**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF VIRGINIA**
**Richmond Division**

PAUL GOLDMAN,

Plaintiff,

v.

ROBERT H. BRINK, *et al.*,

Defendants.

Case No. 3:21-cv-420

## NOTICE OF APPEAL

Now comes *pro se* Plaintiff, herein providing this Notice of Appeal as required, such notice to be filed in accordance with the required timeline, the basis of his appeal to include in part the following:

1. The Opinion fails to take into consideration certain key principles articulated on pertinent constitutional matters contained in U.S. Supreme Court decisions since 1962, staring with *Baker v. Carr*, 369 U.S. 186 (1962), *Reynolds v. Sims*, 377 U.S. 533 (1964), *Avery v Midland County*, 390 U.S. 474 (1968), *Mahan v. Howell*, 410 U.S. 315 (1973), *Meyer v. Grant*, 486 U.S. 414 (1988), and *Harris v. Arizona Independent Redistricting Commission* 136 S. Ct. 1301 (2016), among others.

2. Based on the cases cited by Plaintiff, this instant matter is the first time in American history where a Court was, or should have been, fully aware that a state government intended to hold a state legislative election using districts a federal court had previously warned would grossly violate the Equal Protection Clause of the 14th Amendment and yet the Court allowed the election to proceed without pointing out such a violation would require an

appropriate equitable remedy thereby making the Opinion the most serious slashing back of such constitutional rights since *Reynolds*, supra. *Costner v Dalton*, 522 F. Supp. 350 (E. D. Va. 1981).

3. The continued insistence that *Gill v Whitford*, 136 S. Ct. 1916 (2016), a racial gerrymandering case which never uses the phrase "ideal district" and involves a remand not a substantive decision, is somehow controlling on Standing in a *Reynolds* challenge (such cases entirely different statistically from a racial gerrymandering challenge and relying on an "ideal district" analysis, defies the plain meaning of the cases cited in paragraph # 1, *supra* as Plaintiff has shown for months.

4. The Opinion inaccurately portrays certain aspects of the history of the case, including the process for developing the stipulation of facts despite Plaintiff having previously pointed this out to the Court.

5. To the extent the Opinion suggests Plaintiff is at all to blame for the more than 11 months it took to provide the Opinion after the initial complaint was filed, such a suggestion is not merely contrary to a fair reading of the facts, but its inclusion in the Opinion raises significant questions concerning the even-handed nature of certain matters relevant to this matter.

6. As regards paragraph #3 *supra*, the following quote appears in a news report concerning the hearing held on June 13, 2022 in a related case wherein the reporter says "Novak urged Thomas [a plaintiff in a different suit] to avoid the type of "shenanigans" seen in the previous case, pointing specifically to Goldman's refusal to provide records verifying his voting history because, as Goldman argued, the state already had that information." See "Faulting state's 'stall tactics,' judge orders speedy schedule in new Va. redistricting suit" by Graham

Moomaw, *Virginia Mercury*, June 13, 2022: https://www.virginiamercury.com/blog-va/faulting-states-stall-tactics-judge-orders-speedy-schedule-in-new-va-redistricting-suit/

7. "Don't be cute," Novak said. "This is not a press show. This is a lawsuit." Id.

8. These comments raise a credible inference as regards whether the Plaintiff did in fact receive the type of tribunal guaranteed to every American citizen, as they suggest a certain attitude by Judge Novak, the key jurist in the matter, as regards Plaintiff and/or his case.

9. Judge Novak knows full well the full and true history of the issue of voting, which is not fully discussed in the Opinion.

10. Plaintiff filed a Notice to explain why he was objecting to the litigation tactics of the Attorney General, which he considered demeaning and unprofessional, for the reasons laid out to the Court, such tactics including but not limited the refusal of the Defendants to stipulate even the Plaintiff's name or citizenship, such conduct revealed to the Court, yet Plaintiff is apparently being criticized for refusing to play what some might call the "birther" game with Defendants. ECP 72.

11. Since the case involved a Motion To Dismiss, the sworn affidavit submitted by Plaintiff has to be taken as true, such affidavit as to voting is not challenged by Defendants because at all times they knew Plaintiff had voted in the 2021 general election or had constructive knowledge since they are the top state election officials with access to, and responsible for, the Commonwealth's official voting records.

12. At all times, the records of Plaintiff's voting history were in the possession of the Virginia Department of Elections, three of the Defendants being members of said agency and the fourth the Commissioner of Elections.

13. Plaintiff made a Motion to require Defendants to produce such documents.

14. The Judge specifically said, through his Clerk, that Defendants did not have to reply to this Motion, even though they indicated their willingness to reply (although not necessarily their willingness to comply with any document production).

15. While Plaintiff is *pro se*, he is not aware of any case where a Plaintiff would be required in a Motion to Dismiss to produce official state voting records already in the possession of the Defendants, especially if the Defendants have made, as the Court seemingly says, the voting history an issue.

16. Defendants put into evidence an Affidavit by one of the Defendants, the Commissioner of Elections.

17. In that affidavit, she revealed information about the Plaintiff's voting history although limited to registration history.

18. Yet this affidavit dodged the issue of whether the Defendants knew Plaintiff had voted by clever language as Plaintiff pointed out.

19. The Opinion inaccurately describes why Plaintiff's voting history could not be provided by the Defendants, since the Plaintiff's voting history is a public record available for access, indeed the Department of Elections sells such information for a profit to political candidates, political parties, and political action committees, such as the campaigns to those running for Attorney General.

20. Plaintiff spent all these many months pursuing this case for himself and those similarly situated, meeting all the deadlines, paying all the required costs, attending all the hearings required by in this matter, and if a deadline needed an extension, made the proper Motion.

21. In all candor, Plaintiff is baffled by Judge Novak's suggestion at the June 13, 2022, hearing, and the suggestion in the Opinion, that Plaintiff is any way to blame for the delay he apparently now concedes has been part of the case. See "Federal judge blames state's 'stall tactics' for delaying effort to force 2022 Virginia House elections" by Dean Mirshahi, WRIC, June 13, 2022: https://www.wric.com/news/politics/local-election-hq/federal-judge-blames-states-stall-tactics-for-delaying-effort-to-force-2022-virginia-house-elections/

22. As the Court knows, the Plaintiff made a Motion To Expedite back last September which was denied.

23. Indeed, Judge Novak said the following at the hearing last October 12, 2021: "You know, in the *Cosner* case, they [three-judge court] ordered everything to be resolved by February... ***I didn't expedite it*** before when I thought I was giving you [the government] the opportunity to do what you needed to do. Now I'm kind of stuck because I don't think you did what you needed to do." JA 111 (Emphasis added).

24. Thus, to in any way publicly suggest that this *pro se* Plaintiff did anything but try his best to protect his rights and those of citizens similarly situated and denied their constitutional rights in as quick and far a manner as possible is more than unfair, it seems to be intended to hold this Plaintiff up to unfair public ridicule.

25. For Judge Novak to suggest in any way that this *pro se* Plaintiff was putting on a political show, as opposed to bringing a serious lawsuit, is not based on any credible interpretation of the numerous filings and hearings in this case over the past many months.

26. This *pro se* Plaintiff appeared twice before Judge Novak and once before a panel of the 4th Circuit Court of Appeals, during COVID, twice despite suffering from physical pain,

indeed sufficient enough that he had to ask permission to remain seated during the Oral Argument before the 4th Circuit.

27. Despite the quote in paragraph #19 *supra*, this *pro se* Plaintiff plowed ahead respecting the authority and dignity of our judicial system.

28. With all due respect, this type of *ad hominem* missive would surely not be permitted by the Court if made by a Plaintiff.

29. At all times, Plaintiff was entitled to rely on Canon 3 of the Code of Conduct for United States Judges.

Dated: June 17 2022

Respectfully submitted,

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*Pro se*

**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that on June 14, 2022, I filed by U.S. Mail the foregoing with the Clerk of Court. A true copy was sent, via electronic mail as per prior agreement, to:

Andrew N. Ferguson
Steven G. Popps

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Paul Goldman
*Pro se* Plaintiff