

# **EXHIBIT 11**

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

O. JOHN BENISEK, *et al.*,

*Plaintiffs,*

v.

LINDA H. LAMONE., *et al.*,

*Defendants.*

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Case No. 13-cv-3233

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**DECLARATION OF YAAKOV WEISSMANN**

I, Yaakov Weissmann, under penalty of perjury, declare and state:

1. I, Yaakov “Jake” Weissmann, am over the age of eighteen and competent to testify on the matters stated below.

2. I have served as a staff member to Senate President Thomas V. Mike Miller, Jr. since July 2009. When I began my service I was a junior member of the staff and Patrick Murray was Deputy Chief of Staff. Victoria Gruber served, and still serves as Chief of Staff. In 2011, Senate President Miller assigned the general topic of redistricting to Mr. Murray’s portfolio of matters and Mr. Murray asked me to assist him.

3. My first work on redistricting began in January 2011 when I met with the Department of Legislative Services with Mr. Murray, Jeremy Baker, who was a staff member to House Speaker Michael Busch, and staff from the Department of Legislative Services to be trained to use the Maptitude redistricting software. We also learned and discussed what data would be available from the Census; later in the spring.

4. To the best of my recollection, in or around January or February, 2011, Mr. Murray and I were provided with a laptop that had been prepared by the Department of Legislative Services with the 2010 Census data, as adjusted for Maryland’s No Representation Without Population Act. The laptop also included party registration data and voter turnout data. At some later time we received two data files that contained Democratic Performance Index information at the precinct level—the first file contained

unreliable data, but the second appeared to be reliable. I cannot recall who provided the data we ultimately used. None of the data sets we had available gave data at an address level and we did not examine information at an address level.

5. Occasionally, we examined census blocks. The only data available at a census block level, other than 2010 Census data, was registration and turnout data. The Democratic Performance Index data was available at the precinct level only (although the mapping software will display a number for the Census Block, I cannot ever recall looking at that number and, because the Democratic Performance Index is calculated using election returns, it is not meaningful at lower than a precinct level). Election results data from the State Board of Elections was not integrated into the mapping software, although it is possible that we consulted those results from time to time. I have no specific recollection of doing so with respect to congressional redistricting. When drawing district lines, the software program did not permit us to split census blocks.

6. Because I was more technologically proficient, and, as a junior staffer, had more time in my schedule, I became the person primarily charged with using the Maptitude software to create draft plans.

7. I began working with staff members from the Governor's office in or around July, 2011 to assist them with drawing the Governor's Redistricting Advisory Committee 2011 Congressional map. These staff included Joseph Bryce, Secretary of State John McDonough. Pat Murray and Jeremy Baker were also part of this group. As part of that work I attended several of the GRAC's public hearings. From time to time, Jeanne Hitchcock, chair of the Governor's Redistricting Advisory Committee and Richard Hall, Secretary of Planning would join our workgroup to provide feedback, including feedback from the public hearings and other stakeholders. We also looked at and considered a variety of third-party plans including the plan submitted to the Governor's Redistricting Advisory Committee by the Maryland Republican Party.

8. Sometime in the middle of August, 2011, our group received a draft map that was provided by a member of the Governor's staff, although I cannot remember who provided it. I understood this draft map to be a map that the Maryland United States Congressional Delegation had presented to the Governor. A printout of the map is attached as Exhibit A to this affidavit. I have examined Exhibit B to this affidavit and believe it to be the same or a substantially similar map.

9. The map depicted as Exhibit A was not acceptable. The group of staff tasked with developing a plan therefore sought to create a plan that would be acceptable to the Commission. We made a series of major changes that included keeping 1) Washington

County intact; 2) Frederick City intact;<sup>1</sup> 3) Hagerstown intact; 4) Westminster intact; 5) the number of districts in Prince George's County to just two by drawing the Third and the Eighth Districts so that they did not include population from Prince George's County; 6) the number of districts in Montgomery County to three by drawing the Fourth District so that it did not include population from Montgomery County; and 7) the I-270 corridor as a major feature of the Sixth district, connecting Frederick with Montgomery County. We also made other changes to improve the visual compactness of the districts throughout the map as compared to the draft map provided by the Congressional delegation.

10. When we were preparing the plan for the GRAC's approval we also understood that an option should be presented that eliminated the Chesapeake Bay crossing the First District by removing the Anne Arundel County District One population. Because of GRAC's other goals, including reducing the number of congressional districts in Prince George's County, maintaining majority-minority districts, and incumbent protection, development of this map required the Sixth District to expand southward into Montgomery County. For example, keeping the addresses of all incumbents in their districts was not simple in the north-east sector of the map, where three incumbent congressional representatives lived in close proximity to each other.

11. When drawing the Sixth and Eighth Districts, the staff intended to place the entirety of Frederick City into the Sixth District and the entirety of Rockville, Maryland into the Eighth District. In the process of preparing this affidavit I examined maps prepared by the Department of Planning and attached as Exhibit A to the declaration of Shelly April and the map files produced in this case, and realize that there was a trivial split of each city. In Frederick City, I do not know how this split occurred, because I recollect selecting the boundaries of the municipality in Maptitude for inclusion in the Sixth District when drawing the district lines in that area. In Rockville, it appears that the boundaries of precinct 04-020 were followed rather than the municipal boundary in one instance. I cannot recall if this was done purposefully to avoid a precinct split or whether I selected Rockville's municipal boundaries in Maptitude like I did for Frederick City, but I do recall that Rockville in its entirety was intended to be placed in the Eighth District. Examining the map file from which the text of Senate Bill 1 was prepared, it appears that there are 0 residents in the area of Frederick City contained in the Eighth and that there are 4 residents in the area of Rockville contained in the Sixth District.

12. At one point, our group considered a map that would have created the possibility that eight Democratic and zero Republican congressional representatives could be elected, but this map was not seriously considered for adoption.

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<sup>1</sup> As explained below, it was our intent to keep Frederick City intact.

13. As staff, we developed at least three plans, but it may have been four, to discuss and share with the GRAC. These plans were presented to GRAC who voted on a plan that was announced, and that plan was presented to the Governor. After the GRAC's announcement and presentment, the Governor made slight additional changes. This map was ultimately provided to the Department of Legislative Services to be translated into the text of Senate Bill 1.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

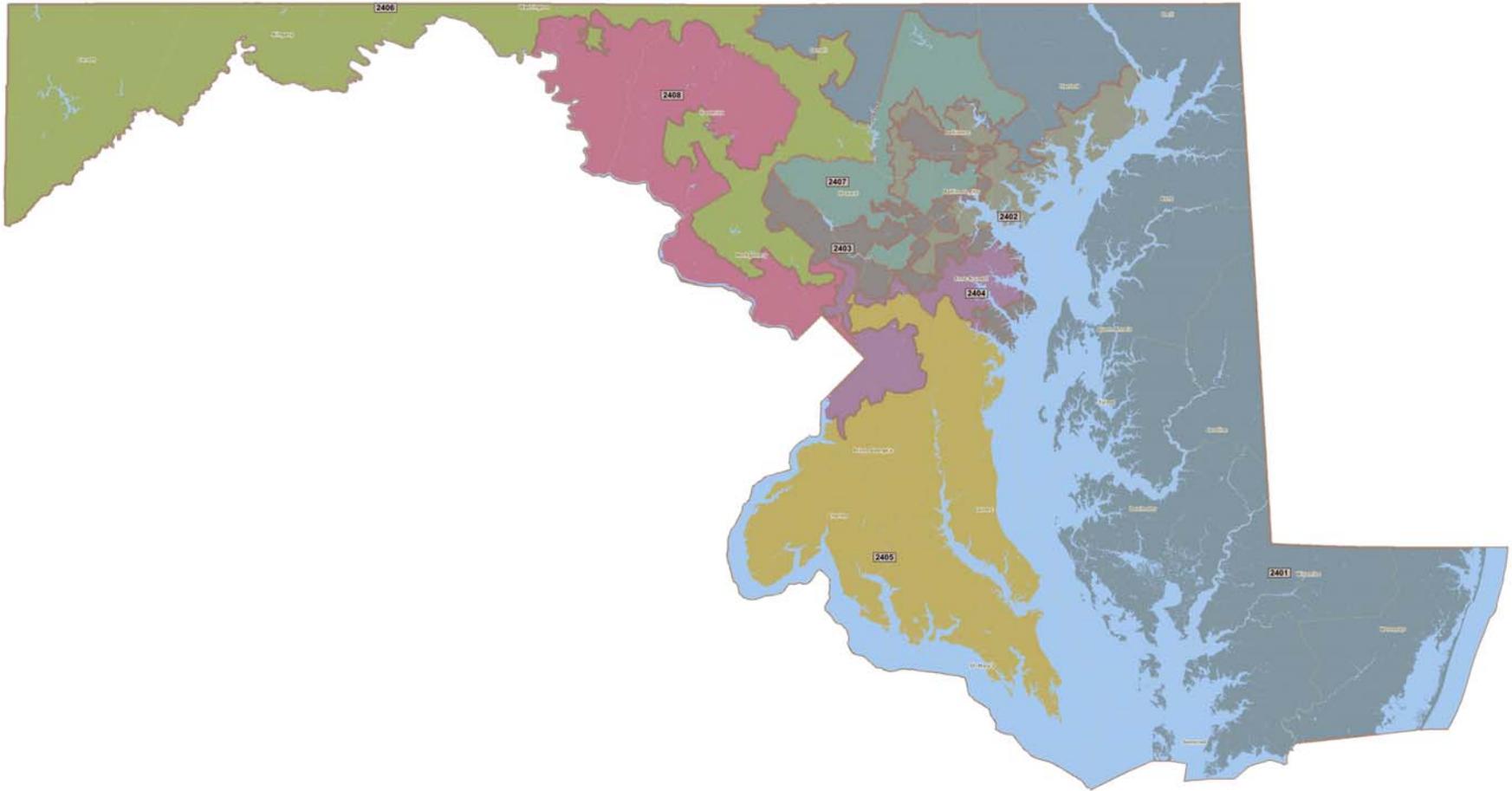
6/29/17

Date



Yaakov Weissmann

# Exhibit A



# Exhibit B

# Delegation Proposal

