

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

* * * * *

**PETITIONERS' EMERGENCY JOINT RULE 1-204 MOTION TO SHORTEN
SCHEDULE AND MEMORANDUM OF GROUNDS AND AUTHORITIES
IN SUPPORT THEREOF**

1. Petitioners-Plaintiffs Quantum Maryland, LLC (“**Quantum Maryland**”) and Joan Aquilino, together with co-petitioners in the below-listed actions, Windridge Properties L.C., and Theodore H. Butz; Rowan Frederick LLC, Rowan Frederick II LLC, and Rowan Frederick III LLC; NDR Properties, LLC and David Pleasants; and Frederick Data Owner, LLC, and Justin Cassity (together, the “**Petitioners**”), by and through their undersigned counsel, move this Court, on an emergency basis, pursuant to Maryland Rules 1-204, 7-202, 7-204, 7-207, and 7-208 to shorten the default deadlines governing this action and to adopt an expedited schedule consistent with the mandate of Maryland Code, Election Law Article (“**Election Law**”), § 6-209(a)(3)(i), that this case be “heard and decided . . . as expeditiously as the circumstances require.” Petitioners respectfully request that the Court enter an order adopting the schedule set forth below.

II. BACKGROUND

2. On April 3, 2026, Respondent Barbara Wagner, Election Director of the Frederick County Board of Elections (the “**Board of Elections**”), purported to determine that the Frederick County Data Center Referendum Committee’s (“**Referendum Committee**”) petition for referendum (“**Referendum Petition**”) targeting Ordinance 26-01-001 is sufficient for purposes of Election Law § 6-206.

3. Petitioners filed this action on April 10, 2026, seeking judicial review of the Board of Elections’ certification under Election Law § 6-209(a), declaratory relief under § 6-209(b), and a writ of mandamus in the alternative. Four additional actions were subsequently filed in this Court on April 13, 2026, each challenging the same April 3, 2026 determination:

1. Windridge Properties L.C. and Theodore H. Butz v. Frederick County Board of Elections, et al., Case No. C-10-CV-26-000321;
2. NDR Properties, LLC and David S. Pleasants v. Frederick County Board of Elections, et al., Case No. C-10-CV-26-000325;

3. Rowan Frederick LLC, Rowan Frederick II LLC, and Rowan Frederick III LLC v. Frederick County Board of Elections, et al., Case No. C-10-CV-26-000326; and
4. Frederick Data Owner, LLC and Justin Cassity v. Frederick County Board of Elections, et al., Case No. C-10-CV-26-000327.

4. On April 21, 2026, counsel for all parties in the five related cases met, conferred, and agreed in principle to consolidation and special assignment to a single judge. *See* Affidavit of Van Grack, attached hereto at Exhibit 1.

5. During the same meeting, all counsel also discussed an expedited schedule and discovery proposal that counsel for Quantum Maryland and Ms. Aquilino had emailed to opposing counsel the night before. *Id.* Counsel for all Petitioners have agreed to the proposal. *Id.*

6. Counsel for the Referendum Committee and counsel for the Board of Elections and the Election Director stated they would confer with their respective clients that afternoon and respond to the proposal. *Id.*

7. Counsel for Quantum Maryland and Ms. Aquilino followed up later the same day to ask whether opposing counsel had conferred with their clients. *Id.*

8. The Board of Elections and the Election Director's counsel responded the following afternoon that he had not yet spoken to his client, but agreed to move forward with consolidation. Counsel for the Referendum Committee did not respond. *Id.*

9. On April 22, counsel for Quantum Maryland and Ms. Aquilino followed up again, informing Respondents' counsel that the Petitioners' motion to enter an expedited schedule needed to be filed this week. *Id.*

10. Yesterday, on April 23, counsel for Quantum Maryland and Ms. Aquilino followed up one more time. *Id.* The Referendum Committee's counsel did not respond, while the Board of Elections and the Election Director's counsel asked for a call the next day. *Id.*

11. On April 24, 2026, counsel for Quantum Maryland and Ms. Aquilino informed Respondents' counsel that they would be filing this instant Motion on an emergency basis, particularly in light of the Referendum Committee counsel's failure to respond to any case management communications. *Id.* Counsel for Quantum Maryland and Ms. Aquilino subsequently spoke with counsel for the Board of Elections and the Election Director, who again confirmed consent to consolidation, but reserved the right to respond to the proposed scheduling. *Id.* As a last attempt to contact counsel for the Referendum Committee, counsel for Quantum Maryland and Ms. Aquilino called his office in the late afternoon, but was informed he was unavailable to speak. *Id.*

12. In the meantime, on April 22, 2026, this Court issued a memorandum confirming that all pending cases challenging the Board of Elections' determination listed above had been assigned to the Hon. James Bonifant. And on April 24, 2026, all petitioner parties in this and each of the four companion cases, as well as the Board of Elections and the Election Director, filed a Joint Motion for Consolidation, which is now pending before the Court.

III. ARGUMENT

A. Election Law § 6-209(a)(3)(i) Requires Expedited Resolution “Where Circumstances Require”

13. Election Law § 6-209(a)(3)(i) provides that a judicial proceeding concerning the legality of referendum petition “shall be heard and decided without a jury and as expeditiously as the circumstances require.” Election Law § 6-209(a)(3)(i). The provision is mandatory. It reflects the General Assembly's recognition that such cases involve time-sensitive electoral and governmental interests that cannot await resolution on a conventional schedule. The default deadlines under the Maryland Rules are not compatible with that mandate here.

14. Absent modification, the default Maryland Rules do not produce a suitable timeline. Under Maryland Rule 7-207(a), Petitioners have thirty days after the clerk sends notice of the record's filing to submit their opening memorandum; Respondents then have thirty days to respond; and Petitioners have fifteen days to reply. *See* Maryland Rule 7-207(a). Under Maryland Rule 7-208(b), the merits hearing may occur no earlier than ninety days after the record is filed. *See* Maryland Rule 7-208(b). With the record due April 30, 2026, the earliest possible merits hearing falls on July 29—assuming no delays in briefing and a court with immediate availability. And that timeline does not account for any appeal, which the Referendum Committee has already signaled it intends to pursue. *See* Fundraising Letter, Frederick Cnty. Data Ctr. Referendum Comm. (Apr. 12, 2026) (“We continue to believe that the ordinance is subject to a referendum and, if necessary, will take the issue to the highest court in Maryland.”). November ballot printing deadlines typically fall in mid-August, *see Gray v. Howard Cnty. Bd. of Elections*, 218 Md. App. 654, 656 n.1, 98 A.3d 423, 425 (2014), but a final resolution of these proceedings under the default rules may not come until the Fall of 2026, after ballot printing deadlines have passed.

15. That outcome is untenable. Maryland courts routinely compress schedules in referendum and election disputes to meet ballot deadlines. In *Gray v. Howard County Board of Elections*, the Court of Special Appeals decided an expedited petition challenging certification of a referendum on a comprehensive zoning ordinance, holding argument fourteen days ahead of the August ballot-certification deadline and deciding the case five days later. 218 Md. App. 654, 656 & n.1, 98 A.3d 423, 425 (2014) (Opinion); *Gray v. Howard Cnty. Bd. of Elections*, 439 Md. 694, 98 A.3d 233 (2014) (Order). And in *Prince George's County v. Thurston*, the Supreme Court of Maryland moved from circuit-court judgment to final appellate disposition in approximately five weeks: the circuit court ruled on January 31, 2022; the County noted its appeal on February 1; the

Court granted certiorari on February 11, heard argument on March 4, and affirmed by per curiam order on March 7. 479 Md. 575, 584-85, 278 A.3d 1251, 1256-57 (2022). Both cases confirm that default schedules should yield when the electoral calendar demands it.

16. The Court should exercise its authority under Maryland Rules 1-204, 7-202, 7-204, 7-207, and 7-208 to shorten these periods. *See* Maryland Rule 1-204(a) (court may shorten “any” period “on motion of any party and for cause shown”); Maryland Rule 7-202(d)(3)(A)(ii) (“[A] party who wishes to oppose the petition must file a response within 30 days after the date the agency’s notice was sent unless the court shortens or extends the time.”); Maryland Rule 7-204(c) (same); Maryland Rule 7-207(c)(2) (time for filing memoranda may be shortened “by order of the court entered pursuant to Rule 1-204”); Maryland Rule 7-208(b) (hearing date may be “otherwise ordered by the court”). Cause exists here for the reasons that follow.

B. The Circumstances Require Expedited Resolution

17. The circumstances here present three independent and compounding reasons to proceed on an expedited schedule.

18. *First*, the certification suspends Ordinance 26-01-001. Charter § 308(d) provides that a referred ordinance “may not take effect until thirty days after approval by a majority of voters.” Frederick Cnty., Md. Charter § 308(d) (attached at Exhibit 1-A to Exhibit 1). Because Ordinance 26-01-001 is the implementing step for the CDI Overlay Zone, the Board of Elections’ purported decision leaves an important industry in limbo (subject to existing vested rights). Every day that passes without judicial resolution of the petition’s legality imposes harm on Petitioners and the broader industry.

19. *Second*, Charter § 308(e) authorizes the County Council to call a special election as few as thirty days after the filing of a valid petition. Holding an election on a petition whose legality has not been judicially resolved would magnify the harm to Petitioners and create

significant confusion about the County's land use framework regardless of the election's outcome. Expedited resolution avoids that unwanted scenario.

20. *Third*, expedition imposes no undue burden on Respondents or the Referendum Committee. The Board of Elections issued a sufficiency determination in eleven days. Its administrative record is current and compact. No basis exists to believe the Board of Elections cannot comply with an expedited schedule. Indeed, the Election Director has acknowledged publicly that a court challenge was expected, suggesting the Board has organized its records in anticipation of litigation. *See, e.g., Erik Anderson, Board of Elections says data center zone referendum can be on the ballot, Frederick News-Post (April 3, 2026) https://www.fredericknewspost.com/news/continuing_coverage/data_centers/board-of-elections-says-data-center-zone-referendum-can-be-on-the-ballot/article_b3ea0f8e-332e-5ca2-913e-7fb92e104f9c.html* (noting that Wagner determined the referendum petition was "sufficient," but also cautioned "that any party has the ability to challenge the referendum's legality in circuit court").

21. The Referendum Committee is equally on notice. The County Attorney advised in January 2026 that Ordinance 26-01-001 is not subject to referendum. *See, e.g., Erik Anderson, County Attorney Says Data Center Zone Not Subject to Referendum; Opponents Disagree, Frederick News-Post (Jan. 20, 2026), <https://www.yahoo.com/news/articles/group-seeking-referendum-data-center-045900447.html>* ("Bryon Black writes in the memo that county charter's definition of 'law' does not include the process used to change the zoning code map for the CDI overlay because 'it was not enacted as a bill' under section 301-310 of the county charter."). The Committee knew from the outset that a legal challenge was coming. In an April 10, 2026 Letter, the Committee stated that it "is not surprised by the efforts to challenge the decision made by the

Board of Elections” and “has long been preparing for a legal challenge to our efforts.” *See* Van Grack Affidavit, Exhibit 1-C, Press Release, Frederick Cnty. Data Ctr. Referendum Comm. (Apr. 10, 2026). The Committee later acknowledged, in its fundraising material, that “[w]hen we took on this effort we knew we had three hurdles to overcome,” including “[w]in the legal battle.” *See* Van Grack Affidavit, Exhibit 1-D, Fundraising Announcement, Frederick Cnty. Data Ctr. Referendum Comm. (Apr. 11, 2026). A party that has long prepared for litigation cannot credibly claim prejudice from an expedited schedule.

22. Petitioners also agree to limit their discovery requests well below the permitted allotments, further reducing any burden on Respondents-Defendants.

23. Finally, this Court has already recognized that expedition is warranted.

24. On April 13, 2026, it granted Petitioners’ motion to shorten the time for transmittal of the record—reducing the default sixty-day period to twenty days, which resulted in an April 30, 2026 deadline. The same logic applies to the case schedule. An expedited merits schedule is the natural complement to the expedited record-transmittal order already in place.

C. Proposed Schedule

25. To give effect to the Election Law § 6-209(a)(3)(i) mandate, Petitioners propose the following schedule, which modestly extends several of the deadlines that Petitioners previously proposed to Respondents-Defendants by six days to account for the delay induced by the Referendum Committee’s silence:

Proposed Schedule			
	Action	Date	Comments
1.	Serve Discovery	April 30, 2026	1. 15 RFPs maximum each from Plaintiffs-Petitioners and Defendants-Respondents collectively.

			2. 5 ROGS maximum each from Plaintiffs-Petitioners and Defendants-Respondents collectively. 3. 4 depositions each from Plaintiffs-Petitioners and Defendants-Respondents collectively
2.	Agency Record is due	April 30, 2026	
3.	Rule 2-321 Answers and Rule 7-204 Responses Due	May 1, 2026	
4.	Discovery Responses Due	May 14, 2026	
5.	Close Discovery	May 28, 2026	Close of discovery means all written discovery requests answered, documents produced, and depositions completed.
6.	Opening SJ Briefing (Rule 2-501) and Memorandum (Rule 7-207)	June 4, 2026	
7.	Opposition to SJ Briefing/Answering Memoranda	June 18, 2026	
8.	Reply	June 25, 2026	
9.	Hearing	TBD	First available date
10.	Trial	TBD	Trial thereafter, if necessary

26. This schedule is grounded in, and consistent with, the timeframe modifications the Court may affect under the relevant rules. *See* Maryland Rule 1-204(a); Maryland Rule 7-202(d)(3)(A)(ii) (“[A] party who wishes to oppose the petition must file a response within 30 days after the date the agency’s notice was sent unless the court shortens or extends the time.”); Maryland Rule 7-204(c) (same); Maryland Rule 7-207(c)(2) (time for filing memoranda may be shortened “by order of the court entered pursuant to Rule 1-204”); Maryland Rule 7-208(b) (hearing date may be “otherwise ordered by the court”).

IV. CONCLUSION

27. The Court should enter an order adopting the expedited schedule set forth above.

Dated: April 24, 2026

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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
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CERTIFICATE OF SERVICE

I, Adam L. Van Grack, HEREBY CERTIFY that on this 24th day of April, 2026, a copy of the foregoing *Petitioners' Emergency Joint Rule 1-204 Motion To Shorten Schedule* and *Proposed Order* were filed electronically in the Maryland Electronic Courts (MDEC) system in the above-captioned matter and served and/or will be served upon all parties and/or their counsel as indicated in the Service List below.

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