

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

BALTIMORE DIVISION

NEIL PARROTT)
20005 Lindenhurst Court)
Hagerstown, MD 21742)
Washington County,)

ANN MARVIN)
7899 Tuckahoe Road)
Denton, MD 21629)
Caroline County,)

LUCILLE STEFANSKI)
504 Risen Star Court)
Havre de Grace, MD 21078-2699)
Harford County,)

ERIC KNOWLES)
4 Amos Garrett Boulevard)
Annapolis, MD 21401)
Anne Arundel County,)

FAITH LOUDON)
8412 Garland Road)
Pasedena, MD 21122)
Anne Arundel County,)

MATT MORGAN)
39374 Tomrose Court)
Mechanicsville, MD 20659)
St. Mary's County,)

ELLEN SAUERBREY)
4122 Sweet Air Road)
Baldwin, MD 21013-9622)
Baltimore County,)

and)

KERINNE AUGUST)
11001 Wickshire Way)
North Bethesda, MD 20852)

Civil Action No. _____

Montgomery County,)
)
<i>Plaintiffs,</i>)
)
v.)
)
LINDA H. LAMONE, in her official)
capacity as State Administrator)
of Elections,)
151 West Street, Ste. 200)
Annapolis, MD 21401)
)
<i>and</i>)
)
BOBBIE S. MACK, in her official)
capacity as Chair of the Maryland)
State Board of Elections,)
151 West Street, Ste. 200)
Annapolis, MD 21401)
)
<i>Defendants.</i>)
_____)

COMPLAINT

Plaintiffs, by their attorneys, bring this action for declaratory and injunctive relief and allege as follows:

INTRODUCTION

1. Plaintiffs are individual registered voters who seek declaratory and injunctive relief to enforce Article I, Section 2 and the Due Process Clauses of the Fourteenth and Fifth Amendments of the United States Constitution.

2. Plaintiffs seek a declaratory judgment that 2011 Senate Bill 1, Maryland’s congressional districting plan, is a political gerrymander that violates the Constitution.

3. Plaintiffs seek a permanent injunction prohibiting the calling, conducting, supervising or certifying of any future congressional elections under Maryland’s congressional districting plan. Plaintiffs further ask this Court to order the creation of a new congressional

districting plan that will not inflict the various harms on voters' constitutional rights that are currently inflicted by Maryland's notorious congressional gerrymander.

4. Plaintiffs further seek costs and attorneys' fees.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to 42 U.S.C. § 1983, 28 U.S.C. § 1343(a)(3) and (4), and 28 U.S.C. § 1331, as this action arises under the U.S. Constitution. Additionally, a three-judge court has jurisdiction in accordance with 28 U.S.C. § 2284(a) because this matter involves constitutional injuries resulting from statewide redistricting.

6. Furthermore, this Court has jurisdiction over Plaintiffs' request for declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202. Jurisdiction for Plaintiffs' claim for attorney's fees is based on 42 U.S.C. § 1988 and 52 U.S.C. § 10310(e).

7. Venue is proper in this court under 28 U.S.C. § 1391(b).

PLAINTIFFS

8. Plaintiff Neil Parrott is a citizen and a registered voter of Maryland residing in Hagerstown, Maryland, in the Sixth Congressional District. Mr. Parrott is also a current member of the Maryland House of Delegates.

9. Plaintiff Ann Marvin is a citizen and a registered voter of Maryland residing in Denton, Maryland, in the First Congressional District.

10. Plaintiff Lucille Stefanski is a citizen and a registered voter of Maryland residing in Havre de Grace, Maryland, in the Second Congressional District.

11. Plaintiff Eric Knowles is a citizen and a registered voter of Maryland residing in Annapolis, Maryland, in the Third Congressional District. Mr. Knowles ran for Congress in that district.

12. Plaintiff Faith Loudon is a citizen and a registered voter of Maryland residing in Pasadena, Maryland, in the Fourth Congressional District. Ms. Loudon ran for Congress in that district.

13. Plaintiff Matt Morgan is a citizen and a registered voter of Maryland residing in Mechanicsville, Maryland, in the Fifth Congressional District. Mr. Morgan is a current member of the Maryland House of Delegates.

14. Plaintiff Ellen Sauerbrey is a citizen and a registered voter of Maryland residing in Baldwin, Maryland, in the Seventh Congressional District. Ms. Sauerbrey is a former member of the Maryland House of Delegates and twice ran for Governor of Maryland.

15. Plaintiff Kerinne August is a citizen and a registered voter of Maryland residing in North Bethesda, Maryland, in the Eighth Congressional District.

16. All Plaintiffs are injured as a result of the political gerrymander inherent in the State's congressional districting plan.

DEFENDANTS

17. Defendant Linda Lamone is sued in her official capacity as Election Administrator for the State of Maryland. Defendant Lamone is Maryland's chief election official and as such is responsible for the conduct of elections within the State.

18. Defendant Bobbie S. Mack is sued in her official capacity as Chair of the Maryland State Board of Elections. As Chair of the State Board of Elections, Defendant Mack is responsible for supervising the conduct of elections in the State.

FACTS COMMON TO ALL CLAIMS

Maryland's Congressional Districting Plan

19. On October 20, 2011, the Maryland General Assembly enacted Senate Bill 1, establishing the State's congressional districting plan, which Governor Martin O'Malley signed into law later that day. This plan established the districts to be used for the election of Maryland's eight representatives in the United States House of Representatives through the release of 2020 census information. The districting plan describes each district by identifying the counties, election districts, precincts, and census block designations for the areas that are included in each district.

20. According to an analysis conducted by *The Washington Post* using data obtained from the U.S. Census and the Maryland Department of Planning, the congressional districting plan greatly reconfigured Maryland's congressional districts. Specifically, the new plan removed approximately 1.6 million Marylanders from their previous congressional district and placed them in a different district. According to this same analysis, 49 percent of Marylanders in the Sixth Congressional District were removed from their previous congressional district and placed in a different congressional district, as were 42 percent of Marylanders in the Fourth Congressional District, 40 percent of Marylanders in the Eighth Congressional District, and 33 percent of Marylanders in the Third Congressional District. In total, 27 percent of all Marylanders were removed from their previous congressional district and placed in a different congressional district.

21. According to an editorial by *The Washington Post*: "The map, drafted under Mr. O'Malley's watchful eye, mocks the idea that voting districts should be compact or easily navigable. The eight districts respect neither jurisdictional boundaries nor communities of

interest. To protect incumbents and for partisan advantage, the map has been sliced, diced, shuffled and shattered, making districts resemble studies in cubism.”

22. A map showing the configuration of Maryland’s congressional districting plan is attached hereto as Exhibit A.

Subsequent Legal Challenges to the Congressional Districting Plan

23. Since its adoption, Maryland’s congressional districting plan has been the subject of near constant litigation. Several of these lawsuits have asserted claims of political or partisan gerrymandering.

24. The first lawsuit to assert gerrymandering claims was *Fletcher v. Lamone*, 831 F. Supp. 2d 887 (D. Md. 2011). The plaintiffs in that federal lawsuit argued, *inter alia*, that Maryland’s plan was a political gerrymander that violated the Equal Protection Clause of the Fourteenth Amendment. *Id.* at 892.

25. The federal court in *Fletcher* found that Senate Bill 1 appeared to be “political gerrymandering” under U.S. Supreme Court precedent, but held that there was no judicially manageable remedy available under federal law:

[P]laintiffs allege that Maryland’s redistricting plan is an impermissible partisan gerrymander. . . . [T]his claim is perhaps the easiest to accept factually — Maryland’s Republican Party regularly receives 40% of the statewide vote but might well retain only 12.5% of the congressional seats. . . . Recent cases have reaffirmed the conceptual viability of such claims, but have acknowledged that there appear to be no judicially discernible and manageable standards for adjudicating political gerrymandering claims.

Fletcher, 831 F. Supp. at 903-904 (internal citations omitted). The concurring opinion similarly observed: “[I]t is clear that the plan adopted by the General Assembly of Maryland is, by any reasonable standard, a blatant political gerrymander.” *Fletcher*, 831 F. Supp. 2d at 905 (Titus, J., concurring).

26. The second lawsuit to make a claim of political gerrymandering was *Gorrell v. O'Malley*, 2012 U.S. Dist. Lexis 6178, * 11 (D. Md. 2012). In that case, the Court dismissed the plaintiff's claim that Maryland's congressional district plan was an unconstitutional partisan gerrymander, characterizing the claim either as nonjusticiable or as supported only by conclusory allegations. *Id.*

27. A third Maryland lawsuit asserted political gerrymandering claims under the Fourteenth Amendment, but the plaintiffs voluntarily dismissed those claims after the *Fletcher* decision. *Olson v. O'Malley*, 2012 U.S. Dist. Lexis 29917, * 4, fn. 3 (D. Md. 2012).

28. A fourth Maryland lawsuit asserted political gerrymandering in violation of the Fourteenth Amendment, but the claim was dismissed for lack of a judicially manageable standard that could be used to resolve such a claim. *Benisek v. Mack*, 11 F. Supp. 3d 516, 526 (D. Md. 2014).

29. No plaintiff to the instant lawsuit was a party to any of the four above-described lawsuits.

30. Plaintiff Neil Parrott was a party to two lawsuits in Maryland state courts concerning a referendum to repeal the congressional districting plan. Specifically, Delegate Parrott was an intervener in *Whitley v. State Bd. of Elections*, 429 Md. 132 (2012), a lawsuit brought by the Maryland Democratic Party to prevent the people of Maryland from voting on the gerrymandering question based on alleged invalid petition signatures. Subsequently, Delegate Parrott initiated a lawsuit against the State of Maryland alleging the language used to describe the referendum on the congressional districting plan was intentionally vague and misleading in violation of Maryland's constitution. The Maryland Court of Special Appeals ruled against

Delegate Parrott in an unreported 2014 opinion.¹ In both lawsuits, Delegate Parrott asserted interests or claims under the Maryland Constitution and Maryland state law, but not under the United States Constitution.

The Injuries That Are the Bases for Plaintiffs' Claims

31. Gerrymandering is not primarily something that Democrats and Republicans do to each other. Gerrymandering is something that *legislators* and other state actors do to *voters*. Plaintiffs are suing as Maryland voters for injuries – including the loss of decision-making power and other disadvantages peculiar to gerrymandered districts – that *all* Maryland voters endure because of the egregious gerrymandering of the State's congressional districts.

A. Voters' Loss of the Power to Choose Representatives

32. By means of gerrymandering, mapmakers (legislators and their agents) appropriate for themselves a significant part of the power to elect legislators. As a matter both of democratic practice and constitutional law, that power properly belongs to voters.

33. In a partisan gerrymander, the party in charge of redistricting creates (1) a relatively few districts in which the opposing party enjoys a supermajority, and (2) a greater number of districts in which one's own party has a smaller, but significant and winning, majority. By effectively arranging its partisans in this way, the party that controls redistricting can win more combined seats in the legislature than if there were no gerrymander.

34. Maryland has established an effective congressional gerrymander, by virtue of which a significant Republican minority, able to muster about 40% of the vote in any given election, elects only 12.5% of the State's delegation to the House of Representatives.

¹ *Parrott v. McDonough*, Case No. 1445 (Md. Ct. Spc. App. 2014), available at <http://redistricting.ils.edu/files/MD%20parrott%2020140723%20opinion.pdf>.

35. Maryland's gerrymander harms all Maryland voters, regardless of their party preferences or how they would vote in a particular election, by giving State legislators the power to make choices regarding the State's congressional delegation that only the voters should make.

36. In addition to the general harm inflicted when legislators intrude on powers that should be reserved to voters, Maryland's gerrymander inflicts particular, intentional harm on partisan and non-partisan voters of every description:

- a. It harms Republican voters statewide by diminishing their ability to elect the candidates they prefer.
- b. It harms Republican voters deliberately placed in a minority in a district where Democrats were deliberately given a majority.
- c. It harms independent or non-partisan voters by stacking the deck in favor of Democrats.
- d. It harms Democratic voters deliberately placed in a minority in the one district where Republicans were deliberately given a supermajority.
- e. It harms voters who vote for the Democrat in their own district but who might not prefer a particular Democratic candidate running in *another* district.
- f. It harms voters of every party who might not prefer a Democratic supermajority in the State's delegation. There are, in fact, voters who ordinarily vote the party line but who believe that a divided government governs best, and who would not vote to establish a supermajority even of their own party if, say, the option were presented on the ballot.

37. A crucial purpose of the one-person-one-vote constitutional requirement is to ensure that voters retain the power to choose their representatives. To the extent that it transfers

this power to Maryland's legislators, Maryland's congressional gerrymander circumvents the one-person-one-vote standard, frustrates its purpose, and diminishes its efficacy.

38. Article I, Section 2 of the U.S. Constitution provides: "The House of Representatives shall be composed of Members chosen every second Year by the People of the several States . . ." Maryland's partisan congressional gerrymander violates this provision by transferring the power to select representatives from the people – including Plaintiffs – to Maryland legislators.

B. Disadvantages Peculiar to Gerrymandered Districts

39. In order to gerrymander, mapmakers need to arrange both their own partisans and those of their electoral opponents in particular district configurations so as to maximize the voting strength of their own partisans.

40. Because voters do not choose where to live so as to suit the purposes of legislators trying to draw gerrymandered districts, those legislators must distort district boundaries to create districts that contain the mix of voters that best achieves their partisan goals.

41. Maryland's congressional districting plan, which is an example of an effective, partisan gerrymander, contains wildly deformed districts.

42. Maryland's congressional districting plan illustrates the need to create non-compact districts in order to gerrymander. Those who drew and approved Maryland's bizarre-looking districts would not have invited multiple lawsuits for gerrymandering, and would not have held the State up to public ridicule on account of those districts' appearance, if the desired partisan result could have been achieved in some other way.

43. The exceedingly non-compact districts caused by gerrymandering inflict a number of burdens on Maryland voters.

44. Gerrymandered districts divide political boundaries and fracture the political communities of interest they delineate.

45. The following metrics are commonly used by social scientists to measure the extent to which a district plan ignores existing political boundaries:

- a. A “split county” is any county that is divided by a district line.
- b. A “county fragment” is created when any parts of a county, rather than the whole county, are contained within a district.
- c. A “split precinct” is any voter precinct that is divided by a district line.

46. Maryland’s gerrymandered district plan produces many split counties, county fragments, and split precincts, indicating that the district plan ignores political boundaries and fragments political communities of interest.

47. Exceedingly non-compact districts confuse voters regarding such basic matters as which district they reside in, who represents them, who is running for office in their district, and where they go to vote.

48. Non-compact, gerrymandered districts make it harder for candidates and their political campaigns to use mass media to target primarily the voters in their congressional district. Because gerrymandered districts are non-compact, mass media advertisements tend to reach across district lines to significant numbers of citizens outside the intended district. This further confuses voters as to who is running for office in their districts. It also diminishes the value of mass media advertisements by making them less cost-effective.

49. Exceedingly non-compact districts make campaigning more expensive, given that candidates have to expend resources to educate voters about which district they reside in and which candidates they are voting for; have a harder time traveling the district and convincing

their supporters to do so; and have to waste resources on mass media campaigns that reach many voters residing in other districts.

50. Because gerrymandered districts are confusing, mass media advertisements are less effective, and candidates have to work harder and spend more to get information to voters, voters in gerrymandered districts have a harder time staying informed about elections.

51. These burdens are inflicted on voters in gerrymandered districts to no public purpose and for no good reason.

The Necessity for Court Intervention

52. Where partisan mapmakers acquire the technical ability to participate in the selection of legislators, the problem cannot be remedied by ordinary democratic means – that is, by holding more elections. Rather, the problem becomes a chronic, persistent failure of democracy, which requires action by federal courts.

53. Because Maryland's gerrymander is in the partisan interest of those who drew the district lines at issue, it will not be remedied without the intervention of this Court.

Using District Compactness Scores as a Manageable Standard to Adjudicate Political Gerrymandering Claims

54. Plaintiffs aver that there are judicially discernible and manageable standards for determining whether districts have been gerrymandered. In particular, Plaintiffs aver that a straightforward application of a mathematically derived compactness measure to congressional districts can be used as a judicially manageable, discernable, and non-arbitrary standard with which to measure, and deter, excessive partisan gerrymandering.

55. The extent to which Maryland's congressional districts are distorted by gerrymandering can be quantified using the Polsby-Popper compactness scale.² This scale is a mathematical test of a shape's compactness. It measures the compactness of an electoral district by dividing (1) the area of the actual district by (2) the area of a hypothetical circle having the same perimeter length as the district.

56. For any district, its Polsby-Popper compactness score may be determined by means of the following formula:

$$\frac{4 \times \pi \times (\text{the area of the district})}{(\text{the perimeter length of the district})^2}$$

This formula produces scores on a scale from 0 to 1, with 0 being the least compact and 1 being the most compact. These raw scores typically are multiplied by 100 to produce a scale from 0 to 100, with 100 being the most compact.

57. The Polsby-Popper scale does not mandate any particular, fixed, or minimum scores. Rather, it is used only as a way to compare different districts or district plans.

58. The Polsby-Popper scale is one of the most widely used measures of electoral district compactness. Social scientists discussing or testifying about district compactness routinely utilize this measure, and courts routinely accept its use. Most redistricting software used by state legislatures will automatically calculate each district's Polsby-Popper scores.

59. On information and belief, Maryland's state legislature drew its congressional districts using the Maptitude software program, which automatically calculates each district's Polsby-Popper scores.

² This standard and its use were described in Daniel D. Polsby and Robert D. Popper, *The Third Criterion: Compactness as a Procedural Safeguard against Partisan Gerrymandering*, 9 YALE L. & POL'Y REV. 301 (1991). Mr. Popper is co-counsel for Plaintiffs.

60. Maryland's congressional districts have an average Polsby-Popper compactness score of 11.3. This is the lowest (worst) average compactness score for congressional districts of any state in the nation.

61. Maryland's Third Congressional District has a Polsby-Popper compactness score of 3.22. This is the second lowest-scoring congressional district in the nation (only slightly better than North Carolina's Twelfth Congressional District.)

62. A compactness measure like the Polsby-Popper scale can easily be applied to restrain partisan gerrymandering. Plaintiffs respectfully submit that a proposed district plan cannot be constitutional if it is so badly gerrymandered that another district plan, consistent with all other applicable legal requirements, could be drawn in which the average compactness score is higher, and in which the compactness score of at least one district is at least *two times* higher than its ranked counterpart in the proposed plan.

63. It always may be determined whether a district plan meets this simple, bright-line standard.

64. This standard will prevent the worst excesses of partisan gerrymandering and the creation of the most wildly contorted districts. Indeed, the situations where it will apply – where overall compactness can be improved while the compactness of a particular district is improved by a factor of two – will be restricted to very bad gerrymanders, like Maryland's.

65. This standard is still practical and forgiving. It allows legislators considerable leeway to account for other legitimate redistricting interests, like the creation of districts containing bona fide communities of interest.

66. This standard applies a non-arbitrary, consistent rule that will prevent the most egregious kinds of gerrymandering.

67. This compactness standard can be applied consistently with every other federal and state legal requirement concerning redistricting.

Comparing Maryland's District Plan With an Illustrative Plan

68. The scores for each of Maryland's current congressional districts on the Polsby-Popper scale (out of a possible 100) are:

District	Compactness
1	16.0
2	6.2
3	3.2
4	9.2
5	31.6
6	7.1
7	8.7
8	8.1
Average	11.3

69. Plaintiffs have attached as Exhibit B a hypothetical district map. Its Polsby-Popper scores are:

District	Compactness
1	12.9
2	53.8
3	44.3
4	43.3
5	51.1
6	35.8
7	43.7
8	41.7
Average	40.8.

70. All of the congressional districts in Plaintiffs' district plan have populations that are as equal as mathematically possible and as equal as Maryland's current district plan.

71. Plaintiffs' district plan has *fewer* split counties than does the current Maryland district plan. Specifically, Plaintiffs' district plan has 8 split counties, and the current Maryland plan has 9 split counties.

72. Plaintiffs' district plan has *significantly fewer* county fragments than does the current Maryland district plan. Specifically, Plaintiffs' district plan has 20 county fragments, and the current Maryland plan has 25 county fragments.

73. Plaintiffs' district plan has *far fewer* split precincts than does the current Maryland district plan. Specifically, Plaintiffs' district plan has 110 split precincts, and the current Maryland plan has 172 split precincts.

74. Because Plaintiffs' plan has fewer split counties, significantly fewer county fragments, and far fewer split precincts, than Maryland's current plan, Plaintiffs' plan is superior to Maryland's plan in preserving local political boundaries and the communities of interest they contain.

75. Compared to the districts in Maryland's current plan, the districts in Plaintiffs' district plan are vastly more compact. Ranking the districts in each plan in order of compactness from lowest to highest, the percentage difference in ranked compactness scores is as follows:

Maryland's Current Plan		Plaintiffs' Plan		Percent Increase in Compactness in Plaintiffs' Plan
Dist.	Compactness	Dist.	Compactness	
3	3.2	1	12.9	402%
2	6.2	6	35.8	577%
6	7.1	8	41.7	590%
8	8.1	4	43.3	534%
7	8.7	7	43.7	500%
4	9.2	3	44.3	481%
1	16.0	5	51.1	320%
5	31.6	2	53.8	171%
AVG	11.3	AVG	40.8	363% ³

76. The *lowest* scoring district in Plaintiffs' district plan (at 12.9) scores better than 6 of Maryland's current districts – indeed, it scores better than Maryland's current *average* of 11.3.

77. The dramatic improvement Plaintiffs were able to achieve in the compactness of every single district is explained by the simple fact that Maryland's district plan is the most gerrymandered and least compact in the nation.

78. The dramatic improvement demonstrated by Plaintiffs' illustrative plan also proves that the non-compactness of Maryland's current districts *is not due to the unusual shape of the State of Maryland*. Rather, this non-compactness is due to the deliberately bizarre district lines Maryland legislators drew in order to gerrymander, as any visual review of its district plan confirms.

79. Maryland's congressional districts are so gerrymandered and non-compact that the results achieved by Plaintiffs in drawing an alternative easily could be replicated. In other words, countless other plans could be drawn in which (1) equal district population was achieved, (2) the integrity of communities was more respected than it is in Maryland's current district plan, and (3) district compactness was improved by many multiples of the current compactness scores.

³ District scores are rounded. Averages and percentages are based on actual, not rounded, scores.

CAUSES OF ACTION

COUNT 1: Restricting the Power of the People to Choose Their Representatives in Violation of Article I, Section 2.

80. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

81. Article I, Section 2 of the U.S. Constitution provides in relevant part: “The House of Representatives shall be composed of Members chosen every second Year by the People of the several States . . .”

82. In the case of a partisan congressional gerrymander like that in Maryland, the power to select representatives is transferred, in significant part, from the people to interested mapmakers in the legislature.

83. Maryland’s partisan congressional gerrymander violates Article I, Section 2 by transferring the power to select representatives from the people – including Plaintiffs – to Maryland legislators, and should be enjoined.

COUNT 2: Burdening the Right to Vote in Violation of the Due Process Clauses of the Fourteenth and Fifth Amendments.

84. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

85. Voting is a fundamental right protected by the Due Process Clauses of the Fourteenth and the Fifth Amendments to the U.S. Constitution.

86. By inflicting electoral harms arising from non-compact districts, gerrymandering burdens Plaintiffs’ right to vote in violation of their constitutional right to Due Process.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully pray that this Court:

1. Assume jurisdiction and request a three judge panel pursuant to 28 U.S.C. § 2284;
2. Issue a declaratory judgment finding that the congressional districting plan illegally and unconstitutionally injures Plaintiffs and is unlawful;
3. Permanently enjoin Defendants from calling, holding, or certifying any elections under the congressional districting plan;
4. Order State authorities to adopt a new congressional districting plan without unlawful politically gerrymanders consistent with the compactness standards articulated in this Complaint;
5. If the State fails to adopt such a plan by the Court's reasonable deadline, order the use of a new congressional districting plan of the Court's choosing;
6. Order Defendants to pay Plaintiffs' reasonable attorney's fees, including litigation expenses and costs, pursuant to 52 U.S.C. § 10310(e) and 42 U.S.C. § 1988;
7. Retain jurisdiction to issue any and all further orders that are necessary to satisfy the ends of justice; and

8. Award Plaintiffs any and all further relief that this Court deems just and proper.

Dated: June 24, 2015

Respectfully submitted,

s/ Robert D. Popper

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