

**JOHN DOE**  
**Baltimore, Maryland**

**JANE DOE**  
**Glen Burnie, Maryland**

**JESUS ALBERTO MARTINEZ**  
**4402 Oxford Street**  
**Garrett Park, Maryland 20896**

**ABBY HENDRIX**  
**9858 Ourtime Lane**  
**Columbia, Maryland 21045**

**KATHERINE ROSS-KELLER**  
**6142 Newport Terrace**  
**Frederick, Maryland 21701**

**KIM SAMELE**  
**17 Murdock Road**  
**Towson, Maryland 21212**

**CAMDEN DOUGLAS LEE**  
**512 Silver Spring Avenue**  
**Silver Spring, Maryland 20910**

**CATHERINE BRENNAN**  
**311 Murdock Road**  
**Baltimore, Maryland 21212**

**-and-**

**CASA DE MARYLAND**  
**8151 15th Ave.**  
**Hyattsville, Maryland 20783**

**Plaintiffs,**

**v.**

**MARYLAND STATE BOARD**  
**OF ELECTIONS**  
**151 West Street**  
**Suite 200**  
**Annapolis, Maryland 21401**

**IN THE CIRCUIT COURT**

**FOR ANNE ARUNDEL**

**COUNTY, MARYLAND**

**CASE NO. \_\_\_\_\_**

2011 AUG - 1 A 8:41

FILED

**JOHN P. MCDONOUGH**  
**in his official capacity as**  
**Secretary of State**  
**16 Francis Street**  
**Annapolis, Maryland 21401**

**-and-**

**LINDA H. LAMONE**  
**in her official capacity as**  
**State Administrator of Elections**  
**151 West Street**  
**Annapolis, Maryland 21401**

**Defendants.**

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**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiffs John Doe, Jane Doe, Jesus Alberto Martinez, Abby Hendrix, Katherine Ross-Keller, Kim Samele, Camden Douglas Lee, Catherine Brennan and CASA de Maryland, by and through their attorneys, file this Complaint for Declaratory and Injunctive Relief against the Maryland State Board of Elections (the “State Board”), Honorable John P. McDonough, in his official capacity as the Secretary of State of Maryland and Linda Lamone, in her official capacity as the Maryland State Administrator of Elections. In support thereof, Plaintiffs allege the following:

**I.**

**NATURE OF THE ACTION**

1. This is an action for judicial review of a determination made by the Maryland State Board of Elections that Senate Bill 167 (hereinafter the Maryland DREAM Act or the “Act”) , is a law subject to referendum; that the number of signatures on petitions to place Senate Bill 167 on the November 2012 general election ballot in Maryland met the minimum requirements for

holding a referendum on that law; and for declaratory and injunctive relief to reverse and set aside that determination and enjoin the referral of the law to referendum.

2. As set forth below, the Maryland DREAM Act cannot be referred to referendum for two fundamental reasons. *First*, the Maryland DREAM Act is not subject to referral to referendum because it is a law making appropriations within the meaning of Article XVI, § 2 of the Maryland Constitution. *Second*, the petition submitted by the petition sponsors to the Secretary of State contained only 51,247 valid signatures, almost 4,500 less than the 55,736 required to be submitted under the Maryland Constitution to refer an act of the General Assembly to referendum. Specifically, more than 57,000 of the signatures submitted to and validated by the State Board are invalid. Almost 44,000 of those signatures were written on forms on which the signer's information was computer generated, rather than provided by the signer, and lacked any review of whether the person signing was actually the voter whose information had been filled in by computer. Another 3,800 persons signed forms that did not contain either a summary or the text of the law that signers were being asked to put on the ballot. Finally, more than 8,000 other signatures failed to meet the requirements of state law and regulations in numerous other respects.
3. Accordingly, and for the reasons explained below, the State Board's (i) determination under Maryland Election Law Code Annotated § 6-208(a) that the validated signatures contained in the petition are sufficient to satisfy the requirements established by law, and (ii) the State Board's certification that the petition has qualified the Maryland DREAM Act to be placed on the 2012 General Election Ballot, are not supported by substantial evidence and are premised upon erroneous conclusions of law.

4. Plaintiffs bring this action in accordance with Md. Code Ann., Cts. & Jud. Proc. §§ 1-501 and 3-403, and Md. Code Ann., Elec. Law. §§ 6-209(a) and 6-210(e), seeking : (1) an order reversing the determination and certification of the State Board made on July 22, 2011; (2) judgment declaring the referral of the Maryland DREAM Act to the November 2012 General Election ballot to be invalid under the Maryland Constitution; (4) judgment declaring that the petition for referral of the Maryland DREAM Act to referendum has not satisfied all requirements necessary to refer an Act of the General Assembly to the 2012 General Election ballot; (5) an order permanently enjoining the Secretary of State from referring the Maryland DREAM Act to referendum; and (6) judgment declaring the Maryland DREAM Act immediately effective.

## **II. BACKGROUND**

5. In its 2011 session, the Maryland General Assembly duly enacted Senate Bill 167, Chapter 191 of the 2011 Laws of Maryland, An Act concerning Public Institutions of Higher Education – Tuition Rates – Exemptions, commonly referred to as the “Maryland DREAM Act.” On May 10, 2011, the Governor of Maryland signed into law the Maryland DREAM Act.
6. The Maryland Dream Act exempts individuals who attended and graduated from Maryland high schools, including undocumented immigrants under certain conditions, from paying out-of-state tuition at community colleges. To qualify for in-state tuition at a community college, an individual must have attended a secondary school in the state for at least three years; have graduated from a high school in the state; must establish that the individual or her parents have filed Maryland income tax returns annually for the three years while the individual attended a high school in the state and during any period between graduation and registration

at community college; and must register at a community college within four years of high school graduation.

7. Under the Maryland DREAM Act, individuals, including undocumented immigrants, who graduate from community colleges and meet certain other criteria are then exempt from paying out-of-state tuition at higher education institutions in Maryland.
8. The individual plaintiffs in this action are students who are undocumented immigrants, who grew up in Maryland, who have graduated from Maryland high schools, who work in Maryland and whose parents work and pay taxes in Maryland. All of them plan to attend local community colleges but can only afford to do so because of the Maryland DREAM Act.
9. The Maryland DREAM Act was to become effective, by its terms, on July 1, 2011. An organization named MDPetitions.com subsequently gathered signatures for a petition to refer repeal of this Act to the 2012 General Election ballot. On July 22, 2011, the State Board determined that the validated signatures contained in the petition are sufficient to satisfy the applicable requirements and certified that the Maryland DREAM Act has qualified to be placed on the November 2012 general election ballot in Maryland. Under the Maryland Constitution, the implementation of the Act is thus suspended until it is approved by the voters in that election.

### **III.**

#### **JURISDICTION AND VENUE**

10. This Court has jurisdiction over this action pursuant to Md. Code Ann., Cts. & Jud. Proc. §§ 1-501 and 3-406, and Md. Code Ann., Elec. Law §§ 6-209(a) and (b).
11. This Court has personal jurisdiction over Defendants pursuant to Md. Code Ann., Cts. & Jud. Proc. §§ 6-102 and 6-103.

12. Venue is proper in this Court, as Md. Code Ann., Elec. Law § 6-209(a) directs parties filing an action concerning a statewide petition to do so in the Circuit Court for Anne Arundel County.

#### **IV.**

#### **PARTIES**

13. Plaintiffs John Doe and Jane Doe are real individuals who appear in this action under assumed names because exposure of their identities would likely subject them to physical and verbal harassment, abuse and ridicule by persons who have demonstrated prejudice and virulent hatred towards immigrants.
14. Plaintiff John Doe is a resident of Anne Arundel County. He is eighteen years old, is an undocumented immigrant, and has lived in Maryland since he was three years old. He lives with his parents in Brooklyn Park, Maryland. Mr. Doe graduated from a public high school in Baltimore City in June 2011 and graduated first in his class, as valedictorian. Currently, he is working part time at a catering firm, in an effort to earn and save enough money to attend Baltimore City Community College (“BCCC”). If he can attend BCCC, he plans to transfer to the University of Maryland—College Park, and ultimately to attend medical school and become a doctor. Mr. Doe’s parents have filed Maryland income tax returns for the years 2008 through 2010, inclusive, and paid all taxes due. Mr. Doe would thus qualify to pay in-state and in-county tuition at Baltimore City Community College under the Maryland DREAM Act.
15. If the Maryland DREAM Act becomes effective, John Doe will be able to pay \$3,030 to attend Baltimore City Community College (based on 30 credit hours per year). But because the Act has been blocked from going into effect by the referral to referendum, Mr. Doe

would have to pay \$6,690 instead next year. He has also been admitted to a private Christian institution in Florida, but the tuition there is \$12,000 per year (after counting scholarship aid). As a result, if the DREAM Act does not become effective now, Mr. Doe will not likely be able to attend community college this fall or next year, and if the DREAM Act is referred to referendum and is not approved by the voters, it will be difficult or impossible for Mr. Doe to ever attend community college. Even if he manages to earn and save enough money to cover the difference in tuition, he would still have to pay more money than would have been the case had the Maryland DREAM Act been implemented. Thus, Mr. Doe is directly and irreparably injured and aggrieved by the State Board's determination and certification and will be directly and specifically, and irreparably, injured if the Secretary of State refers the Maryland DREAM Act to referendum and the voters do not approve it.

16. Plaintiff Jane Doe currently resides in Glen Burnie, Maryland with her parents. She is eighteen years old, has lived in Maryland since she was seven years old and is an undocumented immigrant. She graduated from Baltimore City College (high school) in June 2009, and is trying to earn and save enough money to attend Baltimore City Community College ("BCCC"), where she wants to begin her studies to become a nurse. If she can attend BCCC, she plans to apply to University of Maryland—College Park and ultimately train to become a nurse. Currently, she is working in the cafeteria at another community college in Maryland, in an effort to earn and save enough to attend BCCC. Her parents have filed Maryland income tax returns for the years 2008 through 2010, inclusive, and paid all taxes due, and Ms. Doe would thus qualify to pay in-state and in-county tuition at Baltimore City Community College under the Maryland DREAM Act.

17. If the Maryland DREAM Act becomes effective, Jane Doe will be able to pay \$3,030 to attend Baltimore City Community College (based on 30 credit hours per year). Because the Act has been blocked from going into effect by the referral to referendum, however, Ms. Roe will be forced to pay \$6,690 instead next year. As a result, if the DREAM Act does not become effective now, Ms. Doe will not likely be able to attend community college this fall or next year, and if the DREAM Act is referred to referendum and is not approved by the voters, it will be difficult or impossible for Ms. Doe ever to attend community college. Even if she somehow manages to earn and save enough money to cover the difference in tuition, she would still have to pay more money than would have been the case had the implementation of the Maryland DREAM Act not been suspended. Thus, Ms. Doe is directly and irreparably injured and aggrieved by the State Board's determination and certification and will be directly and specifically, and irreparably, injured if the Secretary of State refers the Maryland DREAM Act to referendum and the voters do not approve it.
18. Plaintiff Jesus Alberto Martinez resides at 4402 Oxford Street, Garrett Park, Maryland and is registered to vote in Maryland at that address. Dr. Martinez was an undocumented immigrant who entered the United States when he was seventeen years old. He worked in factories when he arrived in the U.S., but then had the opportunity to enroll in one course in a Maryland community college, where an instructor encouraged him to become a tutor and enroll in school. He ultimately graduated from college and medical school, became an ophthalmic surgeon and served in the United States Navy, from which he was honorably discharged. Dr. Martinez is a naturalized U.S. citizen. Dr. Martinez has paid millions of dollars in federal and Maryland state taxes and employs twenty Marylanders in his medical practice.



19. Abby Hendrix resides at 9358 Ourtime Lane, Columbia, Maryland 21045, and is registered to vote in Maryland, at that address. She is a middle school science teacher at a Maryland public school. Almost half of the students in the school at which she teaches are immigrants, and Ms. Hendrix believes that every student should have the opportunity to attend college.
20. Plaintiff Katherine Ross-Keller resides at 6142 Newport Terrace, Frederick, Maryland 21701 and is registered to vote in Maryland at that address. Ms. Ross-Keller works as an occupational therapist in a program for infants and toddlers offered in the Maryland public schools. She believes that the Maryland DREAM Act should be implemented immediately because a more educated population will benefit all citizens of Maryland.
21. Plaintiff Kim Samele resides at 17 Murdock Road, Towson, Maryland 21212 and is registered to vote in Maryland. Ms. Samele works as a French teacher in the Maryland public schools. She believes that the access to college afforded by the Maryland DREAM Act will benefit public school teachers because it provides a sense of hope for the students.
22. Plaintiff Camden Douglas Lee resides at 512 Silver Spring Avenue, Silver Spring, Maryland 20910 and is registered to vote in Maryland. He is in his fifth year at the University of Maryland—College Park, where he is studying American Studies and Asian-American Studies. As a University of Maryland student, Mr. Lee believes that policies that promote affordable access to college for all students enhances his university experience and that of all other students.
23. Plaintiff Catherine Brennan resides at 311 Murdock Road, Baltimore, Maryland 21212 and is registered to vote in Maryland. She is the mother of a public school student in Baltimore County and has another younger child who will also attend public schools. Ms. Brennan is a

first-generation American, the daughter of an Irish mother and a father whose parents came from Ireland. She believes that if immigrant students and veterans are able to attend college at Maryland's public institutions, not only will her children's public school experience in grades K-12 be enhanced, but so will their college experiences.

24. Plaintiff CASA de Maryland directly serves and represents the interests of low-income immigrant communities. CASA de Maryland works to improve the quality of life and fight for equal treatment and full access to resources and opportunities for these individuals and advocates for social, political, and economic justice for all low-income communities. CASA de Maryland has numerous locations throughout Montgomery County, Prince George's County and Baltimore City, Maryland and brings this action on behalf of itself and the individuals it serves. If the DREAM Act does not become effective, hundreds of Maryland students who would otherwise be able to attend community colleges, and then go on to attend Maryland institutions of higher education, will not be able to do so. As a result they will earn considerably less and require additional services from CASA de Maryland, requiring CASA de Maryland to raise and expend additional funds. As a result, CASA de Maryland is directly and specifically injured and aggrieved by the State Board's determination and certification and will be directly and specifically, and irreparably, injured if the Secretary of State refers the DREAM Act to referendum.

25. Defendant John McDonough is the Secretary of State of Maryland, who is charged, under Maryland Constitution, Article XVI, § 2, with referring to referendum any act of the General Assembly capable of referral if a petition meeting the requirements of the Constitution and the Md. Code Ann., Election Law Article, has been submitted to the Secretary.

26. Defendant State Board of Elections is the agency mandated by Maryland state law to administer the state election laws. The State Board is required by Md. Code Ann., Elec. Law §§ 6-207 and 6-208 to determine the sufficiency of a petition, to verify and count the validated signatures contained in a petition, to determine whether the petition has satisfied all requirements established by law and, upon such determination, certify that a petition has qualified a law to be placed on the ballot.
27. Defendant Linda Lamone is the State Administrator of Elections and is the “chief election official of the election authority” under and for purposes of Md. Code Ann., Elec. Law § 6-208(a), with respect to the petition at issue herein.

V.

**FACTS GIVING RISE TO CAUSE OF ACTION**

**Enactment of Senate Bill 157: An Act Concerning Public Institutions of  
Higher Education – Tuition Rates – Exemptions**

28. The Maryland State Senate passed Senate Bill 167 on April 8, 2011. The Bill was sent to a Conference Committee on the same day, and the Maryland House accepted the Conference Report. Governor Martin O’Malley signed Senate Bill 167 into law on May 10, 2011, as Chapter 191 of the Laws of 2011. Section 2 of the law provides that the law was to take effect on July 1, 2011.

**Petition to Place Maryland DREAM Act on November 2012 Ballot**

29. Under the Maryland Constitution Art. XVI, § 3, in order to refer an Act passed by the General Assembly to referendum, a petition must be submitted with three percent of the whole number of votes cast for Governor at the last preceding gubernatorial election.
30. Based on the vote cast in the 2010 gubernatorial election, the number of valid signatures required on a petition submitted to the Secretary of State to refer a law enacted by the

General Assembly to referendum in the 2012 General Election is **55,736** signatures from qualified voters, in a form and meeting the requirements of Title 6 of the Election Law Article, Md. Code Ann. and of the regulations issued by the State Board.

31. Of that required number, if more than one-third but less than the full number of signatures is submitted to the Secretary of State by May 31, the effective date of the law is extended until June 30 and the petition sponsors have until that date, June 30, to submit the remainder of the required number of signatures. If at least the remainder of the required number of signatures is submitted by that date, the law is to be referred to referendum and, under Article XVI, § 2 of the Constitution, then the law does not become effective unless and until it is approved by the voters in the next statewide general election.
32. MDPetitions.com, an organization created by Delegate Neil Parrott (R-Washington) and others initiated an effort to collect enough signatures for a petition to refer repeal of the Maryland DREAM Act to the 2012 General Election ballot.
33. On May 31, 2011, MDPetitions.com submitted to the Secretary of State a total of 57,505 signatures on a petition to refer the Maryland DREAM Act to referendum. Out of that number, the local boards of election certified a total of 47,288 signatures as valid, and 10,217 as invalid. On June 22, 2011, the State Board determined that the one-third requirement had been met, thereby extending the date for filing the remainder of the signatures until June 30, 2011 and blocking the law from becoming effective. The State Board compiled the numbers of signatures as submitted by the local boards and accepted the local boards' numbers without conducting an independent review of the signatures
34. On June 30, 2011, MDPetitions.com submitted 74,566 additional signatures. Out of these additional signatures, the local boards of election certified a total of 61,635 signatures as

valid, and 12,931 signatures as invalid. The State Board compiled the numbers of signatures submitted by the local boards and accepted the local boards' certifications without conducting an independent review of the signatures.

35. On July 22, 2011, the State Board determined that, out of a total 132,071 signatures submitted by MDPetitions.com, 108,923 valid signatures had been submitted and 23,148 signatures had been rejected as invalid. The State Board, pursuant to Md. Code Ann., Elec. Law § 6-208(b)(1), certified that the petition had qualified the Maryland DREAM Act to be placed on the 2012 general election ballot.
36. Based on this certification, the Secretary of State delayed implementation of the Maryland DREAM Act, which would have gone into effect retroactively to July 1, 2011 had the petition not been certified by the State Board.

#### **Referability of Maryland DREAM Act**

37. The Maryland DREAM Act is not subject to referral to referendum because it is a law making appropriations within the meaning of Article XVI, §2 of the Maryland Constitution.
38. Article XVI, § 2 of the Maryland Constitution, which establishes the limited right to refer enacted state laws to referendum, provides that, "No law making any appropriation for maintaining the State Government, or for maintaining or aiding any public institution, not exceeding the next previous appropriation for the same purpose, shall be subject to rejection or repeal under this Section."
39. The Maryland DREAM Act directly, inherently and necessarily has the primary object of authorizing the withdrawal from the State treasury of a certain sum of money for a specified public object or purpose to which such sum is to be applied. The Fiscal and Policy Note for Senate Bill 167 states that enactment of the bill would, by increasing expenditures for aid to

community colleges under the Senator John A. Cade funding formula (Md. Code Ann., Educ. §§11-105 & 16-305) increase state expenditures by a minimum of an estimated \$778,400 in Fiscal Year (FY) 2014, \$1.653 million in FY 2015 and \$3.506 million in FY 2016. The Fiscal and Policy Note concludes that, **“This bill affects a mandated appropriation.”** *Id.* at 1 (emphasis in original).

40. The amounts appropriated under the John A. Cade funding formula, which has been in effect since at least the year 2000, are for an existing function of state government, namely, the support of community colleges. Support of higher education, including community colleges, is an important and primary function of the Maryland State Government.
41. The Maryland DREAM Act is thus itself a law making appropriations for the maintenance of State Government within the meaning of Article XVI, § 2 of the Maryland Constitution, and is also an interdependent and legally inseparable part of the appropriations mandated by the John A. Cade funding formula, as the Department of Legislative Services found in its Fiscal and Policy Note.
42. For the reasons set forth in paragraphs 37 through 41, the Maryland DREAM Act is not subject to referral to referendum under the Maryland Constitution, Art. XVI, § 2 and for that reason alone, the determination and certification by the State Board that the petition submitted qualified the DREAM Act to be placed on the 2012 General Election ballot in Maryland was erroneous as a matter of law; and the Secretary of State’s referral of the DREAM Act to referendum is erroneous and invalid, as a matter of law.

#### **Deficiencies in Petition**

43. Plaintiff CASA de Maryland requested copies of the petition pages submitted under the Public Information Act. Copies of the petition pages submitted to the Secretary of State on

May 31, 2011 were made available to Plaintiffs on July 13, 2011. Copies of the petition pages submitted to the Secretary of State on June 30, 2011 were not made available to Plaintiffs until July 29, 2011. Plaintiffs have reviewed to date petition pages containing 45,130 of the 47,288 signatures submitted on May 31, 2011 and have identified deficiencies in tens of thousands of signatures found valid by the State Board. To a reasonable statistical certainty, using projections based on the numbers of signatures already actually examined by Plaintiffs, the total number of invalid signatures is 57,676.

**Information to be Filled In by Voters but Filled In By  
Petition Sponsors' Computer Program Instead**

44. MDPetitions.com, the main petition sponsor, maintained a website that solicited individuals to sign the petition to refer the Maryland DREAM Act to referendum. This website was located at <https://mdpetitions.com/>. A visitor to the website who clicks on the button to sign the petition was asked to enter her first name, last name, email address, phone number, date of birth and zip code. The website then displayed the name of the user who entered the information and members of her household; and asked the user to check a box next to the names of the individuals who would sign the petition.
45. After the user selected the names of those who purportedly would sign the petition, a new screen appeared informing the user that her petition was ready to be downloaded. That page instructed the user to “[d]ownload and print your petition. If possible print the petition form on both sides of the paper.” The website instructed the user to “[h]ave each signer sign and date next to their name; Sign and date the Circulator Affidavit only AFTER all signatures have been completed; To mail it back, please include the Petition and Bill Summary and fold them inside the third printed page to create an envelope; Attach a stamp and mail.”

46. After the user clicked the “Download” button, the petition sponsor’s computer program created a “Pre-Filled Petition” (as the document was titled by the sponsors), in the form of a printed document in the form of a petition page, on which the voter’s full name, residence address, city , zip code and date of birth had all been pre-printed. The name, address and phone number of the user had also been pre-printed next to the Circulator’s Affidavit, all information as appearing in the state voter registration records. The only thing left for the listed voters to do was fill in the date and his or her signature.
47. The computer program designated the first listed signer as the circulator and instructed that he or she should self-verify the petition as both a signer and the circulator as pre-filled in on the form.
48. Md. Code Ann., Elec. Law Art. § 6-203(a) provides that, to sign a petition, “an individual shall,” in addition to signing the individual’s name, “include the following information, printed or typed, in the spaces provided: (i) the signer’s name as it was signed; (ii) the signer’s address; (iii) the date of signing; and (iv) other information required by regulations adopted by the State Board.” The statute thus makes clear that the *individual signer* must print in her name and address next to her signature.
49. That requirement is also set forth in the State Board’s regulation, COMAR § 33.06.03.06(B), which provides that when signing the signature page, “*each signer shall . . . (2) Provide the following information* to be printed or typed in the appropriate spaces: (a) Date of signing, (b) Signer’s name as it was signed, and (c) Current residence address, including house number, street name, apartment number (if applicable), town and ZIP code” (emphasis added).
50. On these “Pre-Filled Petition” forms, the signer has not, as required by section 6-203(a) “included” her printed name and address, nor has the signer “provided” that information as



required by COMAR §33.06.03.06(B). Rather, the information has been “included” and “provided” by a computer program created and operated by the petition sponsors ([MDPetitions.com](http://MDPetitions.com)) through the Internet.

51. The State Board’s Procedures for Filing a Statewide or a Public Local Law Referendum Petition—Presidential Election—November 6, 2010 (Rev. March 2011), state that “[t]he petition circulator may fill in the information on the petition page, except for signature, only at the request of the signer.” (*Id.* at 5).
52. That the “Pre-Filled Petitions” violate the requirements of state law even as interpreted by the State Board itself is confirmed by the current version of the State Board’s “Frequently Asked Questions,” posted on the State Board’s website, which states:

**“Can a petition sponsor pre-print signatures pages with voters’ names and addresses, so that if a voter agrees to sign the petition, the voters need only fill in his or her signature, date of birth, and date of signing?”**

**No.”**

53. There are sound policy reasons for requiring, as the statute and regulations clearly do, the petition signer to fill in his or her own information on the form, rather than allowing that information to be filled in by someone else. Anyone—including someone other than the voter-- using the [MDPetitions.com](http://MDPetitions.com) website who knows the name, zip code and birth date of any Maryland voter could have the website generate a “Pre-Filled Petition Form” with that voter’s information pre-printed, both in the signing block and the circulator’s affidavit. The user (who is not the voter) could then print out the form, sign the voter’s name in the signature space and in the circulator’s affidavit and mail the form to [MDPetitions.com](http://MDPetitions.com) for submission to the Secretary of State and State Board.

54. In the situation described in the preceding paragraph, there is absolutely no procedure or step in the statute, regulations or State Board practice that could detect the fraud. Nothing in the statute or regulations requires the local boards or State Board to check the signature of the person purportedly signing against the voter registration records, and it is the practice of the local boards and State Board not to do so.
55. Of the signatures reviewed by Plaintiffs, and determined to be valid by the State Board, 40.22 percent appeared on signature lines in which the voter's information was pre-filled by the petition sponsors through the computer program. Based on that examination and that percentage, 43,811 of the total 108,923 signatures found valid by the State Board were on "Pre-Filled" signature lines.
56. For the reasons set forth in paragraphs 44 through 55, all 43,811 of those "Pre Filled" signatures included by the State Board as valid, are actually invalid as a matter of law because those signatures violate the requirements of Md. Code Ann., Elec. Law § 6-203(a) and COMAR § 33.06.03.06(B).

**Neither Summary Nor Text of the Law Contained On Petition Page**

57. Article XVI, § 4 of the Maryland Constitution provides that, "A petition may consist of several papers, but each paper shall contain the full text, or an accurate summary approved by the Attorney General, of the Act" to be referred to referendum.
58. Md. Code Ann., Elec Law § 6-201(c) requires that, "Each signature pager shall contain . . . either: (i) a fair and accurate summary of the substantive provisions of the proposal; or (ii) the full text of the proposal." *Id.* Section 6-101(h) defines "page" to mean "a piece of paper comprising a part of a petition."

59. Thus, the Constitution and the Election Law Article clearly require that either an approved summary of the law or the full text of the law *be contained in or on the piece of paper on which the signature lines appear, i.e.,* the petition form.
60. The petition sponsors in this case failed to obtain approval from the Attorney General of any summary of the Maryland DREAM Act to be included on the petition pages.
61. The petition sponsors did submit to the State Board, for an advance determination of sufficiency, a form of petition on which the full text of the Maryland DREAM Act was printed on the reverse side of the petition form page. On April 21, 2011, the State Board notified the petition sponsor, pursuant to Md. Code Ann., Elec. Law § 6-202, that the format of petition form submitted, *with the full text printed on the reverse side*, was sufficient.
62. Among the petition forms submitted by the sponsors, however, more than 10,000 pages did *not* contain the text of the law printed on the reverse side of the page but, rather, were missing any reference at all to the text of the law or had a copy of the law supposedly stapled to the petition page.
63. Based on the signatures examined to date by Plaintiffs, 3.53 percent of the signatures (not counting signatures included in the “Pre Filled” group) appear on such petition pages. Thus, in addition to the signatures invalid by reason of being included on “Pre-Filled Forms,” another 3,840 signatures found valid by the State Board are, instead, invalid, as a matter of law, because the format on which those signatures appear violates Article XVI, § 4 of the Maryland Constitution; Md. Code Ann., Elec. Law § 6-201(c); and, that format (text missing or stapled, rather than printed on the reverse side of the page) did not receive any advance determination of sufficiency from the State Board.

### **Voter Signature**

64. Of the signatures examined by Plaintiffs, 0.43 percent of those found valid by the State

Board actually had no signature at all by the voter. Based on this percentage, 473 of the total signatures found valid by the State Board (not counting any in the “Pre Filled” group or those invalid for other reasons) are in fact invalid, for that reason.

### **No Circulator Signature**

65. Md. Code Ann., Elec. Law § 6-204(a) requires that each signature page of a petition contain an affidavit of the circulator, “made and executed by the individual in whose presence all of the signatures on that pages were affixed....” *Id.* Section 6-203(b)(4) provides that the signature of an individual shall be validated and counted only if “the signature is attested by an affidavit appearing on the page on which the signature appears.”

66. In this case, of the signatures found valid by the State Board and examined by Plaintiffs, 0.1 percent (not counting “Pre Filled” signatures or signatures invalid for other reasons) appeared on petition pages on which the circulator’s affidavit was not signed at all. Based on that percentage, 104 signatures found valid by the State Board are actually invalid because they appear on petition pages on which the circulator’s affidavit has not been signed.

### **Circulator Signature Date Earlier Than Voter Signature**

67. Md. Code Ann., Elec. Law § 6-203(b)(5) provides that the “signature of an individual shall be validated and counted” only if, among other things, “the date accompanying the signature is not later than the date of the affidavit on the page.”

68. In this case, based on the signatures examined to date, 0.47 percent of the signatures validated by the State Board (not counting “Pre Filled” signatures or signatures invalid for

other reasons) were dated later than the date of the circulator's affidavit, and are invalid for that reason—representing an additional 507 signatures.

**Circulator Signature Date Earlier Than Voter Signature—  
Other Signatures on Page Invalid**

69. Based on the signatures examined to date, an additional 0.36 percent of the signatures found valid by the State Board (not counting “Pre Filled” signatures or signatures invalid for other reasons) appeared on petition pages signed by circulators who had clearly lied in their affidavits, because the dates of one or voter more signatures appearing on those pages were later than the date of the circulator's affidavit. This percentage represents an additional 389 signatures found valid by the State Board but which were actually invalid.

**Name and Signature Not in Compliance With State Law**

70. Md. Code Ann., Elec. Law § 6-203(a)(1) provides that, to sign a petition, an individual “shall . . . sign the individual's name as it appears on the statewide voter registration list or the individual's surname of registration and at least one full given name and the initials of any other names.”

71. The verification instructions provided by the State Board to the local boards of elections instructed the local boards to consider the printed name and the signature together, to determine if, taken together, the printed information and signature included the individual's surname, at least one full given name and the initials of any other names. State Board, Local Board of Elections Petition Verification Procedures, Validation of Signer Names, Section 2.

72. Based on the signatures examined to date, approximately 5.91 percent of signatures determined to be valid by the State Board (not counting “Pre Filled” signatures or signatures invalid for other reasons) did not in fact meet the requirements of section 6-203(a)(a) as interpreted and applied by the State Board itself, and accordingly are invalid. This

percentage represents an additional 6,437 signatures determined to be valid by the State Board but which were actually invalid.

**Forged Signatures—Circulator's Affidavit False**

73. The petition submitted to refer the Maryland DREAM Act to referendum included numerous pages on which it was obvious that the one voter had signed both for himself or herself and for another voter, because the two signatures were obviously written by the same person. In those cases, the circulator had obviously falsified his or her affidavit, because it clearly was not true that the circulator witnessed each voter signing the petition if one person signed for two voters. Thus, all of the signatures appearing on pages on which signatures were forged should have been determined to be invalid.
74. Based on the signatures examined to date, 1.94 percent of the signatures determined to be valid by the State Board (not counting "Pre Filled" signatures or signatures invalid for other reasons) are actually invalid, because those signatures appear on pages on which it is obvious that one voter had signed for another voter. With respect to all of those pages, substantial evidence does not support the finding that the circulator's affidavit was truthful and, accordingly, all signatures appearing on those pages are invalid as a matter of law.
75. An additional 2,117 signatures found valid by the State Board are actually invalid for the reason stated in the preceding paragraph.

**V.**

**CAUSES OF ACTION**

**COUNT I—JUDICIAL REVIEW**

76. Plaintiffs re-allege paragraphs 1 through 75 as if fully set forth herein.

77. The Maryland DREAM Act is not an act that can be referred to referendum under Maryland Constitution, Article XVI, § 2.
78. Of the 108,923 signatures determined to be valid by the State Board, a total of 57,676 signatures are invalid, as a matter of law and/or based on lack of substantial evidence, for the reasons set forth in paragraphs 43 through 75, inclusive.
79. Therefore, the petition submitted to the Secretary of State to refer the DREAM Act to referendum contained only 51,247 valid signatures, 4,489 signatures less than the 55,736 minimum number (55,736) required to be submitted under the Maryland Constitution to refer an act of the General Assembly to referendum.
80. For the reasons set forth in paragraphs 28 through 79, the State Board's (i) determination under Md. Code Ann., Elec. Law § 6-208(a) that the validated signatures contained in the petition are sufficient to satisfy the requirements established by law, and (ii) the State Board's certification that the petition has qualified the Maryland Dream Act to be placed on the 2012 General Election Ballot are not supported by substantial evidence and/or are premised upon erroneous conclusions of law.
81. Accordingly, the State Board's (i) determination under Md. Code Ann., Elec. Law § 6-208(a) that the validated signatures contained in the petition are sufficient to satisfy the requirements established by law, and (ii) the State Board's certification that the petition has qualified the DREAM Act to be placed on the 2012 General Election Ballot, should be reversed.

## **COUNT II—DECLARATORY JUDGMENT**

82. Plaintiffs re-allege paragraphs 1 through 81 as though fully set forth herein.

83. Plaintiffs maintain that the Maryland DREAM Act cannot, under the Maryland Constitution, be referred to referendum and that the petition submitted to the Secretary of State to refer it to referendum is legally deficient.
84. Defendants State Board of Elections and Lamone maintain that the DREAM Act is referable to referendum and the petition submitted to the Secretary of State to refer the DREAM Act to referendum is legally sufficient and met the requirements of the Maryland Constitution for placing this Act on the November 2012 General Election Ballot in Maryland.
85. There exists an actual controversy of a justiciable nature between Plaintiffs and Defendants State Board and Lamone, within the jurisdiction of this Court, involving the rights and liabilities of the parties.
86. A declaratory judgment by this Court will terminate this controversy.
87. Plaintiffs are entitled to a declaratory judgment under the Maryland Uniform Declaratory Judgments Act, Md. Code Ann., Cts & Jud. Proc. I § 3-401 et seq.
88. Plaintiffs Martinez, Hendrix, Ross-Keller, Samele, Lee and Brennan are also entitled to a declaratory judgment under Md. Code Ann. Elec. Law § 6-209(b) and the Maryland Uniform Declaratory Judgments Act.

### **COUNT THREE—INJUNCTION**

89. Plaintiffs re-allege paragraphs 1 through 88 as though fully set forth herein.
90. Plaintiffs John Doe and Jane Doe are entitled and have the right, under the Maryland DREAM Act, to pay in-state tuition at the community colleges that they plan to attend, respectively. Referral of the DREAM Act to referendum, by delaying the effective date of the law, irreparably deprives them of the ability to pay the in-state tuition this coming school year; is likely irreparably to deprive them of the ability to attend community college at all;



and, if the Act is not approved by voters at the referendum, will permanently and irreparably deprive them of the right to pay in-state tuition at community colleges.

91. The benefits to these Plaintiffs in obtaining an injunction against referral of the Maryland DREAM Act to referendum significantly outweigh any harm that Defendants would incur, were such an injunction granted. Defendants would not incur any harm of any kind if the Maryland DREAM Act were not referred to referendum.
92. These plaintiffs will, for the reasons set forth in paragraph 90, suffer irreparable injury unless injunctive relief is granted.
93. There is a substantial public interest in allowing the Maryland DREAM Act to go into effect, thereby enabling individuals such as these Plaintiffs to achieve a better life, to provide for their families, to contribute to the economic wellbeing and growth of their communities in Maryland as taxpayers, as teachers, as scientists and engineers and as professionals of other kinds, and to have much less of a chance of ever becoming a burden to the State or their Counties.

## **VI.**

### **PRAYER FOR RELIEF**

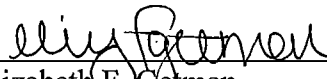
WHEREFORE, as relief for the causes of action set forth in Counts I through III herein, Plaintiffs respectfully request that this Court:

- A. Pursuant to Md. Code Ann., Elec. Law § 6-209(a) and Maryland Rule 7-209, enter an order reversing the State Board's determination and certification made on July 22, 2011, that the petition submitted to refer the Maryland DREAM Act to referendum met the requirements of the Maryland Constitution for placing the Act on the November 2012 General Election Ballot;

- B. Enter a judgment declaring the referral of the Maryland DREAM Act to the November 2012 General Election ballot to be invalid under the Maryland Constitution;
- C. Enter a judgment declaring that the petition submitted for referral of the Maryland DREAM Act to referendum has not satisfied all requirements necessary to refer an Act of the General Assembly to the 2012 General Election ballot;
- D. Enter an order permanently enjoining the Secretary of State from referring the Maryland DREAM Act to referendum;
- E. Enter a judgment declaring the Maryland DREAM Act immediately effective; and
- F. Award such additional relief as this Court determines to be just and equitable.

Dated August 1, 2011

Respectfully submitted,

  
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**CERTIFICATION PURSUANT TO RULE 1-313**

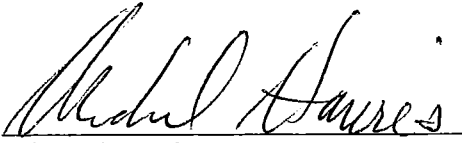
Pursuant to Maryland Rule 1-313, I hereby certify that I have been admitted to practice law in the State of Maryland and am currently a member in good standing of the Bar.

  
Elizabeth F. Getman

  
Brett Marston

**CERTIFICATION PURSUANT TO RULE 1-313**

Pursuant to Maryland Rule 1-313, I hereby certify that I have been admitted to practice law in the State of Maryland and am currently a member in good standing of the Bar.

A handwritten signature in cursive script, appearing to read "Michael Harris", written over a horizontal line.

Michael Harris