democratic Congressional Campaign Committee) have not yet produced documents, Plaintiffs’ request to interview various current and former General Assembly members is pending, and no depositions have been taken. Therefore, Defendants’ contention interrogatories do not “contribute meaningfully to clarifying the issues in the case, narrowing the scope of the dispute, or setting up early settlement discussions.” *Convergent Tech.*, 108 F.R.D. at 338-39; *see also Gen-Probe Inc. v. Becton, Dickinson & Co.*, 2010 U.S. Dist. LEXIS 49436, at *3 (S.D. Cal. 2010) (noting several courts have found contention interrogatories served towards beginning of litigation to be of questionable value); *In re Auto. Refinishing Paint Antitrust Litig.*, 2003 U.S. Dist. LEXIS 26945, at *10 (E.D. Pa. 2003) (motion to compel full responses to contention interrogatories denied in antitrust case where “substantial discovery remained to be conducted,” even though parties had already produced “thousands of documents in connection with discovery”). Plaintiffs reserve the right to amend and supplement its responses to Defendants’ interrogatories as discovery (fact and expert) progresses.

4. Plaintiffs object to Defendants’ interrogatories to the extent that they impermissibly

seek the premature and non-reciprocal disclosure of trial experts and expert information, and, contrary to Fed. R. Civ. P. 26(a)(2)(D)(i) and the Court's scheduling order, require Plaintiffs to set forth factual analyses, opinions, or theories that may be the subject of expert testimony prior to the time Plaintiffs are required to serve their expert reports. Defendants' interrogatories call for information that Plaintiffs should not be required to disclose until all discovery (both fact and expert) has been completed. Therefore, Plaintiffs object to Defendants' interrogatories for the time being and reserve the right to supplement their interrogatory responses.

5. Plaintiffs object to Defendants' First Set of Interrogatories to the extent that they seek purely legal conclusions regarding Plaintiffs' causes of action.

6. Plaintiffs object to Defendants' First Set of Interrogatories on the basis that, contrary to Fed. R. Civ. P. 26(b)(3), they improperly seek disclosure of opinion work product of Plaintiffs' counsel including counsel's mental impressions, conclusions, opinions, and legal theories.

7. Plaintiffs object to Defendants' First Set of Interrogatories to the extent that they seeks materials prepared by non-testifying experts retained in anticipation of litigation who are not expected to be called as witnesses at trial. *See* Fed. R. Civ. P. 26(b)(4)(D)(ii).

8. Plaintiffs object to the definitions and instructions in Defendants' First Set of Interrogatories to the extent that they render the Interrogatories vague or ambiguous by attributing meanings to ordinary words that depart from the common usage of such words or define multiple words to have the same or overlapping meanings.

9. Plaintiffs object to Defendants First Set of Interrogatories to the extent they seek to impose obligations that exceed the requirements of the Federal Rules of Civil Procedure, the Local Rules, or any of the Court's orders.

10. Plaintiffs object to the Defendants First Set of Interrogatories to the extent that they

purport to seek information that is in the possession, custody, or control of any person or entity other than Plaintiffs.

11. Plaintiffs object to Defendants' First Set of Interrogatories as unreasonably cumulative or duplicative to the extent that they seek the production of documents, things, or information already in the possession, custody, or control of Defendants.

12. Plaintiffs object to the Defendants First Set of Interrogatories as unduly burdensome to the extent that they are not limited to a reasonable period of time or not limited to a timeframe relevant to the present case. For purposes of these responses, unless otherwise stated, Plaintiffs will interpret Defendants' First Set of Interrogatories as seeking information no earlier than January 1, 2011 and no later than November 1, 2011, and Plaintiffs will respond accordingly.

13. Plaintiffs object to Defendants' First Set of Interrogatories to the extent they seek information protected by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege or immunity. None of Plaintiffs' responses are intended to be, or should be construed as, a waiver or relinquishment of any protection afforded by the attorney-client privilege, the work product doctrine, or any other applicable privilege or immunity.

14. Plaintiffs' investigation and discovery are ongoing, and Plaintiffs therefore reserve the right to amend or modify or supplement their interrogatory responses, as needed, as their investigation continues.

Without waiving the specific objections set forth below, and subject to the limitations and general objections set forth above, Plaintiffs hereby provide the following responses and objections to Defendants' First Set of Interrogatories.

RESPONSES TO FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1:

Other than members of the GRAC, the Governor, and the General Assembly identify all persons who are likely to have personal knowledge of any fact alleged in the pleadings, and state the subject matter of the personal knowledge possessed by each such person.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs also object to this request as unduly burdensome, not proportionate to the needs of the case, and not relevant to any party’s claim or defense to the extent that it seeks discovery before January 1, 2011 or after November 1, 2011. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks information regarding “all persons” who are “likely” to have knowledge of “any fact alleged in the pleadings.” Plaintiffs further object to this request as vague and ambiguous to the extent that the terms “Governor,” “General Assembly,” “likely to have knowledge,” and “pleadings” are undefined.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Individual	Subject Matter of Knowledge
Patrick Murray	Knowledge of the planning or drawing of the boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process.
Yaakov Weissman	Knowledge of the planning or drawing of the boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process.
Jeremy Baker	Knowledge of the planning or drawing of the boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process.
John McDonough	Knowledge of the planning or drawing of the boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to

	draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Michele Davis	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Karl Aro	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Bruce E. Cain, Ph.D.	Knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Richard Hall	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
John Boyce	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
John Favazza	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Kristin Jones	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Victoria L. Gruber	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Alexandra Hughes	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Nancy Earnest	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Joy Walker	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Raquel Guillroy	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Matt Gallagher	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.

Rick Abbruzzese	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process.
Douglas Gansler	Knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland's new Sixth Congressional District boundaries to serve communities of interest.
Roscoe Bartlett	Knowledge of the outcome of 2012 Congressional election in Maryland's Sixth District
Stephen M. Shapiro	Knowledge of at least the facts referenced in paragraph 14 of the Second Amended Complaint.
Maria M. Pycha	Knowledge of at least the facts referenced in paragraph 15 of the Second Amended Complaint.
O. John Benisek	Knowledge of at least the facts referenced in paragraph 16 of the Second Amended Complaint.
Edmund Cueman	Knowledge of at least the facts referenced in paragraph 17 of the Second Amended Complaint.
Jeremiah DeWolf	Knowledge of at least the facts referenced in paragraph 18 of the Second Amended Complaint.
Charles W. Eyster, Jr.	Knowledge of at least the facts referenced in paragraph 19 of the Second Amended Complaint.
Kat O'Connor	Knowledge of at least the facts referenced in paragraph 20 of the Second Amended Complaint.
Alonnie L. Ropp	Knowledge of at least the facts referenced in paragraph 21 of the Second Amended Complaint.
Sharon Strine	Knowledge of at least the facts referenced in paragraph 22 of the Second Amended Complaint; knowledge of the effects of Maryland's 2011 Congressional redistricting on subsequent elections in the Sixth Congressional district.
David J. McManus, Jr.	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland's new Sixth Congressional District boundaries to serve communities of interest.
Linda H. Lamone	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth

	Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland's new Sixth Congressional District boundaries to serve communities of interest.
Nicholas O. Stephanopoulos	Knowledge of the facts referenced in paragraphs 26 and 28 of the Second Amended Complaint.
Eric M. McGhee	Knowledge of the facts referenced in paragraphs 26 and 28 of the Second Amended Complaint.
Elmer C. Griffith	Knowledge of the facts referenced in paragraph 29 of the Second Amended Complaint.
Thomas E. Mann	Knowledge of the facts referenced in paragraph 29 of the Second Amended Complaint.
Norman J. Ornstein	Knowledge of the facts referenced in paragraph 29 of the Second Amended Complaint.
Samuel H. Wang	Knowledge of the facts referenced in paragraphs 29, 104, 107, and 109 of the Second Amended Complaint.
Rob Richie	Knowledge of the facts referenced in paragraph 30 of the Second Amended Complaint.
Howard Gorrell	Knowledge of alternative Congressional redistricting plans submitted to the GRAC.
Radmase Cabera	Knowledge of alternative Congressional redistricting plans submitted to the GRAC.
Tim Stallman	Knowledge of alternative Congressional redistricting plans submitted to the GRAC.
Marion Stefan	Knowledge of alternative Congressional redistricting plans submitted to the GRAC.
Robert V. Kengle	Knowledge of alternative Congressional redistricting plans submitted to the GRAC.
E.J. Pipkin	Knowledge of alternative Congressional redistricting plans submitted to the GRAC.
Matthew D. Proud	Knowledge of alternative Congressional redistricting plans submitted to the GRAC; knowledge of public hearings regarding Congressional redistricting.
Timothy Hruz	Knowledge of alternative Congressional redistricting plans submitted to the GRAC.
Annie Linskey	Knowledge of alternative Congressional redistricting plans; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
John Fritze	Knowledge of alternative Congressional redistricting plans; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
Aaron Davis	Knowledge of results of Maryland's 2011 redistricting process.
Ted Mellnik	Knowledge of results of Maryland's 2011 redistricting process.
Cristina Rivero	Knowledge of results of Maryland's 2011 redistricting process.

Gene Thorp	Knowledge of results of Maryland's 2011 redistricting process.
Ben Pershing	Knowledge of alternative Congressional redistricting plans.
Christopher Ingraham	Knowledge of results of Maryland's 2011 redistricting process.
Unknown members of Washington Post editorial board	Knowledge of results of Maryland's 2011 redistricting process; effects of Maryland's 2011 Congressional redistricting on subsequent elections in the Sixth Congressional district.
Brian Witte	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
Dan Bongino	Knowledge of the effects of Maryland's 2011 Congressional redistricting on subsequent elections in the Sixth Congressional district.
John Delaney	Knowledge of results of Maryland's 2011 redistricting process.
Wendy Rosen	Knowledge of results of Maryland's 2011 redistricting process.
Jeffery B. Lewis	Changes to the boundaries of the 3 rd Congressional district.
Brandon DeVine	Changes to the boundaries of the 3 rd Congressional district.
Lincoln Pitcher	Changes to the boundaries of the 3 rd Congressional district.
Kenneth C. Martis	Changes to the boundaries of the 3 rd Congressional district.
Doni Glover	Knowledge of alternative Congressional redistricting plans; knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
Len Lazarick	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
David Moon	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
Carol "Sue" Hecht	Knowledge of public hearings regarding Congressional redistricting; knowledge of intent and purpose of redrawing borders of Sixth Congressional district.
Christopher Shank	Knowledge of public hearings regarding Congressional redistricting.

David Brinkley	Knowledge of public hearings regarding Congressional redistricting.
Randy Boyer	Knowledge of public hearings regarding Congressional redistricting.
Amanda Conn	Knowledge of public hearings regarding Congressional redistricting.
Nasrin Rahman	Knowledge of public hearings regarding Congressional redistricting.
Bob Rosenbush	Knowledge of public hearings regarding Congressional redistricting.
LaVerne Gray	Knowledge of public hearings regarding Congressional redistricting.
Andy Ratner	Knowledge of public hearings regarding Congressional redistricting.
Melissa Appler	Knowledge of public hearings regarding Congressional redistricting.
Rich Josephson	Knowledge of public hearings regarding Congressional redistricting.
Tracey Gordy	Knowledge of public hearings regarding Congressional redistricting.
Jim Cannistra	Knowledge of public hearings regarding Congressional redistricting.
Keith Lackie	Knowledge of public hearings regarding Congressional redistricting.
Michael Perrone, Jr.	Knowledge of public hearings regarding Congressional redistricting.
Nate Knauer	Knowledge of public hearings regarding Congressional redistricting.
Michael Kevany	Knowledge of public hearings regarding Congressional redistricting.
Dave Pridgeon	Knowledge of public hearings regarding Congressional redistricting.
George Harrison	Knowledge of public hearings regarding Congressional redistricting.
Charles Kief	Knowledge of public hearings regarding Congressional redistricting.
Betty LeBrun	Knowledge of public hearings regarding Congressional redistricting.
Scott DeLong	Knowledge of public hearings regarding Congressional redistricting.
Linda Yienger	Knowledge of public hearings regarding Congressional redistricting.
Eric Rocket	Knowledge of public hearings regarding Congressional redistricting.
Randy Moyer	Knowledge of public hearings regarding Congressional redistricting.

David Greene	Knowledge of public hearings regarding Congressional redistricting.
Arin Miller	Knowledge of public hearings regarding Congressional redistricting.
Jack Ames	Knowledge of public hearings regarding Congressional redistricting.
Tonya Tiffany	Knowledge of public hearings regarding Congressional redistricting.
Barbara Sanders	Knowledge of public hearings regarding Congressional redistricting.
Mike Thompson	Knowledge of public hearings regarding Congressional redistricting.
Barbara Federhott	Knowledge of public hearings regarding Congressional redistricting.
Barbara Thompson	Knowledge of public hearings regarding Congressional redistricting.
Matt Morgan	Knowledge of public hearings regarding Congressional redistricting.
Mel Davis	Knowledge of public hearings regarding Congressional redistricting.
Chip Berman	Knowledge of public hearings regarding Congressional redistricting.
Don O'Neill	Knowledge of public hearings regarding Congressional redistricting.
Doug Mainwaring	Knowledge of public hearings regarding Congressional redistricting.
Joseph Doane	Knowledge of public hearings regarding Congressional redistricting.
Lynn Grecy	Knowledge of public hearings regarding Congressional redistricting.
Colin Alter	Knowledge of public hearings regarding Congressional redistricting.
Michael Swartz	Knowledge of public hearings regarding Congressional redistricting.
Carol Voss	Knowledge of public hearings regarding Congressional redistricting.
Diana Waterman	Knowledge of public hearings regarding Congressional redistricting.
Peter Metcalf	Knowledge of public hearings regarding Congressional redistricting.
Andrew Langer	Knowledge of public hearings regarding Congressional redistricting.
Bob Kresslein	Knowledge of public hearings regarding Congressional redistricting; knowledge of intent and purpose of redrawing borders of Sixth Congressional district.

Dan Rupli	Knowledge of public hearings regarding Congressional redistricting; knowledge of intent and purpose of redrawing borders of Sixth Congressional district.
Don DeArmon	Knowledge of public hearings regarding Congressional redistricting; knowledge of intent and purpose of redrawing borders of Sixth Congressional district.
Myrna Whitworth	Knowledge of public hearings regarding Congressional redistricting; knowledge of intent and purpose of redrawing borders of Sixth Congressional district.
Andrew Duck	Knowledge of public hearings regarding Congressional redistricting; knowledge of intent and purpose of redrawing borders of Sixth Congressional district.
Tom Slater	Knowledge of public hearings regarding Congressional redistricting; knowledge of intent and purpose of redrawing borders of Sixth Congressional district.
Christopher Costello	Knowledge of voter complaints regarding 2011 Congressional redistricting process; knowledge of public hearings regarding Congressional redistricting.
Kathryn Kevany	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ellen P. Ward Johann	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Dr. Robert E. Murphy	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Bill Eber	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Bob Geisler	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Cathy Geisler	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
David Fishback	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Gabriel Sorrel	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
George Kaplan	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Jill Hardee	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Brian D. Donovan	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Walter N. Chitwood	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
John J. Costello, Jr.	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Robert Eisenberg	Knowledge of voter complaints regarding 2011 Congressional redistricting process.

Tony Kern	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Douglas Arnold	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Tony Spezio	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
John Ashlin	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Peter Helt	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Francis D. Ayers, Jr.	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Jack Cohill	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Paul M. Heckhaus	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Stephen Weber	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Timothy Pannone	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Carl Casserly	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ryan Bennett	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Diana Allen	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Sarah Martin	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Valerie Wood	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Eric Rockel	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Richard Twigg	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Martin Ogle	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Michael D. Cook, Sr.	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Charles Wille	Knowledge of voter complaints regarding 2011 Congressional redistricting process; knowledge of public hearings regarding Congressional redistricting.
James E. Nealis	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
David Miller	Knowledge of voter complaints regarding 2011 Congressional redistricting process.

Jim Marrinan	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Wes Johnson	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Joyce Murrell	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
William Shriver	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Tom Ross	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Kenneth Fischbeck	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
David Churchill	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
John McCullough Jr.	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ryan Nazelrod	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Eric Schaffer	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Micki Auten	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Sandra Uhler	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Jon Davis	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ernest I. Cornbrooks	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Phyllis Jenkins	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Chris Cavey	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Barry Hoyle	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Sally MacDowell	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
John Bacinski	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Alfred Mendelsohn	Knowledge of voter complaints regarding 2011 Congressional redistricting process; knowledge of public hearings regarding Congressional redistricting.
Christy Wilson	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Tom Henry	Knowledge of voter complaints regarding 2011 Congressional redistricting process; knowledge of alternative Congressional redistricting plans submitted to the GRAC; knowledge of public

	hearings regarding Congressional redistricting
Thomas Chleboski	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Robert Ohler	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Mark A. Aitken	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Richard W. Murphy	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Stephen Gottlieb	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Edward Gertler	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Patricia A. Fenati	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Michael Barr	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Michael Warner	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Albert Gary Smith	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Justin Shuy	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Doug Angradi	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Darrell L. Roy	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Bernadette Zgorski	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Bill Voelp	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Deborah Maguire	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Jaclynn Gallagher	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Gerald Maguire, Sr.	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Dr. Judith Ann Weller	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
David Barna	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Linda Slone	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Sharon Martin	Knowledge of voter complaints regarding 2011 Congressional redistricting process.

Craig Talbot	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Kevin Smith	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Jason Hardy	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Larry F. Fisher, Jr.	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Jerome D. Miller	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Stephen Schmal	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Adam Geldhof	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Linda Cassady	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Scott Miller	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Charles S. Schrobel	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Richard P. Cheney	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Carletta Fellows	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
J. Dawson Ahalt	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Nicole L. Zimmerman	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Scott Montgomery	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Bud Governale	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Charles Tarrío	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Grant Ellsworth	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Lynn Poirier	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
David Bullock	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ronald Wolf	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Michael Esteve	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
David O. Borchardt	Knowledge of voter complaints regarding 2011 Congressional redistricting process.

Michael Heimbach	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Philip Swanson	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Thomas Tippet	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Daniel Anton Smith	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Dona F. Brown	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Victor Rafael Reyes, Sr.	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Nathan Herman	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Lisa Boyle	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Matt McTigue	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Pam Ward	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Jean Struharik	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Michelle Stanton	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Perm Subramanian	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Janice E. Kosko	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Jim Wilson	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Alan Smolin	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Barbara Zimmer	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ingar Grev	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Marvin Baxter	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Carl Wales	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Mary Barnes	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
James R. Talbot	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Mark Schaff	Knowledge of voter complaints regarding 2011 Congressional redistricting process.

Julie L. Heckman	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ray Raab	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
William Skipper	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
James Warfield	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Joseph M. Getty	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Courtney Vickery	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Deborah Brown	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Michael Shimko	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ann Reise Buyalos	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Zachary A. Peters	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Patricia Cecil	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Deborah McWilliams	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Wendi Peters	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Laura Beard	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Thomas G. Lauth	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Frank McCabe	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Nancy Jones	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Ruth Goetz	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
David Sell	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Deborah Jenkins	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
William R. Lynch	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Darrin Santay	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Mark Miller	Knowledge of voter complaints regarding 2011 Congressional redistricting process.

John Coleman	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Linda C. Janey	Knowledge of voter complaints regarding 2011 Congressional redistricting process; knowledge of alternative Congressional redistricting plans submitted to the GRAC.
Sophia Richardson	Knowledge of voter complaints regarding 2011 Congressional redistricting process.
Unknown employees or members of the Maryland Republican Party	Knowledge of alternative Congressional redistricting plans submitted to the GRAC.
Unknown employees of the Maryland State Board of Elections	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland's new Sixth Congressional District boundaries to serve communities of interest.
Unknown employees of the Maryland Department of Planning	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland's new Sixth Congressional District boundaries to serve communities of interest.
Unknown employees of the Maryland Department of Legislative Services	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland's new Sixth Congressional District boundaries to serve communities of interest.
Unknown employees or officials of the Maryland Democratic Party	Knowledge of the planning or drawing of the boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland's Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland's Sixth

	Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland’s new Sixth Congressional District boundaries to serve communities of interest.
Unknown employees or officials of the Democratic National Committee	Knowledge of the planning or drawing of the boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland’s Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
Unknown employees or officials of the Democratic Congressional Campaign Committee	Knowledge of the planning or drawing of the boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland’s Sixth Congressional District that were drawn during the 2011 Congressional redistricting process.
Unknown employees of the Office of Former Governor Martin O’Malley	Knowledge of the planning or drawing of the boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the data used to draw boundaries of Maryland’s Sixth Congressional District in the 2011 Congressional redistricting process; knowledge of the intent and purpose of new boundaries of Maryland’s Sixth Congressional District that were drawn during the 2011 Congressional redistricting process; knowledge of the failure of Maryland’s new Sixth Congressional District boundaries to serve communities of interest.

INTERROGATORY NO. 2:

Identify all voters whom you allege would otherwise register as Republican if they had not been chilled from doing so.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs object to this interrogatory to the extent that it calls for the premature, non-reciprocal disclosure of expert reports in violation of the Court’s scheduling order. Plaintiffs also object to this interrogatory to the extent that it seeks the disclosure of information that is already in the possession, custody, or control of Defendants. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks information regarding “all voters” who “would otherwise register” as

Republican if they had not been chilled from doing so. Plaintiffs further object to this request as vague and ambiguous to the extent that the term “would otherwise register” is undefined.

Further, contention interrogatories may not be used to require a party to set forth all factual information obtained in discovery regarding a particular topic. Defendants’ interrogatories, “insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and legal applications—supporting the identified allegations, are overly broad and unduly burdensome.” *Ritchie Risk-Linked Strategies Trading (Ireland) Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010); *see also Susquehanna Commercial Fin., Inc. v. Vascular Res., Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting “all facts” supporting a particular contention, holding that defendants’ demand for specific and “narrative response[s]” to contention interrogatories was “little more than a mark-work request. . . . since they do not only have the information, they have the written materials themselves.”). Accordingly, Plaintiffs do not identify every voter who would have registered as a Republican but for enactment of the Plan. Instead, Plaintiffs describe the types of voters who have been chilled by the State’s conduct from participating in politics in Maryland.

In addition, Plaintiffs object to this interrogatory because “contention interrogatories are more appropriate after a substantial amount of discovery has been conducted.” *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) (“the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period.”). Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or its preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any legal theories, facts, documents,

testimony, or evidence which may come to light during fact and expert discovery.

Subject to and without waiving the foregoing objections, Plaintiffs will supplement their answer to this interrogatory on January 16, 2017.

FIRST SUPPLEMENTAL RESPONSE: Plaintiffs further object that to prove the elements of their causes of action they are not required to show that Republican voters were chilled from registering to vote, nor are they required to identify each such Republican voter. *See Shapiro v. McManus*, --- F. Supp. 3d ---, 2016 WL 4445320, at *10-11 (D. Md. 2016) (discussing facts that Plaintiffs must prove at trial). As a consequence, this interrogatory is not relevant to any party's claim or defense and is not proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving the foregoing objections, Plaintiffs state that to the extent that a further response is required, Plaintiffs state that, after the 2011 Congressional Plan was adopted, voters in Maryland's Sixth District were chilled from participating in the political process, including registering to vote, voting, and/or supporting Republican candidates because they believed that their votes did not matter and their candidates did not have a reasonable chance of winning due to the cracking and packing of the Sixth District.

More generally, gerrymanders that "crack" blocs of like-minded voters chill political participation because those cracked voters understand that their votes "will not count" because they cannot affect the outcome. Voters in packed districts are thus discouraged from voting. Voters in cracked districts also understand that other like-minded voters' votes "will not count" and thus are less likely to participate actively in campaigning for their chosen candidates. Vote "cracking" chills political speech in an especially pernicious way in Maryland because Maryland employs a closed primary registration system. For a voter to participate in a particular political party's primary, the voter must be a registered member of that party. Registered Republicans cannot participate in

Democratic primaries, in other words, and registered Democrats cannot participate in Republican primaries. In districts where the Democratic Party's candidate is very likely to win the general election, like the new Sixth District, the only real opportunity to influence what person is ultimately elected is the Democratic primary race. Under the closed primary system, residents of the Sixth District—even those otherwise inclined to register as Republicans—must register as members of the Democratic party in order to vote in the Democratic primary and practically influence who becomes their representative.

In addition, the Congressional Plan chilled participation in general elections. Voters who feel that the outcomes of elections are preordained by the legislature's map-drawing are discouraged from casting their votes or engaging in the political process at all.

INTERROGATORY NO. 3:

State the facts concerning your contention that Delegate James J. King was chosen without input from Republican leadership.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs also object to this interrogatory to the extent that it seeks the disclosure of information that is already in the possession, custody, or control of Defendants. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks all facts regarding a particular contention. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "input" and "Republican leadership" are undefined.

Further, contention interrogatories may not be used to require a party to set forth all factual information obtained in discovery regarding a particular topic. Defendants' interrogatories, "insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and

legal applications—supporting the identified allegations, are overly broad and unduly burdensome.” *Ritchie Risk-Linked Strategies Trading (Ireland) Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010); *see also Susquehanna Commercial Fin., Inc. v. Vascular Res., Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting “all facts” supporting a particular contention, holding that defendants’ demand for specific and “narrative response[s]” to contention interrogatories was “little more than a mark-work request. . . . since they do not only have the information, they have the written materials themselves.”). Accordingly, Plaintiffs do not cite every document or fact responsive to this interrogatory. Instead, Plaintiffs will make a good faith effort to cite representative documents and facts that support their response.

In addition, Plaintiffs object to this interrogatory because “contention interrogatories are more appropriate after a substantial amount of discovery has been conducted.” *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) (“the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period.”). Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or its preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any legal theories, facts, documents, testimony, or evidence which may come to light during fact and expert discovery.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows: On July 4, 2011, former Maryland Governor Martin O’Malley appointed all five members of the Governors’ Redistricting Advisor Committee (GRAC). The members of the GRAC were Committee Chair Jeanne Hitchcock, who was Governor O’Malley’s Secretary of Appointments and a former Deputy Mayor of Baltimore (serving under then Mayor O’Malley); Senate President Thomas V.

Mike Miller, Jr., a Democrat; Maryland House of Delegates Speaker Michael E. Busch, a Democrat; Richard Stewart, a private business owner who chaired Governor O'Malley's 2010 re-election campaign in Prince George's County; and Delegate James J. King, a former one-term member of the Maryland House of Delegates, a Republican. Governor O'Malley appointed Delegate King to the GRAC without consulting with leadership of the Maryland Republican Party.

INTERROGATORY NO. 4:

Identify all statistical tests referenced in ¶ 111 of the Complaint.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs object to this interrogatory to the extent that it calls for the premature, non-reciprocal disclosure of expert reports in violation of the Court's scheduling order. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "statistical tests" and "referenced in" are undefined.

Plaintiffs further object to this interrogatory to the extent that it seeks materials prepared by non-testifying experts retained in anticipation of litigation who are not expected to be called as witnesses at trial. Fed. R. Civ. P. 26(b)(4)(D)(ii); *see also Sara Lee Corp. v. Kraft Foods Inc.*, 273 F.R.D. 416, 420 (N.D. Ill. 2011) ("Because the materials relate solely to [an expert's] role as a non-testifying consultant, Plaintiffs may not discover them unless it can show 'exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.'"); *Monarch Knitting Mach. Corp. v. Sulzer Morat GMBH*, 1998 WL 338106, at *2 (S.D.N.Y. 1998) ("Under this rule, a consulting expert who will not testify at trial, 'is generally immune from discovery.'"); *Plymovent Corp. v. Air Tech. Solutions, Inc.*, 243 F.R.D. 139, 143 (D.N.J. 2007) ("Several policy considerations underlie the rule, including, (1) encouraging counsel to obtain necessary expert advice without fear that the adversary may obtain such information; (2)

preventing unfairness that would result from allowing an opposing party to reap the benefits from another party's efforts and expense; [and] (3) preventing a chilling effect on experts serving as consultants if their testimony could be compelled.”); *Mantolite v. Bolger*, 96 F.R.D. 179, 181 (D. Ariz. 1982) (“there is no need for a comparable exchange of information regarding non-witness experts who act as consultants and advisors to counsel regarding the course litigation should take.”).

FIRST SUPPLEMENTAL RESPONSE: Plaintiffs further object to this interrogatory to the extent that it seeks the premature, non-reciprocal disclosure of expert witness reports. Plaintiffs will disclose further statistical tests supporting its allegations pursuant to Fed. R. Civ. P. 26(a)(2) on the date required by the Court’s scheduling order. *See* ECF No. 108 at 2.

Subject to and without waiving the foregoing objections, Plaintiffs state that the statistical tests referenced in paragraph 111 of their Second Amended Complaint include the tests discussed in greater detail in:

- Nicholas O. Stephanopoulos & Eric M. McGhee, *Partisan Gerrymandering and the Efficiency Gap*, 82 U. Chi L. Rev. 831 (2015); and
- Samuel H. Wang, *Three Tests for Practical Evaluation of Partisan Gerrymandering*, 68 Stanford L. Rev. 1263 (2016).

INTERROGATORY NO. 5:

List all addresses at which you have resided since reaching voting-age and the dates you resided at each address.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs also object to this request as unduly burdensome, not proportionate to the needs of the case, and not relevant to any party’s claim or defense to the extent that it seeks discovery before January 1, 2011 or after November 1, 2011. Plaintiffs further object to this request

as vague and ambiguous to the extent that the term “voting-age” and “resided” are undefined.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows: O. John Benisek is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Mr. Benisek’s voter registration address was in Maryland’s Sixth Congressional District. Following enactment of the Plan, his voter registration address remains in the Sixth Congressional District. Mr. Benisek has been an eligible Maryland voter since 1966. He has resided at the following addresses or in the following cities in the State since that time: College Park, MD (1963-1977); White Oak, MD (1973-1977); 5113 Porterstown Road in Keedysville, MD 21756 (1978-1990); and 11237 Kemps Mill Road in Williamsport, MD 21795 (1990-present).

Edmund Cueman is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Mr. Cueman’s voter registration address was in Maryland’s Sixth Congressional District. Following enactment of the Plan, his voter registration address is in the Eighth Congressional District. Mr. Cueman has been an eligible Maryland voter since 1961. He has resided at the following addresses in the State since that time: 304 W. Federal Street, Snow Hill, MD 21863 (1963-1968); 202 W. Martin Street, Snow Hill, MD 21863 (1968-1971); Baltimore Boulevard, Finksburg, MD 21048 (1971-1973); and 1201 Woods Rd., Westminster, MD 21158 (1973-Present).

Jeremiah DeWolf is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Mr. DeWolf’s voter registration address was in Maryland’s Sixth Congressional District. Following enactment of the Plan, his voter registration address remains in the Sixth Congressional District. Mr. DeWolf has been an eligible Maryland voter since 2007. He has resided at 4709 Mt. Briar Road, Keedysville, MD 21756, since that time.

Charles W. Eyler, Jr., is a citizen of the United States and a resident of and active eligible

voter in Maryland. Before enactment of the Plan, Mr. Eyler's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, his voter registration address is in the Eighth Congressional District. Mr. Eyler has been an eligible Maryland voter since 1970. He has resided at the following addresses in the State since that time: Schley Ave., Frederick, MD 21701 (1971-1973); Eyler Road, Thurmont, MD 21788 (1973-1976); and 13249 Creagerstown Road, Thurmont, MD 21788 (1976-Present).

Kat O'Connor is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Ms. O'Connor's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, her voter registration address remains in the Sixth Congressional District. Ms. O'Connor has been an eligible Maryland voter since 1985. She has resided at the following addresses in the State since 1998: 11411 Seneca Valley Drive, Germantown, MD 20874 (1998-2003); and 9321 Watkins Road Gaithersburg, MD 20882 (2003-present).

Alonnie L. Ropp is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Ms. Ropp's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, her voter registration address is in the Eighth Congressional District. Ms. Ropp has been an eligible Maryland voter from 1989 through 1996 and 1999 through the present. She resided at the following addresses between 1989 and 1996: 10021 Harp Road, Walkersville, MD 21793; 3 East 2nd Street, Frederick, MD 21701; 1300 Taney Avenue, Frederick, MD 21702; 103 E 8th Street, Frederick, MD 21701; 7 East 13th Street, Frederick, MD 21701. Ms. Ropp has resided at the following addresses since 1999: an apartment at Springwater Court, Frederick, MD 21701 (1999-2002); 8410 Myersville Road, Middletown, MD (2002-November 2016); 8543 Pete Wiles Road, Middletown, MD (November 2016-present).

Sharon Strine is a citizen of the United States and a resident of and active eligible voter in Maryland. Before enactment of the Plan, Ms. Strine's voter registration address was in Maryland's Sixth Congressional District. Following enactment of the Plan, her voter registration address is in the Eighth Congressional District. Ms. Strine has been an eligible Maryland voter since 1982. She has resided at the following addresses in the State since that time: 11611 Harp Hill Road, Myersville, MD 21773 (1972-1983); 312 Broad Street, Middletown MD 21783 (1983-1984); 12610 Loy Wolfe Road, Myersville MD 21773 (1984-1996); and 12709 Martin Road, Smithsburg, MD 21783 (1996-Present).

INTERROGATORY NO. 6:

Identify any alternative redistricting plan that satisfies all of the constitutional requirements for congressional reapportionment without diluting either party's votes to a constitutionally significant degree that was submitted to the GRAC.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs object to this interrogatory to the extent that it calls for the premature, non-reciprocal disclosure of expert reports in violation of the Court's scheduling order. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "alternative redistricting plan," "constitutional requirements for congressional reapportionment," and "diluting either party's votes to a constitutionally significant degree" are undefined.

Plaintiffs further object to this interrogatory to the extent that it seeks materials prepared by non-testifying experts retained in anticipation of litigation who are not expected to be called as witnesses at trial. Fed. R. Civ. P. 26(b)(4)(D)(ii); *see also Sara Lee Corp. v. Kraft Foods Inc.*, 273 F.R.D. 416, 420 (N.D. Ill. 2011) ("Because the materials relate solely to [an expert's] role as a non-testifying consultant, Plaintiffs may not discover them unless it can show 'exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other

means.”); *Monarch Knitting Mach. Corp. v. Sulzer Morat GMBH*, 1998 WL 338106, at *2 (S.D.N.Y. 1998) (“Under this rule, a consulting expert who will not testify at trial, ‘is generally immune from discovery.”); *Plymovent Corp. v. Air Tech. Solutions, Inc.*, 243 F.R.D. 139, 143 (D.N.J. 2007) (“Several policy considerations underlie the rule, including, (1) encouraging counsel to obtain necessary expert advice without fear that the adversary may obtain such information; (2) preventing unfairness that would result from allowing an opposing party to reap the benefits from another party’s efforts and expense; [and] (3) preventing a chilling effect on experts serving as consultants if their testimony could be compelled.”); *Mantolete v. Bolger*, 96 F.R.D. 179, 181 (D. Ariz. 1982) (“there is no need for a comparable exchange of information regarding non-witness experts who act as consultants and advisors to counsel regarding the course litigation should take.”).

FIRST SUPPLEMENTAL RESPONSE: Plaintiffs’ further object on the basis that it is not Plaintiffs’ burden to produce an alternative redistricting proposal that would comply with all constitutional requirements for Congressional reapportionment. That was (and continues to be) the responsibility of the State of Maryland. Plaintiffs are not required to present an alternative plan for Congressional reapportionment in order to receive the injunctive relief that they seek. *See Shapiro v. McManus*, --- F. Supp. 3d ---, 2016 WL 4445320, at *10-11 (D. Md. 2016) (discussing facts that Plaintiffs must prove at trial). As a consequence, this interrogatory is not relevant to any party’s claim or defense and is not proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows: Should the Court require Plaintiffs to produce an alternative redistricting proposal after entering a declaration in their favor, Plaintiffs will do so at the time designated by the Court.

INTERROGATORY NO. 7:

Identify and state the facts concerning all acts by defendants, members of the General Assembly, members of the GRAC, and Governor O’Malley, taken either individually or as

any group, that you contend were done to punish, sanction, target or retaliate against the plaintiffs because of the plaintiffs' protected speech. For any act that you identify, please describe the act, the date the it occurred, the person who was targeted, the persons who took the act, and the protected First amendment activity you allege was the basis for any punishment, sanction, targeting or retaliation.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs also object to this interrogatory to the extent that it seeks the disclosure of information that is already in the possession, custody, or control of Defendants. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks all facts regarding a particular contention. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "General Assembly," "Governor O'Malley," "punish," "sanction," "target," "retaliate," "protected speech," "punishment," and "retaliation" are undefined.

Further, contention interrogatories may not be used to require a party to set forth all factual information obtained in discovery regarding a particular topic. Defendants' interrogatories, "insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and legal applications—supporting the identified allegations, are overly broad and unduly burdensome." *Ritchie Risk-Linked Strategies Trading (Ireland) Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010); *see also Susquehanna Commercial Fin., Inc. v. Vascular Res., Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting "all facts" supporting a particular contention, holding that defendants' demand for specific and "narrative response[s]" to contention interrogatories was "little more than a mark-work request. . . . since they do not only have the information, they have the written materials themselves.").

Moreover, Plaintiffs object to this interrogatory because it is an improper “blockbuster interrogatory” that “is overbroad and unduly burdensome on its face.” *Bat v. A.G. Edwards & Sons, Inc.*, 2005 WL 6776838, at *3 (D. Colo. 2005). “[C]ourts have held that unnecessarily broad interrogatories, or ‘blockbuster’ interrogatories, which require a party to state every fact supporting all of its allegations, as well as identify each person with knowledge of each fact and all documents supporting each count, are impermissible.” *HBC Fin. Corp. v. Kennedy*, 2016 WL 6216179, at *2 (S.D. Miss. 2016); *see also Nieman v. Hale*, 2013 WL 6814789, at *11 (N.D. Tex. 2013) (denying motion to compel response to “blockbuster” interrogatory); *Brassell v. Turner*, 2006 WL 1806465, at *2 (S.D. Miss. 2006) (finding interrogatories overly broad and unduly burdensome where they sought an open-ended narrative that was not tailored in any way); *Gynberg v. Total S.A.*, 2006 WL 1186836, at *7 (D. Colo. 2006) (denying motion to compel answer to “blockbuster” interrogatory). “Indiscriminate use of blockbuster interrogatories, such as these, do not comport with the just, speedy, and inexpensive determination of an action. To require answers for them would more likely cause delay and unreasonable expense of time, energy, and perhaps money.” *Hilt v. SFC, Inc.*, 170 F.R.D. 182, 186-87 (D. Kan. 1997) (denying motion to compel interrogatory response).

Accordingly, Plaintiffs do not cite every document or fact responsive to this interrogatory. Instead, Plaintiffs will make a good faith effort to cite representative documents and facts that support their response. *See, e.g., K.R.S. v. Bredford Cmty. School Dist.*, 2014 WL 11513167, at *3 (S.D. Iowa 2014) (Courts emphasize that ‘[c]ontention interrogatories should not require a party to provide the equivalent of a narrative account of the case.’ . . . When faced with contention interrogatories with overly broad language, courts typically direct that an answer still be provided but narrow the scope of the needed response to the ‘material’ or ‘principal’ facts supporting a specific claim or defense.’) (citations omitted).

In addition, Plaintiffs object to this interrogatory because “contention interrogatories are more appropriate after a substantial amount of discovery has been conducted.” *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) (“the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period.”). Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or its preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any legal theories, facts, documents, testimony, or evidence which may come to light during fact and expert discovery.

Subject to and without waiving the foregoing objections, Plaintiffs will supplement their answer to this interrogatory on January 16, 2017.

FIRST SUPPLEMENTAL RESPONSE: Subject to and without waiving the foregoing objections, Plaintiffs state that Defendants, GRAC members, and legislators have refused to produce documents regarding the intent and purpose of the 2011 Congressional Plan. As a result, Plaintiffs cannot fully answer this interrogatory. When Defendants and other current and former Maryland state officials duly produce the documents and testimony required by Plaintiffs’ discovery requests, Plaintiffs will supplement this interrogatory response.

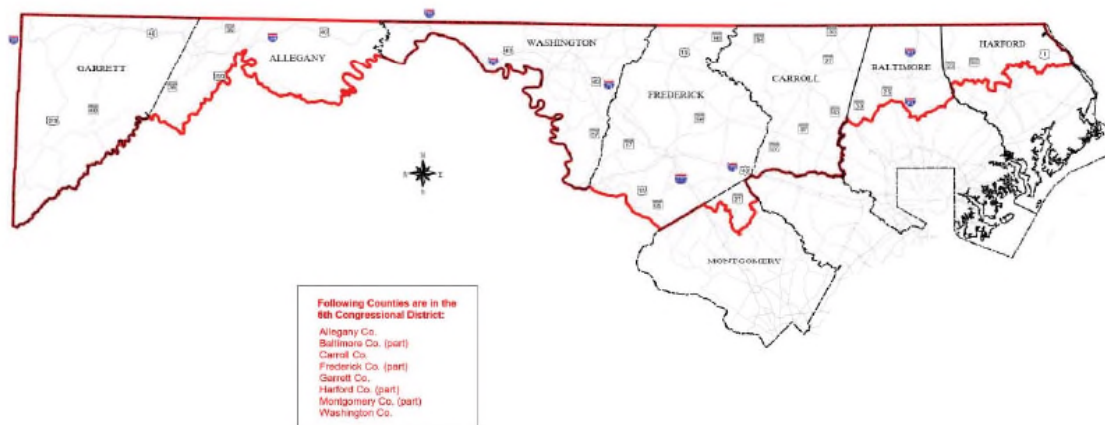
In addition, Defendants, legislators, legislative staffers, state agencies, and members of former Governor O’Malley staff failed to preserve documents and electronically stored information relevant to this litigation after they reasonably anticipated litigation regarding the 2011 Congressional Plan. As a result of this spoliation, Plaintiffs cannot fully answer this interrogatory.

To the extent that a further response is required:

1. Voters in the Sixth Congressional District Have Well-Established Conservative Political Views. Historically, Maryland’s Sixth Congressional District has been reliably Republican.

In the 70 years between January 1943 and January 2013, the district was represented in Congress by members of the Republican Party in four out of every five years. Prior to the General Assembly's adoption of the 2011 Congressional Plan, the Sixth District had been Maryland's most Republican district, represented for nearly 20 years by Republican Roscoe Bartlett, who won reelection in 2010 by a 28-point margin. Under the 2001 redistricting map, the district included all of western Maryland and stretched across the northern border of Maryland to encompass other rural areas of the State.

2002 CONGRESSIONAL DISTRICT 6
(Senate Bill 805 May 6, 2002)



2. The GRAC and General Assembly Cracked Republicans in the Sixth Congressional District. Plaintiffs state that on July 4, 2011, former Maryland Governor Martin O'Malley appointed five members to the Governor's Redistricting Advisory Committee (GRAC). The five members of the GRAC were: (1) Committee Chair, Jeanne Hitchcock, who was Governor O'Malley's Secretary of Appointments and a Deputy Mayor of Baltimore, reporting to then-Mayor O'Malley; (2) Senate President Thomas V. Mike Miller, Jr., a Democrat; (3) Maryland House of Delegates Speaker Michael E. Busch, a Democrat; (4) James J. King, a former one-term member of the Maryland House of Delegates who served as a Republican, but was chosen without input from Republican leadership; and (5) Richard Stewart, a private business owner who chaired former

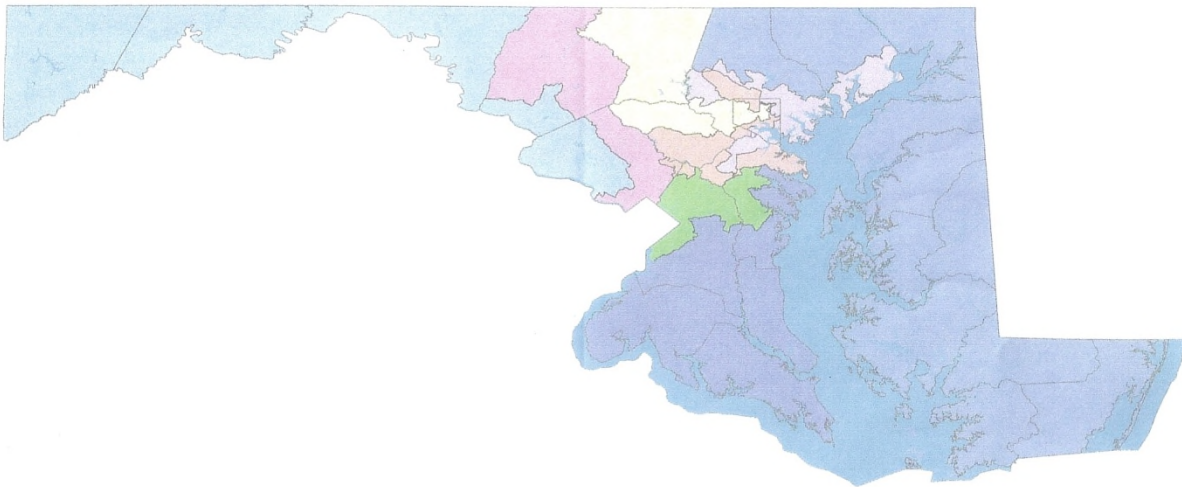
Governor O'Malley's 2010 re-election campaign in Prince George's County. As a consequence, four of the five members of the GRAC were either long-serving Maryland Democrats or advisors close to the then-Democratic governor.

The GRAC was tasked with drafting a recommended plan for Maryland's congressional redistricting in light of the 2010 census results. Although the GRAC held public hearings around the Maryland, these hearings were mere window dressing. All of the GRAC's public meetings were held before the GRAC released its draft Congressional map to the public and none were held after. In addition, several public hearings were held at times when many citizens interested in the redistricting process could not attend.

In fact, the GRAC's plan was developed in secret by the four Democratic members of the GRAC with the assistance of a cadre of senior aides to Governor O'Malley, Senate President Thomas V. Mike Miller, Jr., and Speaker Michael E. Busch. Many of these senior aides had access to the GRAC's draft Congressional Plan before it was made public, including: Patrick Murray, a former legislative aide to Senate President Thomas V. Mike Miller, Jr.; Yaakov Weissman, a legislative aide to Senate President Thomas V. Mike Miller, Jr.; Jeremy Baker, a legislative aide to Maryland House of Delegates Speaker Michael E. Busch; and Joseph E. Bryce, an aide to former Governor Martin O'Malley.

The GRAC and these aides used data reflecting citizen's voting history and party affiliation for the purpose of making it harder for Republican voters in western Maryland to achieve electoral success because of the views they had previously expressed. These aides and the Democratic GRAC members had access to Maryland voter registration data, including information regarding party registration, voting histories, and the precinct-level data regarding the percentage of voters that that voted for the Republican and Democratic candidates in the 2008 presidential election and 2010

Maryland gubernatorial election. Using this data, aides to Senate President Miller drafted four proposed Congressional maps. These maps known colloquially as Option 1, Option 2, Option 3, and Option 4 were considered by the GRAC. Information regarding the percentage of voters that that voted for the Republican and Democratic candidates in the 2008 presidential election and 2010 Maryland gubernatorial election were appended to these maps. For example, for Option 1, which was also known as “Dem Option 1,” the following information was provided to Democratic GRAC members and Democratic members of the Maryland General Assembly:



Dem Option 1

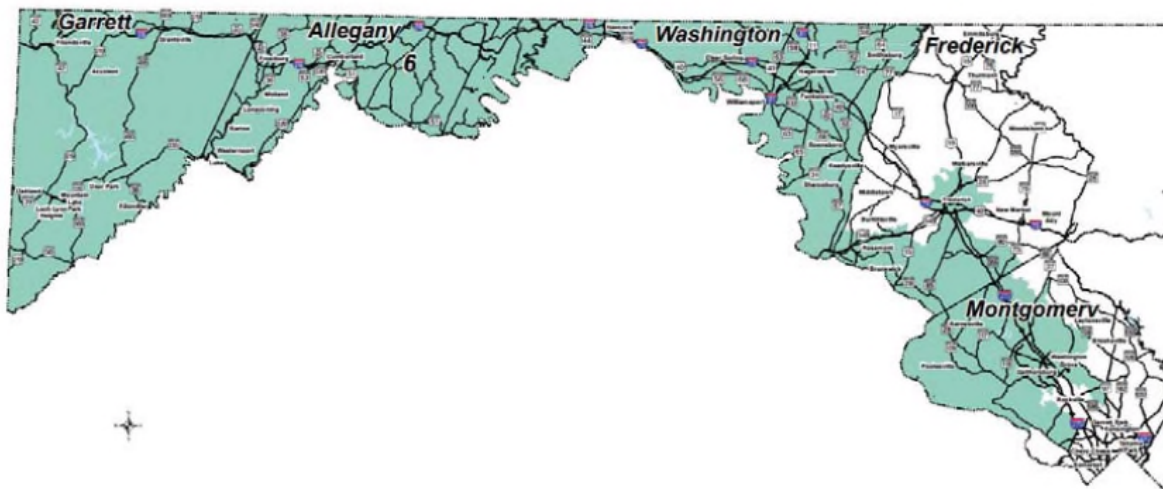
District	Population	Deviation	% Deviation	G10G_D	G10G_RV	G08P_DV	G08P_RV	18+_Pop	18+_Blk	% 18+_Blk
1	722065	371	0.000514068	93013	176616	139193	209337	559239	63397	0.113363
2	721123	-571	-0.000791194	121473	99935	185510	117093	553000	168680	0.305027
3	721470	-224	-0.000310381	133567	103857	196217	120281	565950	111183	0.196454
4	721930	236	0.000327008	148856	37612	247254	51041	548434	297335	0.542153
5	721940	246	0.000340865	153198	100779	227200	131033	544369	191449	0.35169
6	722232	538	0.000745468	101301	76761	163358	95310	553504	62046	0.112097
7	721841	147	0.000203687	140759	83701	229847	96958	549287	276236	0.502899
8	720951	-743	-0.001029522	146852	84099	225830	110345	546805	85726	0.156776

In the above chart, “District” refers to the eight Congressional districts in Maryland; G10G_D refers to the number of votes cast for the Democratic candidate in the 2010 Maryland

Gubernatorial election; G10G_RV refers to the number of votes cast for the Republican candidate in the 2010 Maryland Gubernatorial election; G08P_DV refers to the number of votes cast for the Democratic candidate in the 2008 Presidential election; and G08P_RV refers to the number of votes cast for the Republican candidate in the 2008 Presidential election. The GRAC, key aides to the GRAC, and the General Assembly thus explicitly considered the voting histories and party affiliations of Republican voters in western Maryland.

As shown in the map below, “Dem Option 1” became the basic blueprint of the GRAC’s draft plan and the plan that was ultimately approved by the General Assembly. Like the draft and final plans, Dem Option 1 added heavily Democratic portions of Frederick, Maryland and western portions of Montgomery County to Maryland’s Sixth Congressional District.

Maryland 2011 Congressional District 6
Senate Bill 1
October 20, 2011



More specifically, the GRAC cracked the effective Republican majority in the old Sixth District by removing over 360,000 residents from mostly-Republican northern counties of the district and adding nearly 350,000 residents from predominantly Democratic and urban Montgomery

County. In particular, the Congressional Plan removed from the Sixth District all of Carroll County, which had voted 68% Republican and 27% Democratic in the previous congressional election. The removal of Carroll County generated a loss of 24,000 registered Republican voters from the Sixth District. The Congressional Plan also moved specific, majority-Republican precincts of Frederick County to Maryland's Eighth Congressional District, while leaving the majority-Democratic precincts of the county in the Sixth District. The Frederick County precincts that remained in the Sixth District contained over 6,000 more registered Democrats than registered Republicans. The opposite pattern is true with regard to the transfer of voters from Montgomery County. Of the Montgomery County precincts that were added to the Sixth District by the Congressional Plan, registered Democrats outnumbered registered Republicans by a two-to-one margin. Moving these cherry-picked portions of Montgomery County into the Sixth District generated a gain of tens of thousands of Democratic voters. In total, the Congressional Plan accomplished a net transfer of over 65,000 Republican voters out of the Sixth District and over 30,000 voters into the district. As a result, whereas Republican voters had comprised 47% of all voters in the Sixth District before the Congressional Plan, they comprise just 33% of the Sixth District after the Congressional Plan.

In redrawing the boundaries of the Sixth District, the GRAC and their aids, the Governor and his aides, and the Maryland General Assembly on their aides were motivated by a specific intent to burden Republican voters in Western Maryland. “[I]t is not a well-kept secret that the plan for the sixth congressional district was developed for the purpose of disadvantaging an incumbent Republican legislator.” *Fletcher v. Lamone*, 831 F. Supp. 2d 887, 905-06 (D. Md. 2011). Contrary to their position in this litigation, the Office of Attorney General has admitted that:

- “The [Congressional] Plan the product of the careful consideration of a variety of . . . principles, including . . . partisan considerations.” State’s Opening Summary Judgment Brief

at 41, *Fletcher v. Lamone*, No. 11-cv-3220-RWT (D. Md.).

- “[T]he plan was driven, to a large extent, by the desire to make an additional district more politically competitive while protecting the other current incumbents.” *Id.* at 42.
- The Governor, the GRAC, and the General Assembly “all considered and gave effect to a variety of . . . considerations . . . [including] partisan political considerations.” State’s Reply Brief in Support of Summary Judgment at 18, *Fletcher v. Lamone*, No. 11-cv-3220-RWT (D. Md.).

In an October 31, 2012 speech at the Community College of Baltimore County, Essex Campus, the then-Attorney General of Maryland, Douglas Gansler, provided a frank admission that the 2011 Congressional Plan was designed to burden Republican voters in the Old Sixth District:

The third issue is redistricting. And the redistricting is interesting because I actually have to defend the legislature in its drawings of the map. . . . So many people have a problem with the way in which the state was gerrymandered this last time. For example, in the Sixth District . . . Garrett County, Maryland, a very rural, agrarian part of the state is couple with Potomac, Maryland in Montgomery County, which is perhaps the most wealthy and lest agrarian part of the state. And, yet, they are voting for the same representative in the election between Roscoe Bartlett, a long-time Congressman, and John Delaney, sort of a new-comer on the political scene. . . . So, what happened, we have eight congressional districts, . . . the Democrats had the ability . . . to look at the state gerrymandered in such a way to make it 7 [Democratic representatives] to 1 [Republican representative]. . . . They were looking do they want to make the Eastern Shore, try that again, to make it even more Democratic and make that the seventh Democratic district, or Western Maryland. They chose Western Maryland, and its actually a 53% Democratic district.

<https://www.youtube.com/watch?v=kZHVOvB8fBY>. Attorney General Gansler went on to explain that even if the boundaries of the Sixth Congressional District were thrown out, the Democratic General Assembly would simply burden Republicans in the Sixth District once again:

But the long shot of that is, even if [the Congressional Plan] gets overturned, the Democratic legislature will just go back in January redraw the lines, and they can draw essentially the same lines again.

Id.

The Attorney General was not the only senior Maryland Democrat who out-rightly confessed a specific intent to burden Republican voters in the Sixth Congressional District. Prior to the Congressional Plan being announced to the public, Democratic Senator Richard Madaleno made the following statements in a series of taped interview on September 13, 2011:

What you see going on elsewhere is clearly in other states that are Republican controlled they are drawing maps to try to take out Democrats, so I think there is pressure on saying look, if they are playing that game elsewhere, then in states like Maryland where Democrats control we've got to do the opposite.

* * *

This is a conflict between, what you could say, the heart and the mind of the Democratic party. The heart is 'Frank Kratovil had that seat [the First District] before, Frank Kratovil won before, he made hard votes on behalf of Barrack Obama, we should find a way to reward our friend Frank Kratovil.' The head is telling you, 'Look, Western Maryland, a new district focused toward western Maryland is one that you could actually pick up easier. . .' Do you reach out and help your good old friend Frank Kratovil, or do you go where, in fact, you probably have a better chance at a pick up.

* * *

If you go with a competitive Western Maryland district, the way that works is clearly the district comes further into Montgomery County, substantially into Montgomery County.

* * *

I think trying to achieve both [goals] makes it a little more difficult for everyone trying to draw the maps. But you're dealing with—one of the things that's interesting is—you're dealing with people like Mike Miller or some of the staff of the legislature who have done this several cycles, so it's not like they are a bunch of people experimenting for the first time on how to do this.

Donna Edwards, a democratic representative from the Fourth District, stated on October 11, 2011 in referenced to the Congressional Plan: "I have been one of the strongest proponents as a Democrat of drawing a seventh district for Democrats. But we can accomplish that in a different way . . . Where I have a real disagreement is in making superior the political interests to minority voting rights interests."

A week later, on October 18, 2011, on the floor of the Maryland Senate, Senator C. Anthony

Muse stated:

[L]et's just be frank. As it stands, the plan dilutes minorities, minority power and parcels out minority populations—voters—to other very different communities in order to strengthen the chances of a Democrat being elected.

* * *

Yes, the party walks away with maybe seven seats, but what do our minority populations walk away with?

* * *

I cannot support this map. It may well like up to the letter of the law, but surely not the spirit of the law nor the spirit of the democratic process. I think minorities lose with this map. Yes, the party gains. But honestly I believe the people, not the party, are the losers.

On the same day, Senator Jamie Raskin, also spoke from the Senate floor:

[T]his is not a Maryland problem with redistricting and gerrymandering. It's an American problem. All across America, people are complaining about extremely spliced and diced, curvy, swervy districts, where elected officials choose voters before voters choose elected officials. That's the system we've got in 50 states today, in the United States. And it's a process where we dress up partisan and political ambition on both sides of the aisle in high principal, but we can all tell what's really going on. * * *

To my distinguished colleagues on the other side of the aisle, the disappointment that they feel today is shared by Democrats in North Carolina, a state won by President Obama in 2008, which just had districts redrawn, ten majority Republican, three majority Democrat, with all the Democrats packed in there. In Ohio, a state that was won by the President Obama in 2008, 12 majority Republican districts have been drawn, four majority Democratic districts have been drawn. So they've gone way beyond anything that's been seen here. The basic problem is that we are trying to build a whole range in multiplicity of interest and factors into these single member districts, and we now have the convenience of computer technology to be able to accomplish very strange looking figures on the map.

On the floor of the House of Delegates, Delegate Emmett C. Burns, Jr. stated that he supported the Congressional Plan because it meant “more Democrats in the House of Representatives.” Likewise, Democratic Speaker Michael Busch said of the Plan, “I think you will have a

very competitive 6th District when you didn't have that in the past.”

Democratic Delegate Curt Anderson described an October 3, 2011 briefing given by GRAC Chair Jeanne Hitchcock about the redrawn Sixth District: “It reminded me of a weather woman standing in front of the map saying, ‘Here comes a cold front,’ and in this case the cold front is going to be hitting Roscoe Bartlett pretty hard.” Furthermore, in an October 17, 2011 interview, Delegate Anderson stated, “What we’re doing is we are trying to get more, in terms of—currently we have two Republican districts and six Democratic Congressional districts and we’re going to try to move that down to seven and one, with the additional Congressional district coming out of Montgomery County and going into Western Maryland that would give the Democrats more.”

On November 7, 2011, Democratic Senator Jamie Raskin explained of the redistricting process: “Democrats control the redistricting process in Maryland” and exercising that control, they “hoped to pick up a seventh House seat through redistricting.”

In a letter dated October 20, 2011, Attorney General Douglas Gansler stated: “As indicted by those who participated in developing and adopting the redistricting plan, including the [GRAC], the Governor, and the General Assembly, the boundaries of the newly adopted Congressional districts reflect a number of considerations, including . . . partisan consideration.”

GRAC members openly acknowledged that their intent was to crack the Sixth District. For example, GRAC member Michael Busch, the Maryland House Speaker, said: “I think the numbers will show that [the Congressional Plan] makes [the Sixth District] pretty competitive,” in favor of Democrats, where as it previously was a safely Republican district. GRAC Chair Jeanne Hitchcock confirmed that purpose, noting that the Sixth District was now “dominated” by the Democratic voters in Montgomery County.

3. The GRAC and General Assembly’s Specific Intent to Crack Republicans in the

Sixth District Was Successful in Changing the Outcome of Congressional Elections under the

Plan. The Republican vote dilution in the Sixth District brought about by the 2011 Congressional Plan was sufficiently serious to produce a demonstrable and concrete adverse effect on Republican voters' right to have an equally effective voice in the election of a representative. Democrat John Delaney defeated Roscoe Bartlett in the election for representative to the United States Congress for the Sixth District by a 20.9% margin in 2012. He has won reelection in each election since. Moreover, as Plaintiffs will show in their forthcoming expert reports, by several statistical measures the 2011 Congressional Plan seriously diluted the votes of Republicans in the Sixth District and impaired those voters from having an equally effective voice in future congressional elections. And the Plan's dilutive effect cannot be explained by compliance with legitimate redistricting criteria, such as respect for existing communities of interest.

INTERROGATORY NO. 8:

State all facts upon which you rely for your contention that the 2011 Maryland redistricting plan has discouraged voters in Maryland from casting votes, actively campaigning for their chosen candidates, or otherwise participating in the political process.

RESPONSE: Plaintiffs object to this interrogatory to the extent that it seeks the disclosure of information protected by the attorney-client privilege, work product immunity, or any other privilege or immunity. Plaintiffs object to this interrogatory to the extent that it calls for the premature, non-reciprocal disclosure of expert reports in violation of the Court's scheduling order. Plaintiffs also object to this interrogatory to the extent that it seeks the disclosure of information that is already in the possession, custody, or control of Defendants. Plaintiffs object to this request as overly broad and unduly burdensome as it seeks all facts regarding a particular contention. Plaintiffs further object to this request as vague and ambiguous to the extent that the terms "discouraged," "actively campaigning," and "otherwise participating in the political process" are undefined.

Further, contention interrogatories may not be used to require a party to set forth all factual

information obtained in discovery regarding a particular topic. Defendants' interrogatories, "insofar as they seek every fact, every piece of evidence, every witness, and every application of law to fact—rather than, for example, certain principal or material facts, pieces of evidence, witnesses and legal applications—supporting the identified allegations, are overly broad and unduly burdensome." *Ritchie Risk-Linked Strategies Trading (Ireland) Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010); *see also Susquehanna Commercial Fin., Inc. v. Vascular Res., Inc.*, 2010 U.S. Dist. LEXIS 127125, at *25-37 (M.D. Pa. 2010) (denying motion to compel detailed responses to interrogatories requesting "all facts" supporting a particular contention, holding that defendants' demand for specific and "narrative response[s]" to contention interrogatories was "little more than a mark-work request. . . . since they do not only have the information, they have the written materials themselves.").

Moreover, Plaintiffs object to this interrogatory because it is an improper "blockbuster interrogatory" that "is overbroad and unduly burdensome on its face." *Bat v. A.G. Edwards & Sons, Inc.*, 2005 WL 6776838, at *3 (D. Colo. 2005). "[C]ourts have held that unnecessarily broad interrogatories, or 'blockbuster' interrogatories, which require a party to state every fact supporting all of its allegations, as well as identify each person with knowledge of each fact and all documents supporting each count, are impermissible." *HBC Fin. Corp. v. Kennedy*, 2016 WL 6216179, at *2 (S.D. Miss. 2016); *see also Nieman v. Hale*, 2013 WL 6814789, at *11 (N.D. Tex. 2013) (denying motion to compel response to "blockbuster" interrogatory); *Brassell v. Turner*, 2006 WL 1806465, at *2 (S.D. Miss. 2006) (finding interrogatories overly broad and unduly burdensome where they sought an open-ended narrative that was not tailored in any way); *Gynberg v. Total S.A.*, 2006 WL 1186836, at *7 (D. Colo. 2006) (denying motion to compel answer to "blockbuster" interrogatory). "Indiscriminate use of blockbuster interrogatories, such as these, do not comport with the just,

speedy, and inexpensive determination of an action. To require answers for them would more likely cause delay and unreasonable expense of time, energy, and perhaps money.” *Hilt v. SFC, Inc*, 170 F.R.D. 182, 186-87 (D. Kan. 1997) (denying motion to compel interrogatory response).

Accordingly, Plaintiffs do not cite every document or fact responsive to this interrogatory. Instead, Plaintiffs will make a good faith effort to cite representative documents and facts that support their response. *See, e.g., K.R.S. v. Bredford Cmty. School Dist.*, 2014 WL 11513167, at *3 (S.D. Iowa 2014) (Courts emphasize that ‘[c]ontention interrogatories should not require a party to provide the equivalent of a narrative account of the case.’ . . . When faced with contention interrogatories with overly broad language, courts typically direct that an answer still be provided but narrow the scope of the needed response to the ‘material’ or ‘principal’ facts supporting a specific claim or defense.”) (citations omitted).

In addition, Plaintiffs object to this interrogatory because “contention interrogatories are more appropriate after a substantial amount of discovery has been conducted.” *Nestle Foods Corp. v. Aetna Cas. & Sur. Co.*, 135 F.R.D. 101, 110 (D.N.J. 1990); *see also In re Convergent Techs. Secs. Litig.*, 108 F.R.D. 328, 336 (N.D. Cal. 1985) (“the wisest general policy is to defer propounding and answering contention interrogatories until near the end of the discovery period.”). Plaintiffs have not completed all discovery (fact and expert), their investigation of the facts, or its preparation for trial in this case, and therefore Plaintiffs reserve the right to rely on any legal theories, facts, documents, testimony, or evidence which may come to light during fact and expert discovery.

Subject to and without waiving the foregoing objections, Plaintiffs will supplement their answer to this interrogatory on January 16, 2017.

FIRST SUPPLEMENTAL RESPONSE: Plaintiffs further object that they are not required to show that Republican voters were chilled from registering to vote, nor are they required to identify

each such Republican voter. *See Shapiro v. McManus*, --- F. Supp. 3d ---, 2016 WL 4445320, at *10-11 (D. Md. 2016) (discussing facts that Plaintiffs must prove at trial). As a consequence, this interrogatory is not relevant to any party's claim or defense and is not proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving the foregoing objections, Plaintiffs state that to the extent that a further response is required, after the 2011 Congressional Plan was adopted, voters in Maryland's Sixth District were chilled from participating in the political process, including registering to vote, voting, and/or supporting Republican candidates because they believed that their votes did not matter and their candidates did not have a reasonable chance of winning due to the cracking of Republicans in the former Sixth District.

More specifically, the dilution of Republican's voters in Maryland has chilled and manipulated political participation since 2011. Gerrymanders that "pack" or "crack" votes chill political participation because objectively reasonable voters in such manipulated districts understand that their votes "will not count" because they cannot affect the outcome. Such voters also understand that other like-minded voters' votes "will not count" and thus are less likely to participate actively in campaigning for their chosen candidates.

Vote "cracking" chills political speech in an even more pernicious way in Maryland because Maryland employs a closed primary registration system. For a voter to participate in a particular political party's primary, the voter must be a registered member of that party. Registered Republicans cannot participate in Democratic primaries, and registered Democrats cannot participate in Republican primaries. In districts where the Democratic Party's candidate is very likely to win the general election, the only real opportunity to influence what person is ultimately elected is the Democratic primary race. Under the closed primary system, residents must register as members of

the Democratic party in order to vote in the Democratic primary.

In addition, the Congressional Plan chilled participation in general elections. Objectively reasonable voters who feel that the outcomes of elections are preordained by the legislature's map-drawing are discouraged from casting their votes or engaging in the political process at all.

Dated: January 16, 2016

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