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IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

PETITION OF QUANTUM MARYLAND, LLC, and JOAN AQUILINO, FOR JUDICIAL REVIEW OF THE DECISION OF THE FREDERICK COUNTY BOARD OF ELECTIONS, and BARBARA WAGNER IN THE MATTER OF THE PETITION OF THE FREDERICK COUNTY DATA CENTER REFERENDUM COMMITTEE FOR REFERENDUM OF FREDERICK COUNTY COUNCIL ORDINANCE 26-01-001	*	Case No. C-10-CV-26-000309

* *

QUANTUM MARYLAND, LLC et al. Plaintiffs, v. FREDERICK COUNTY BOARD OF ELECTIONS, et al. Defendants.	*	Case No. C-10-CV-26-000309

* *

PETITION OF WINDRIDGE PROPERTIES, L.C. et al., Petitioners,	*	

FOR JUDICIAL REVIEW OF THE DECISION OF THE FREDERICK COUNTY BOARD OF ELECTIONS, and BARBARA WAGNER IN THE MATTER OF THE PETITION OF THE FREDERICK COUNTY DATA CENTER REFERENDUM COMMITTEE FOR REFERENDUM OF FREDERICK COUNTY COUNCIL ORDINANCE 26-01-001	*	Case No. C-10-CV-26-000321

* *

WINDRIDGE PROPERTIES, L.C. et al. Plaintiffs, v. FREDERICK COUNTY BOARD OF ELECTIONS, et al. Defendants.	*	Case No. C-10-CV-26-000321

* *

PETITION OF NDR PROPERTIES, LLC et al., Petitioners, FOR JUDICIAL REVIEW OF THE DECISION OF THE FREDERICK COUNTY BOARD OF ELECTIONS, and BARBARA WAGNER IN THE MATTER OF THE PETITION OF	*	Case No. C-10-CV-26-000325

THE FREDERICK COUNTY DATA CENTER REFERENDUM COMMITTEE FOR REFERENDUM OF FREDERICK COUNTY COUNCIL ORDINANCE 26-01-001	*	

* *

NDR PROPERTIES, LLC et al. Plaintiffs, v. FREDERICK COUNTY BOARD OF ELECTIONS, et al. Defendants.	*	Case No. C-10-CV-26-000325

* *

PETITION OF ROWAN FREDERICK, LLC et al., Petitioners, FOR JUDICIAL REVIEW OF THE DECISION OF THE FREDERICK COUNTY BOARD OF ELECTIONS, and BARBARA WAGNER IN THE MATTER OF THE PETITION OF THE FREDERICK COUNTY DATA CENTER REFERENDUM COMMITTEE FOR REFERENDUM OF FREDERICK COUNTY COUNCIL ORDINANCE 26-01-001	*	Case No. C-10-CV-26-000326

* *

ROWAN FREDERICK, LLC et al. Plaintiffs, v. FREDERICK COUNTY BOARD OF ELECTIONS, et al. Defendants.	* * * * * * * * * * *	Case No. C-10-CV-26-000326

* *

PETITION OF FREDERICK DATA CENTER OWNER, LLC, et al., Petitioners, FOR JUDICIAL REVIEW OF THE DECISION OF THE FREDERICK COUNTY BOARD OF ELECTIONS, and BARBARA WAGNER IN THE MATTER OF THE PETITION OF THE FREDERICK COUNTY DATA CENTER REFERENDUM COMMITTEE FOR REFERENDUM OF FREDERICK COUNTY COUNCIL ORDINANCE 26-01-001	* *	Case No. C-10-CV-26-000327

* *

FREDERICK DATA CENTER OWNER, LLC et al. Plaintiffs, v.	* * * * * * * *	Case No. C-10-CV-26-000327

FREDERICK COUNTY BOARD OF ELECTIONS, et al. *

Defendants.

* *

PLAINTIFFS-PETITIONERS' OPPOSITION TO THE FREDERICK COUNTY DATA CENTER REFERENDUM COMMITTEE'S MOTION TO DISMISS

Petitioners-Plaintiffs Quantum Maryland, LLC ("**Quantum Maryland**") and Joan Aquilino ("**Petitioners-Plaintiffs**"), by and through their undersigned counsel, respectfully file this opposition to the Motion to Dismiss filed by Defendant-Respondent Frederick County Data Center Referendum Committee ("**Committee**").

INTRODUCTION

The Committee's motion rests on a remarkable and doubly flawed proposition: that circulators may engage in systematic misrepresentations to procure signatures—so long as the petition itself reproduces the ordinance's text—even when that text is rendered in miniscule 4.5 point font that no ordinary voter can read. Misrepresent the acreage affected. Misrepresent who is impacted. Misrepresent what the ordinance actually does. Coach circulators to repeat those misleading statements in writing and on doorsteps across Frederick County. None of it matters, the Committee says, because no one can challenge the misrepresentations except a signer who admits she was misled—and even then, only if she pleads common-law fraud with particularity. The Court asked at the scheduling hearing what would happen if signatures were collected at gunpoint. In the Committee's view, nothing. Bribes, threats, fabrications about the Ordinance's reach would all be beyond judicial review whenever the administrative record reflects a copy of the Ordinance, no matter how illegible.

Adopting the Committee's position would create precisely this perverse incentive: referendum proponents could carefully craft what they submit to the Board—knowing the administrative process offers no public docket, no notice, no intervention rights, and no meaningful investigation—then later insist that every registered voter is trapped behind that same incomplete record and barred from discovering what actually happened on the ground. The result would be a blueprint for evading the very misconduct that Maryland Code, Election Law Article ("**Election Law**") was written to prevent.

Maryland was wise to the game, and its Election Law closes that loophole. Section 16-401(a)(3) makes it a crime to "willfully and knowingly . . . misrepresent any fact for the purpose of inducing another person to sign . . . any petition." That is exactly what Petitioners-Plaintiffs allege the Committee did. Section 6-204 and COMAR 33.06.03.08(B)(4)(a) require the circulator to attest that signatures are "genuine"; signatures procured through the conduct prohibited by § 16-401 are not. The Maryland Supreme Court has confirmed that the conduct criminalized under § 16-401 affects the validity of signatures. *Md. State Bd. of Elections v. Libertarian Party of Md.*, 426 Md. 488, 521-22, 44 A.3d 1002 (2012) (explaining signatures gathered through conduct violating § 16-401 "should not be validated and counted"). *Id.* at 521–22. The Committee does not address § 16-401, *Libertarian Party*, or COMAR. It simply asserts Petitioners-Plaintiffs claim is "not grounded in the Election Law." It plainly is.

The Committee attacks Petitioners-Plaintiffs standing to make these arguments at all. It asserts a common-law fraudulent-inducement standing rule—one that confines the right to sue to the very signatories who supported the petition and who must now admit they were misled. But that is not the rule the General Assembly established. Instead, Section 6-209(b) authorizes "any registered voter" to file "a complaint" for "declaratory relief as to any petition with respect to the

provisions of this title or other provisions of law." Election Law § 6-209(b). The Maryland Supreme Court has already held that this "broad grant of authority" gives registered voters standing to challenge a referendum certification. *Whitley v. Md. State Bd. of Elections*, 429 Md. 132, 145, n. 19, 55 A.3d 37 (2012). Ms. Aquilino is a registered voter in Frederick County, so she has standing to file her complaint.

The Committee's attempt to graft the heightened pleading standard for common-law fraud onto this statutory claim is equally misplaced. This is not a standalone tort claim for fraudulent inducement; Petitioners-Plaintiffs invoke the Committee's conduct only as the factual basis for invalidating signatures under § 16-401 and the "genuine" signature requirement. In any event, the Petition supplies more than enough particularity: it identifies the actors (the Referendum Committee and its circulators), the timeframe (the signature-gathering period), and the precise misrepresentations (the acreage, scope, and effect). The Committee does not claim it lacks notice of what is alleged—nor could it, because it has not even denied the statements. Its real objection is not the pleading; it is an attempt to reframe the entire case as something it is not.

To be sure, some of the crucial supporting facts—such as the Committee's training materials, scripts, and circulator instructions—are in the Committee's possession. That is precisely why Title 2 claims are filed and proceed, despite the Committee's protest that Title 7 is a more "appropriate" vehicle. Petitioners-Plaintiffs' claims under Election Law § 6-209(b) are expressly authorized by statute and allow factual development beyond an administrative record the Board had no power to build, as its counsel conceded at the scheduling hearing. The Committee's reflex is to litigate against the discovery rather than the merits. People with nothing to hide rarely do that.

The motion should be denied.

ARGUMENT

A. Petitioners-Plaintiffs' Title 2 Claim Should Proceed.

Just like the Board of Elections, the Referendum Committee argues that judicial review under "Title 7" is the "[a]ppropriate [m]echanism for [r]eview of Petitioners' [c]laims." Comm. Mot. 14. That is only half right. Election Law § 6-209 provides two separate and parallel avenues for relief. First, § 6-209(a) permits "aggrieved" persons to seek judicial review of determinations regarding referendum petitions under Title 7. Second, Section 6-209(b) authorizes any "registered voter" to file a "complaint" for "declaratory relief" under Title 2.

A Title 2 action is "[a]ppropriate" here, in addition to a Title 7 action, because it addresses an issue—the Committee's systematic misrepresentations—the Board never determined and relies on evidence outside the administrative record. Parties bring declaratory judgment actions under § 6-209(b) to litigate issues that fall outside the Board of Elections' determination. In *Kent Island*, for example, a developer filed a § 6-209(b) declaratory judgment action that raised "the same issues" decided by the Election Director "plus an additional issue as to the form of the referendum petition." *Kent Island Def. League, LLC v. Queen Anne's Cnty. Bd. of Elections*, 145 Md. App. 684, 688, 806 A.2d 341, 343-44 (2002).[1] Because § 6-209(b) provides a vehicle to raise issues the administrative process did not resolve, circuit courts routinely permit discovery in § 6-209(b) actions challenging referendum petitions. *See, e.g.*, *Montgomery County Volunteer Fire-Rescue Ass'n v. Montgomery County Board of Elections*, No. 337172V (Mont. Cnty. Cir. Ct. 2010) (*see* Scheduling Order attached at **Exhibit 1**); *Doe v. Montgomery County Board of Elections*, No.

[1] The Maryland Supreme Court did not address the arguments as to invalid form because it held that the subject matter was not properly referable. *Kent Island Def. League*, 145 Md. App. at 686, 806 A.2d at 342-43.

293857V (Mont. Cnty. Cir. Ct. 2008) (*see* Scheduling Order attached at **Exhibit 2**); *FOP Lodge 35 v. Montgomery County*, No. 355887V (Mont. Cnty. Cir. Ct. 2011).

Here, Petitioners-Plaintiffs Title 2 action alleges that the Referendum Committee procured signatures through material misrepresentations about the Ordinance's acreage, scope, and effect—misrepresentations that violate Election Law § 16-401(a)(3) and render the signatures not "genuine and bona fide" under Charter § 308(b) or COMAR 33.06.03.08(B)(4)(a). Pet. ¶¶ 110-15. Those allegations turn on what circulators were instructed to say, what scripts and materials the Referendum Committee distributed, and what individual circulators told signers at petition tables. None of that appears in the administrative record. The Board of Elections never investigated it, despite Quantum Maryland's letter alerting it to the issue. A Title 2 proceeding is therefore not only "[a]ppropriate" but necessary.

The Committee asserts "that claims for declaratory judgment and judicial review should not normally be combined in one lawsuit," which would be "wholly inappropriate given their contrasting natures." Comm. Mot. 15. This argument is directly contrary to established Maryland precedent. Maryland litigants challenging referendum petitions routinely raise, and courts consider, combined claims under § 6-209(a) and § 6-209(b) in this context. *See, e.g.*, *Whitley v. Maryland State Bd. of Elections*, 2012 WL 9245964, at *3-4 (Md. Cir. Ct. Aug. 10, 2012); *Kent Island Def. League, LLC v. Queen Anne's Cnty. Bd. of Elections*, 145 Md. App. 684, 688, 806 A.2d 341, 344 (2002); *Gray v. Howard Cnty. Bd. of Elections*, 218 Md. App. 654, 660, 98 A.3d 423, 427 (2014). Proceeding in separate, piecemeal lawsuits would serve neither judicial economy nor the statutory mandate to proceed "expeditiously." Election Law § 6-209(a)(3)(i).

The Committee's lone citation, *Venter v. Board of Education*, 185 Md. App. 648, 972 A.2d 328 (2009), did not involve a challenge to a referendum petition at all. Comm. Mot. 15. Instead, it concerned a different statutory scheme governing the State Board of Education's termination of an employee. *Venter*, 185 Md. App. at 686. Moreover, that scheme required the former employee to exhaust his administrative remedies before seeking declaratory relief. *Id.* This exhaustion requirement has no applicability to Petitioners-Plaintiffs' right specifically granted by Section 6-209(b)—particularly when they had no right to participate in the Board's review process. Nothing in the Election Law or local rules permitted Petitioners-Plaintiffs to intervene, serve discovery, or submit evidence. The Board's process unfolded behind closed doors: it maintained no public docket, provided no public notice of its proceedings, and communicated exclusively with the Referendum Committee until its final certification issued. Quantum Maryland did what it could: it inquired whether it could intervene in the review process (it could not), and it sent an informal letter alerting the Board to the misrepresentations. But as the Board's counsel confirmed at the scheduling hearing, the Board lacked the legal authority to investigate further.

Under the Committee's logic, a referendum proponent could strategically limit what it submits to the Board—knowing there will be no public notice, no opportunity for intervention, and no real investigation—then later insist that any registered voter is confined to that same incomplete record and barred from discovering what actually occurred on the ground. That approach would reward gamesmanship and grant proponents a practical license to engage in the very misconduct the Election Law expressly prohibits.

The Referendum Committee also insists Petitioners-Plaintiffs claims "speak directly to the contrary determinations made by the Board of Elections" and are "contained within the administrative record." Comm. Mot. 15. Not so. The Board neither made a "determination[]"

regarding the Referendum Committee's misrepresentations, nor conducted an investigation into the matter despite Quantum Maryland's letter raising the issue. As such, important facts are ***not*** "contained within the administrative record." The Committee also claims that, "[t]o the extent that this Court finds it necessary to explore whether the alleged statements are misleading, such an exercise could be handled fully under Petitioners' Count I Title 7 claim, based on the information in the administrative record and the text and legislative history of the laws at issue." *See also id.* at 11 n.7. But the administrative record does not contain the full extent of the representations the Referendum Committee made to signatories, and this Court should not limit the record to only those misrepresentations Petitioners-Plaintiffs were able to uncover without the aid of discovery to which they are entitled under § 6-209(b) and Title 2.

B. The Referendum Petition Violates The Charter And The Election Law.

The Referendum Committee next attacks the Title 2 claim on the merits.

First, it argues that a declaratory judgment action can enforce only the Election Law itself. In its view, Count II's allegations concerning misrepresentations are not "[r]elevant to [w]hether the [p]etition is [s]ufficient as a [m]atter of [l]aw" because they "do not rely on any provision in the Election Law" but instead on the Charter. Comm. Mot. 7. That is incorrect. As the Committee later acknowledges, Count II's allegations invoke Election Law § 6-204 (as implemented by COMAR 33.06.03.08(B)(4)(a)). Comm. Mot. 8 n.7. Regardless, § 6-209(b) authorizes declaratory relief "with respect to the provisions of this title ***or other provisions of law***." Md. Code Ann., Elec. Law § 6-209(b) (emphasis added).

Second, the Committee suggest that Petitioners-Plaintiffs allege only a common-law fraudulent inducement theory. That assertion ignores Count II's invocation of Election Law § 6-204 (as implemented by COMAR 33.06.03.08(B)(4)(a) and buttressed by § 16-401(a)(3)).

Third, the Committee argues that Charter § 308(b)'s "full and accurate text" requirement already cures any risk of voter confusion from misrepresentations. That defense fails on its own terms. Petitioners-Plaintiffs allege that the Committee violated this requirement too; it cannot shield its conduct by pointing to a provision it disregarded.

1. The Referendum Petition's Signatures Are Not "Genuine And Bona Fide."

The Referendum Committee contends that the Title 2 action "is not grounded in the Election Law," Comm. Mot. 12, apparently on the theory that a fraudulent signature-gathering campaign falls outside Title 6's petition-formatting requirements. It adds that declaratory-judgment actions under § 6-209(b) are limited to claims arising under Title 6. Comm. Mot. 13. That argument overlooks the second half of § 6-209(b), which authorizes declaratory relief as to any petition "with respect to the provisions of this title ***or other provisions of law***." Election Law § 6-209(b) (emphasis added). Properly read, § 6-209(b) confirms that the Title 2 action is grounded in the Election Law.

Even on the Committee's own premise, the Referendum Petition violates the Election Law. Section 6-204, as implemented by COMAR 33.06.03.08(B)(4)(a), requires the circulator to attest that the signatures are "genuine," and Petitioners-Plaintiffs allege that they are not. Pet. ¶¶ 110–14.

The structure of the Election Law confirms this reading. Title 16 of the Election Law Article addresses offenses related to petitions. Section 16-401(a)(3) makes it unlawful to "willfully and knowingly . . . misrepresent" facts "for the purpose of inducing another person to sign any petition." Election Law § 16-401(a)(3). The Maryland Supreme Court has held that § 16-401's criminal prohibitions inform the validity rules in Title 6. *See Md. State Bd. of Elecs. v. Libertarian Party of Md.*, 426 Md. 488, 44 A.3d 1002 (2012). In *Libertarian Party*, the Court relied on § 16-401's "willfully and knowingly . . . sign a petition more than once" prohibition to

confirm that signatures violating that section "should not be validated and counted," even though § 16-401 itself is a criminal statute. *Id.* at 521–22. The same logic applies here. Section 16-401(a)(3) reflects the General Assembly's judgment that misrepresentations procuring petition signatures are unlawful. Signatures procured in violation of that prohibition are not "genuine and bona fide" within the meaning of Charter § 308(b).

The Referendum Committee responds that the circulator's affidavit is "based upon the person's best knowledge and belief" and that this qualifier defeats the claim. But whether the circulator's attestation satisfies the statutory standard is a merits question whose answer turns entirely on materials accessible only through discovery: the Committee's training materials, scripts, and circulator instructions.

The Referendum Committee then attempts to recast this Charter-and-Election-Law claim as a standalone common-law fraudulent-inducement claim and to attack it on those terms. That recast fails for the separate reasons addressed below, *infra* Section II.C, but the claims are, in any event, independent.

2. The Referendum Petition Does Not Contain The Ordinance's Full And Accurate Text.

The Referendum Committee characterizes Petitioners-Plaintiffs' reliance on the "genuine and bona fide" requirement as a "misguided focus" that "fails to acknowledge the protections afforded under the Charter and the Election Law, which together ensure that signers properly understand the petition they are signing." Comm. Mot. 12. In doing so, the Committee specifically invokes Charter § 308(b)'s requirement that each petition paper contain the "full and accurate text of the law." By invoking that provision, the Committee necessarily acknowledges that the full-text requirement is independently in play. And the Committee violated it.

Charter § 308(b) requires that "each paper" of a petition "contain the full and accurate text of the law, or part of the law, that is subject to the petition." The Committee reproduced Ordinance 26-01-001 on the reverse side of each signature page in a font size and print density that rendered the text effectively illegible. Pet. ¶ 101. Although the Ordinance's text was originally in 12 point font, the Committee scaled it down to fit four pages onto the back of a single 8.5 x 11 paper (accounting for printer margins and gutters between panels). *See* Admin. Record Item 2b, at 2. As a result, the font height became one-sixteenth (1/16) of an inch, or ***4.5 point*** font.[2] *See* Matthew Butterick, *Typography for Lawyers* 136 (2d ed. 2015) ("There are 72 points to an inch.").

Maryland law itself confirms that font sizes this small are unacceptable in legal instruments, and they instead need to be at least 8 point font. *See, e.g.*, Maryland Code, Commercial Law Article § 14-2002(b) (requiring that "[t]he printed portion of the lease, other than directions for completion of the lease and the text of any assignment between the original lessor and an assignee, shall be printed in a size equal to at least 8 point type."); *id.* § 14-2002(b)(5) (providing that required notice must be "in at least 10 point boldface type"); Maryland Code, Business Regulation Article § 16-604(b)(2) (required safety markings on cigarettes must "be in a font of a least 8 point type").

Federal authorities applying deceptive-trade practices principles have reached the same conclusion: even truthful information can mislead when critical disclosures are made in "fine[] print." *See FTC v. Com. Planet, Inc.,* 878 F. Supp. 2d 1048, 1065-67 (C.D. Cal. 2012), *aff'd in relevant part,* 815 F.3d 593 (9th Cir. 2016) (finding advertisement was deceptive when key disclosure was "in the smallest text size on the page and densely packed with the other text"); *FTC*

[2] For illustration purposes, the following text reproduces this paragraph in 4.5 point font:

Charter § 308(b) requires that "each paper" of a petition "contain the full and accurate text of the law, or part of the law, that is subject to the petition." The Committee reproduced Ordinance 26-01-001 on the reverse side of each signature page in a font size and print density that rendered the text effectively illegible. Pet. ¶ 101. Although the Ordinance's text was originally in 12 point font, the Committee scaled it down to fit four pages onto the back of a single 8.5 x 11 paper (accounting for printer margins and gutters between panels). *See* Admin. Record Item 2b, at 2. As a result, the font height became one-sixteenth (1/16) of an inch, or ***4.5 point*** font.[2] *See* Matthew Butterick, *Typography for Lawyers* 136 (2d ed. 2015) ("There are 72 points to an inch.").

v. Cyberspace.com, LLC, 453 F.3d 1196, 1200-01 (9th Cir. 2006) (finding that disclosures in small-print on the back of a check regarding the monthly fee for internet access was insufficient to defeat the net impression that the check was a refund or rebate); *see also FTC v. Brown & Williamson Tobacco Corp.*, 778 F.2d 35, 42-43 (D.C. Cir. 1985) (holding that a cigarette advertisement of tar content was deceptive despite a truthful, fine-print explanation in corner of advertisement of how tar was measured). A Maryland voter presented with microscopic print is in no better position than one presented with no text at all. Because the reproduced text was illegible, each petition paper is facially defective, and all signatures on those papers must be invalidated.

The accompanying parcel map, which defines the geographic reach of the Critical Digital Infrastructure Overlay Zone, was reproduced in grayscale that obscures the very boundaries it is meant to depict. Here too, an unreadable, graphical reproduction is the functional equivalent of no text at all. As an example, compare the color map attached to the Ordinance, Mot. To Stay, Van Grack Affidavit, Ex. A-5, *with* the petition signature page that the Committee submitted to the Board. Admin. Record Item 2b, at 2.

The Committee attempts to separate the misrepresentation theory from the illegibility theory, *see* Comm. Mot. 12, and argues that *Gray* is distinguishable because "the Referendum Petition includes a complete copy of Ordinance 26-01-001 on the back of each signature page," Comm. Mot. 14. Both contentions miss the mark.

These are not separate issues; they are two sides of the same defect. The full-text requirement exists to guarantee that petition signers understand the measure they are endorsing. An illegible reproduction defeats that purpose on its face. Moreover, the information void created by the microscopic text and indecipherable map was filled by the Committee's coordinated

campaign of misrepresentations regarding the Ordinance's acreage, scope, and impact. Pet. ¶¶ 101–02, 110–14. *Gray* invalidated a petition for an inaccurate description on the reverse side of the petition signature page, asking only whether the language was "free from misleading tendency, amplification, or omission." *Gray v. Howard Cnty. Bd. of Elections*, 218 Md. App. 654, 665, 98 A.3d 423 (2014). A reproduction so small that signers cannot read it, paired with a grayscale map signers cannot decipher, is both. Treating the illegibility and misrepresentation theories as unrelated ignores how they work together to undermine the Charter's core protection.

C. The Referendum Committee Mischaracterizes Petitioners-Plaintiffs Assertions Concerning Fraudulent Inducement.

Finally, the Referendum Committee devotes the first five pages of its argument to mischaracterizing a single paragraph in Count II that offers an alternative theory of relief. *See* Comm. Mot. 7–12.

Paragraph 115 alleges that "[s]ignatures obtained through material misrepresentation are also voidable under a theory of fraudulent inducement," because a "signature on a legal instrument may be voided when it was procured by a false representation of a material fact, made with knowledge of its falsity or reckless disregard for the truth, on which the signer justifiably relied, and which caused the signer's assent." Pet. ¶ 115 (citing *Sass v. Andrew*, 152 Md. App. 406, 429, 832 A.2d 247 (2003). The Committee reads that paragraph as asserting a standalone claim for fraudulent inducement and attacks it on standing and particularity grounds. *See* Comm. Mot. 7-10, 11-12. The Committee is wrong.

Paragraph 115 does not plead a common-law fraudulent inducement claim. Instead, it offers an alternative basis to invalidate signatures procured by misrepresentation. Under § 16-401(a), it is a crime to "willfully and knowingly" engage in certain misconduct, including "misrepresent[ing] any fact for the purpose of inducing another person to sign or not to sign any

petition." Election Law § 16-401(a)(3). Signatures induced through such misrepresentations should be voided, as should signatures induced through the other misconduct criminalized by § 16-401(a), including the use of bribery, duress, or force. Election Law § 16-401(a)(1), (6). Although Paragraph 115 cites *Sass v. Andrew*, 152 Md. App. 406, 429, 832 A.2d 247 (2003) for the general principle that a signature on a legal instrument may be voided, it does so to illustrate that principle. Because Petitioners-Plaintiffs do not allege a standalone common-law claim for fraudulent inducement, there is no need to establish standing or meet the heightened pleading requirements for fraud.

The Committee's standing and particularity arguments are meritless in any event. As to standing, Election Law § 6-209(b) authorizes "any registered voter" to seek declaratory relief as to a petition "with respect to the provisions of this title or other provisions of law"—and the Committee concedes that the Voter Petitioners are registered Frederick County voters. Comm. Mot. 2. The Committee's contrary view—that only a misled signer could challenge the petition—would produce the absurd result that no one with a genuine stake in the outcome could even bring such a challenge. Supporters of the petition would not sue. Misled signers, by definition, are unlikely to figure out they were misled within the narrow window to raise the issue. And affected landowners, neighbors, and even the County Executive would have no recourse. The General Assembly did not write nor intend § 6-209(b) to insulate petition misconduct from judicial review.

As to any requirement for heightened particularity (and there is none), the Petition more than satisfies Maryland's requirements. It identifies the actors, the channels, and the misrepresentations themselves: the Ordinance's acreage, scope, and effect. Pet. ¶¶ 102, 110–14. Those are the "particular facts and circumstances" Maryland law requires. *Thomas v. Nadel*, 427 Md. 441, 453, 48 A.3d 276 (2012). The Committee's insistence on signer-by-signer proof is

foreclosed by *Gray*, which invalidated a petition based on an inaccurate and misleading description on the reverse side of the signature petition page without requiring the identification of even a single misled signer. *Gray v. Howard Cnty. Bd. of Elections*, 218 Md. App. 654, 660, 665, 98 A.3d 423 (2014). The remaining detail—training materials, scripts, internal coordination—sits in the Committee's own files.

CONCLUSION

The Court should deny the Motion to Dismiss filed by the Committee.

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Date: May 28, 2026

Respectfully submitted,

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CERTIFICATE REGARDING RESTRICTED INFORMATION

I, Adam L. Van Grack, HEREBY CERTIFY that this submission does not contain any restricted information.

/s/ Adam L. Van Grack
Adam L. Van Grack, Esq. (CPF# 0212190262)

CERTIFICATE OF SERVICE

I, Adam L. Van Grack, HEREBY CERTIFY that on this 28th day of May, 2026, a copy of the foregoing *Opposition* was filed electronically in the Maryland Electronic Courts (MDEC) system in the above-captioned matter and served upon all parties and/or their counsel as registered in the Maryland Electronic Courts (MDEC) system for this matter and all consolidated matters.

/s/ Adam L. Van Grack
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