VIRGINIA: IN THE CIRCUIT COURT OF BEDFORD COUNTY

CHARLA BANSLEY, Plaintiff, v. G. PAUL NARDO, in his official capacity as Clerk of the Virginia House of Delegates; STEVEN KOSKI, in his official capacity as Commissioner of Elections of the Commonwealth of Virginia; VIRGINIA STATE BOARD OF ELECTIONS; VIRGINIA DEPARTMENT OF ELECTIONS; BARBARA GUNTER, in her official capacity as Registrar of Elections for the County of Bedford; JUDY REYNOLDS, in her official capacity as Clerk for the Circuit Court of Bedford County. Defendants.	)	Civil Action CL26000931-00

MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' MOTIONS TO TRANSFER VENUE

INTRODUCTION[1]

As part of its efforts to insulate a host of constitutionally invalid proposed constitutional amendments from review and cure constitutional defects that condemn those proposed amendments to constitutional invalidity, the General Assembly enacted House Bill 1384, Reg. Sess. (Va. enacted Feb. 6, 2026), 2026 Va. Acts ch. 6, §§15–16 (hereinafter "Special Venue Law"), which purports to restrict all venue challenges to only a certain subset of claims against the Commonwealth to the Circuit Court of the City of Richmond.

The General Assembly's Special Venue Law, HB1384, §17, provides:

> Notwithstanding any other law to the contrary, in any action or suit related to any resolution concerning a constitutional amendment, any election related to a constitutional amendment, any enacted constitutional amendment, or any related statute, including any claim related to the process, efficacy, implementation, or interpretation thereof, venue shall only be proper in the Circuit Court of the City of Richmond. The provisions of this enactment shall be effective September 1, 2025, and shall be broadly construed. Upon passage, any pending suit affected by this legislation shall be immediately transferred to the Circuit Court of the City of Richmond.

HB1384, §17.[2]

Defendants and Proposed Intervenor begin with an uncontroversial and undisputed proposition that the General Assembly has general authority to enact

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[1] In the interest of judicial economy and because all Defendants and Proposed Intervenor raise the same arguments concerning transfer of venue in this matter, Plaintiff files this consolidated Memorandum in Opposition to all Defendants and Proposed Intervenor's Motion to Transfer Venue.

[2] A true and correct copy of HB1384 is available at https://lis.blob.core.windows.net/files/1169209.PDF.

statutes dictating proper venue for civil actions. (Defendant Reynolds Memorandum in Support of Motion for Change of Venue ("Reynolds Memo.") at 4; Defendant Nardo Responsive Pleadings ("Nardo Mot.") at 1–2; Defendant Department of Elections Responsive Pleadings ("Department Mot.") at 1–2; Proposed Intervenors Brief Supporting Motion for Change of Venue ("Proposed Intervenor Br.") at 3–4.).

But, as is oft true, the general proposition only tells half the story. While the General Assembly is certainly empowered to enact statutes regulating venue of civil actions, it does not have carte blanche to establish venue anywhere it arbitrarily selects for some special purpose, the convenience of a defense, or as an exercise of legislative forum shopping. Specifically, the Constitution of Virginia sets a specific limitation on the General Assembly's enumerated powers, and explicitly prohibits the General Assembly from "[p]roviding a change of venue in civil or criminal cases" if such change is the result of "any local, special, or private law." Va. Const. art. IV, §14(2). In fact, the Virginia Constitution provides that the General Assembly "*shall not enact*" any such "special law." *Id.* (emphasis added). The General Assembly's Special Venue Law is such a special law. It is unconstitutional and void *ab initio*.

LEGAL ARGUMENT

I. The General Assembly's Special Venue Law violates the Virginia Constitution's prohibition on special laws changing venue.

As with any challenge to the constitutionality of a legislative enactment and the proper interpretation of a provision in the Constitution of Virginia, "we start with the text." *Levick v. MacDougall*, 294 Va. 283, 292, 805 S.E.2d 775, 779 (Va. 2017). Article IV, Section 14 of the Constitution of Virginia states: "The General Assembly

shall not enact any local, special, or private law in the following cases . . . [p]roviding for a change of venue in civil or criminal cases." Va. Const. art. IV, §14(2) (emphasis added). If the Geneal Assembly's Special Venue Law qualifies as a special law under the Constitution of Virginia, it is "unconstitutional and void." *Benderson Dev. Co., Inc. v. Sciortino*, 236 Va. 136, 151, 372 S.E.2d 751, 759 (Va. 1988). "The initial question clearly presented, then, is whether or not [the Special Venue Law] is a general law, or is a local, special or private law, and hence within the inhibition of the Constitution." *Farmer v. Christian*, 154 Va. 48, 52, 152 S.E. 382, 383 (Va. 1930). "That the act does provide for a change of venue in [civil constitutional amendment] cases is of course manifest, and therefore, if it is a special law, *it is invalid*." *Id.*, 152 S.E. at 383 (emphasis added).

"A law is special in a constitutional sense when by force of an inherent limitation it arbitrarily separates some persons, place or things from those upon which, but for such separation, it would operate." *Joyner v. Centre Motor Co.*, 192 Va. 627, 632–33, 66 S.E.2d 469, 472 (Va. 1951). *See also Holly Hill Farm Corp. v. Rowe*, 241 Va. 425, 430, 404 S.E.2d 48, 50 (Va. 1991) ("The essence of prohibited special legislation is the existence of an arbitrary separation of persons, places, or thing of the same general class, with the result that some of them will, and some will not, be affected by the law."); *Pub. Fin. Corp. of Lynchburg v. Londeree*, 200 Va. 607, 614–15, 106 S.E.2d 760, 766 (Va. 1959) (same). "The legislature may not, under the guise of police power, make unreasonable classifications and thus arbitrarily discriminate against and impose upon some hardships and grant special rights and privileges to

others similarly situated." *Joyner*, 192 Va. at 635, 66 S.E.2d at 474. Put simply, "if in reality the classification made be wholly unreasonable, arbitrary and oppressive[,] *the act must fall*." *Id.*, 66 S.E.2d at 474 (emphasis added).

"The pervading philosophy of Article IV, sections 14 and 15 reflects an effort to avoid favoritism, discrimination, and *inequalities in the application of the laws*." *Benderson*, 236 Va. 147, 372 S.E.2d at 756–57 (emphasis added). If the "sole effect is to discriminate against [one class of voters] and grant and secure special privileges to those few who are enfranchised, and this is done without any resultant benefit or protection to the general public," *Joyner*, 192 Va. at 635, 66 S.E.2d at 474, then the Special Venue Law is a constitutionally infirm special law and void *ab initio*.

A. But for the General Assembly's Special Venue Law, the preferred venue section of the Virginia Code would govern Plaintiff's claims.

As an initial step, the Court must determine whether Plaintiff's chosen venue would be appropriate but for the General Assembly's Special Venue Law. *It would.* "A law is special in a constitutional sense when by force of an inherent limitation it arbitrarily separates some persons, place or things from those upon which, *but for such separation*, it would operate." *Joyner*, 192 Va. at 632–33, 66 S.E.2d at 472. *See also Farmer*, 154 Va. at 53, 152 S.E. at 383 (same). Here, *but for the separation* enacted by the General Assembly's Special Venue Law, Plaintiff's claims would be—as she alleged in her Complaint (Compl., ¶21)—plainly venued in this Court. Virginia's venue provision provides that venue is appropriate where an official capacity defendant maintains an "official office," Va. Code §8.01–261.2, and where,

as here, the relief sought would take place, at least in part, "in the circuit court of the county or city in which the act is to be done, or being done, or is apprehended to be done." Va. Code §8.01–261.15.c. Defendants and Proposed Intervenors acknowledge that the Commonwealth's "preferred venues enumerated in Virginia Code §8.01-261" would govern *but for* the allegedly valid Special Venue Law. (*E.g.*, Renyolds Memorandum at 8; Proposed Intervenors Br. at 4.) And Defendants readily acknowledge that it is only by operation of the General Assembly's Special Venue Law that any challenge to proper venue in this matter is even being made. (Reynolds Memorandum at 8 (noting that the alleged "mandatory venue provision of HB 1384" requires transfer to the Circuit Court of the City of Richmond); Nardo Mot. at 1–2; Department Mot. at 1–2; Proposed Intervenor Br. at 4.) Thus, there is no question that Plaintiff's chosen venue would be acceptable, proper, and even preferred by the Commonwealth's statutory scheme but for the Special Venue Law.

B. The General Assembly's Special Venue Law arbitrarily and unreasonably burdens the citizens of 132 circuit courts and benefits citizens in 1 circuit court.

As the Supreme Court of Virginia has recognized, an unconstitutional special law is one that "grants a benefit to some claimants to the exclusion of others similarly situated." *Commonwealth v. Hines*, 221 Va. 626, 630, 272 S.E.2d 210, 213 (Va. 1980). "Legislative classifications . . . must be natural and reasonable, and appropriate to the occasion," *Concerned Residents of Gloucester Cnty. v. Bd. of Supervisors of Gloucester Cnty.*, 248 Va. 488, 498, 449 S.E.2d 787, 793 (Va. 1994), and "will survive a special-laws constitutional challenge if it bears a reasonable and substantial

relation to the object sought to be accomplished by the legislation." *Id.*, 449 S.E.2d at 793 (quoting *Mandell v. Haddon*, 202 Va. 979, 991, 121 S.E.2d 516, 525 (1961)). The Special Venue Law fails this test.

Perhaps most relevant to the instant proceedings is the Supreme Court of Virginia's decision in *Farmer*. There, the legislature enacted a special venue law that permitted a defendant to obtain a change of venue upon mere averment that he was an official and that the claims in the proceeding were the result of his official actions. 154 Va. at 51–52, 152 S.E. at 383 ("Upon the trial of any officer charged with the enforcement of the prohibition laws of the State, for an offense against the person or property of any one committed in the performance of his duties in the enforcement of such laws, on the affidavit of such officer, or his attorney, that such officer cannot obtain a fair trial in the county or city wherein such offense was alleged to have been committed, the court shall change the venue for the trial of such officer to some other county or city wherein a fair trial of the alleged offense may be had. And in case of such change of venue the witnesses of the defendant shall be paid as if they were summoned for the Commonwealth."). The Court rightly noted that the law in question "does provide for a change of venue," and thus was subject to the prohibition on special laws providing for the transfer of venue. *Id.* at 53, 152 S.E. at 383. The justification for the change-in-venue law was that "in some localities in this State there may be such a strong prejudice against the enforcement of the [challenged] laws, and the local prejudice is so great" as to render a fair trial unattainable. *Id.* at 55, 152 S.E. at 384. It thus afforded certain officials a right to change venue for

certain claims and offenses while requiring others to submit to the original venue in similar challenges. *Id.* at 55, 152 S.E. at 384. As the Court noted, prejudice against a certain challenge exists to *all* in the Commonwealth, and thus allowing a transfer of venue in only a certain class of actions violates the special-law prohibition of the Virginia Constitution.

> Local prejudice, in such extreme cases, however, exists generally and is not confined either particularly or exclusively to officials engaged in attempting to enforce the prohibition statute. Such prejudice affects all persons who are charged with heinous crimes. What sound reason, then, can there be for the special distinction expressed by the statute between the relief to be accorded to prohibition officers charged with crime and private citizens or other officials charged with similar crimes? What appealing reason can there be for according the special privilege or immunity of change of venue, as a matter of right, to officers charged with enforcing the prohibition statute, which should not be also accorded to officers charged with the enforcement of all the other criminal statutes?

Id. at 56, 152 S.E. at 384.

The Supreme Court of Virginia held that any claim that the potential local prejudice of those adjudicating a certain class of claims was insufficient to warrant the classification differentiation. *Id.* at 56, 152 S.E. at 384 ("We confess that we are unable to find any sound reason for this discrimination."). Indeed, "[t]he only apparent purpose is by legislative fiat to segregate these persons, whenever they may be charged with crimes, for a special immunity, and to accord to them a peculiar privilege which is denied to all other persons in the State who are similarly situated." *Id.* at 56, 152 S.E. at 384.

As the Court noted, "[t]he privilege" of such an automatic transfer of venue for a limited scope of persons or claims "is quite unusual." *Id.* at 57, 152 S.E. at 384. And

part of the reason for that atypicality was that "[t]he statute, by its terms, attempts to divest the trial court of the power to decide" an important question that would normally be within its jurisdiction. *Id.* at 56, 152 S.E. at 384. Because of that, it was a special venue law in violation of Article IV, Section 14.

Here, the General Assembly's Special Venue Law creates an unreasonable and arbitrary class of persons bringing challenges to proposed constitutional amendments and creates an arbitrary class of claims to similarly situated challenges. The Special Venue Law takes those special class of persons and claims and purports to divest this Court of jurisdiction over claims plainly in its jurisdictional grant and strips it of authority to adjudicate claims against official capacity defendants over whom it plainly has jurisdiction. The only rationale even put forward by any of the Defendants (although, notably, not by the General Assembly itself) is that the purported special stripping of this Court's jurisdiction over claims involving proposed constitutional amendments is in "promoting uniformity of judicial outcomes." (Reynolds Memorandum at 6.) But "[t]here is nothing more obnoxious to lovers of justice" than the notion that a certain class of claims is only capable of judicial determination by one Circuit Court in the Commonwealth. *Farmer*, 154 Va. at 57, 152 S.E. at 385.

For one, uniform judicial procedures are already part and parcel of the Commonwealth's judicial system. Under the Constitution of Virginia, any challenge to a proposed amendment would—of necessity—receive uniform application because "the Supreme Court shall, by virtue of this Constitution, have appellate jurisdiction in cases involving the constitutionality of a law under this Constitution," Va. Const.

art. VI, §1, and "no law shall be declared unconstitutional under either this Constitution or the Constitution of the United States except on the concurrence of at least a majority of all justices of the Supreme Court." Va. Const. art. VI, §2. Indeed, the Supreme Court of Virginia is the final arbiter of claims concerning the constitutionality of proposed constitutional amendments or the processes that govern their enactment. *Vlaming v. West Point Sch. Bd.*, 302 Va. 504, 527, 895 S.E.2d 705, 716 (Va. 2023) ("our duty as the highest court in Virginia is to reach our own conclusion with respect to the meaning of Virginia's foundational charter of government." (cleaned up)). Thus, the ultimate determination of the constitutionality of any challenge to a proposed constitutional amendment already resides in one Court—the Supreme Court of Virginia—and the uniform application of the law is necessarily a foregone conclusion under the Constitution of Virginia, which requires the Supreme Court of Virginia to decide such cases in finality. Uniformity of the laws is already baked into the equation.

Second, "promoting uniformity," as Defendant Reynolds (but not the General Assembly itself) intimates is the purpose behind the Special Venue Law, is a byproduct of the application of rules and procedures. *See* Rule 3:1 of the Rules of the Supreme Court of Virginia. Indeed, "[t]here is one form of civil case, known as a civil action. These Rules apply to all civil actions, in the circuit courts, whether the claims involved arise under legal or equitable causes of action." *Id.* In other words, the General Assembly's Special Venue Law is not required to advance uniformity. The Supreme Court of Virginia has already seen to that by requiring adherence to

common rules and procedures applicable to all civil actions—*including those against proposed constitutional amendments*. But, the Special Venue Law ignores that there is only "one class" of civil actions and creates two separate classes of constitutional challenges. The class of claims that can be adjudicated where the injury is felt by the aggrieved plaintiff (*i.e.*, claims arising from injured plaintiffs in Richmond) and those that cannot be adjudicated where the injury is felt (every other claim throughout the Commonwealth). There is no rational basis, and the General Assembly did not even attempt to articulate one in the Special Venue Law, for that distinction of claims, particularly when the Supreme Court of Virginia has already determined that all classes of civil cases are the same.

Third, uniformity in judicial proceedings is certainly a rational basis for a law, but uniform judicial outcomes is not. "[J]ustice is blind," *The Santissima Trinidad*, 20 U.S. 283, 300 (1822), and the outcome of any given litigation is contingent on the merits of the claim—not the court who reviews it. Leaving aside for the moment that the General Assembly articulated no such rationale, "uniformity of judicial outcomes" (Reynolds Memorandum at 6) is simply not a legitimate or rational basis for creating two separate classes of claims and two separate classes of plaintiffs who may bring such claims, with one class depriving citizens of the right to bring claims in the Circuit Court where they reside and in which the injury is felt, and a special venue law only applicable to a separate and arbitrary class of claims where such plaintiffs may not bring such claims. In fact, contrary to Defendant Reynolds' suggestion, "uniformity of judicial outcomes" or unanimity of opinions on proposed constitutional

challenges signals the death knell of a Republic, not its apex. Indeed, "[c]ompulsory unification of opinion achieves only the unanimity of the graveyard." *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 641 (1943). In fact, conflict among the Circuit Courts is healthy and permits fleshing out legal issues from multiple arguments prior to having the matter finally resolved by the Supreme Court of Virginia. It is the purpose behind the system. *E.g.*, *USAA Cas. Ins. Co. v. Hertz Corp.*, 265 Va. 450, 455, 578 S.E.2d 775, 777 (Va. 2003) (noting that "a conflict in the judgments of various circuit courts on the central issue of this case" was the premise behind awarding an appeal); *City of Alexandria v. Richmond F. & P.R. Co.*, 223 Va. 293, 295, 288 S.E.2d 457, 458 (Va. 1982) (noting that a grant of an appeal to the Supreme Court of Virginia to "resolve the conflict" among the circuit courts).

The Special Venue Law creates two classes of cases and two classes of plaintiffs for challenges to proposed constitutional amendments, and arbitrarily and unreasonably discriminates against all who reside in one of the jurisdictions of the 132 Circuit Courts outside of Richmond. The citizens of 132 Circuit Court jurisdictions have been told their Court of Record is insufficient to adjudicate claims that their elected representatives violated the laws of the Commonwealth, even though the injury is felt by those citizens in their own jurisdiction. The citizens of one Circuit Court in Richmond are permitted to trust that their Court of Record will properly adjudicate challenges to proposed constitutional claims. The injury felt by an aggrieved plaintiff in a proposed constitutional amendment challenge is the same, the alleged unlawful act imposed by officials within the aggrieved plaintiff's claims

are the same, but the plaintiff and the claim are treated differently and discriminatorily depending solely on the residence of the injured plaintiff. Thus, the General Assembly's Special Venue Law has relegated the citizens and voters of 132 Circuit Court jurisdictions to less favored status and deprived them of the ability to take advantage of the laws of the Commonwealth generally governing venue of the actions they bring despite the fact that the claims, the injuries, and the parties are all similarly situated with the exception of their address. "That this is special class legislation, unreasonable in fact and most objectionable in character, seems to us to be quite apparent." *Farmer*, 154 Va. at 57, 152 S.E. at 284–85.

There are two classifications of plaintiffs in constitutional amendment challenges and two classifications of claims. Those plaintiffs and those claims that arise in Richmond, where the aggrieved party can stay home to bring their claims, and those everywhere else in the Commonwealth, who are told their Circuit Court is not competent to adjudicate claims plainly within their jurisdictional grant. "The classification is illogical, unreasonable, and plainly violates the Constitution . . . because it is a special act providing for a change of venue for a limited class of persons when they happen to [bring a certain type of claim]." *Id.*, 152 S.E. at 285. The General Assembly's Special Venue law is not only offensive to those outside the capital city, it is unconstitutional as a special law related to the venue of civil actions.

C. The General Assembly's Special Venue Law is unreasonable and arbitrary and results in prohibited inequalities in the application of the laws.

As the Supreme Court of Virginia has noted, "the fact that a law applies only to certain territorial districts does not render it unconstitutional, provided it applies to all districts and all persons who are similarly situated, and to all parts of the State where like conditions exist." *Green v. Cnty. Bd. of Arlington Cnty.*, 193 Va. 284, 287, 68 S.E.2d 516, 518 (Va. 1952). *See also Newport News v. Elizabeth City Cnty.*, 189 Va. 825, 841, 55 S.E.2d 56, 65 (Va. 1949) (same); *Ex parte Settle*, 114 Va. 715, 718, 77 S.E. 496, 497 (Va. 1913) (same). Indeed, if a statute "confers special powers and privileges upon *particular localities*, to the exclusion of other localities similarly situated," it is a special law that "does not comprise all the objects which belong to that class." *Green*, 193 Va. at 289, 68 S.E.2d at 519 (emphasis added).

To avoid constitutional infirmity under the Constitution of Virginia's prohibition on special laws, the General Assembly's Special Venue Law must "appl[y] to all persons who are similarly situated as well as to all parts of the State where like conditions exist." *Holly Hill Farm*, 241 Va. at 430–31, 404 S.E.2d at 50. *See also Martin*, 126 Va. at 618, 102 S.E. at 82 (same). *See also Holly Hill Farm*, 241 Va. at 430, 404 S.E.2d at 50 ("The essence of prohibited special legislation is the existence of an arbitrary separation of persons, places, or thing of the same general class, with the result that some of them will, and some will not, be affected by the law."); *Pub. Fin. Corp. of Lynchburg v. Londeree*, 200 Va. 607, 614–15, 106 S.E.2d 760, 766 (Va. 1959) (same).

Here, there is no question that the General Assembly's Special Venue Law "confers special powers and privileges" upon one "particular localit[y]," to the exclusion of all other localities. *Green*, 193 Va. at 289, 68 S.E.2d at 519. The Special Venue Law purports to restrict challenges to proposed constitutional amendments to the Circuit Court for the City of Richmond. HB1384, §17. Residents in all 132 other Circuit Court jurisdictions have no ability to have their claims against a constitutional amendment heard locally, nor to have their Court of Record adjudicate claims that are plainly within its jurisdictional grant, even though the injuries are felt locally, the unlawful act would have taken place at least in part locally, and even though the claims are otherwise identical. That is singling out a particular locality to the exclusion of all other similarly situated localities. *Green*, 193 Va. at 289, 68 S.E.2d at 519. It is an unconstitutional special law by every sense of the word.

And the Special Venue Law does so without rational justification. There is "nothing on the face of the Act which distinguishes" the City of Richmond from other cities and counties across the Commonwealth when deciding challenges to proposed constitutional amendments. *Green*, 193 Va. at 288, 68 S.E.2d at 518. The law provides no basis—let alone a rational one—as to why the Circuit Court of the City of Richmond is the only court in the Commonwealth that can or should decide these cases. The capabilities of Circuit Court in Richmond are similarly situated to the Circuit Court here and all others across the Commonwealth. The jurisdictional grant to all Circuit Courts is the same across the Commonwealth. Va. Const. art. VI, §1. The residents of Richmond are not the only citizens of the Commonwealth who

experience the effects of constitutional amendments or who can be deprived of the benefit of the bargain they reached with the Commonwealth when it comes to altering their fundamental Charter. In fact, the Special Venue Law does not even articulate any reason *whatsoever* for why a change of venue is necessary for this distinct class of cases and distinct class of plaintiffs. Having failed to articulate any basis *at all*, the Court is not empowered to ascribe one to it or rewrite the Special Venue Law to include a rational basis for it. Instead, the Court's "function is to interpret the ace as written, not to rewrite it." *Edwards v. Commonwealth*, 191 Va. 272, 276, 60 S.E.2d 916, 918 (Va. 1950). Indeed, "courts do not sit as councils of revision, empowered to rewrite legislation in accord with their own conceptions of prudent public policy." *United States v. Rutherford*, 442 U.S. 544, 555 (1979). Rather, "it is emphatically the province and duty of the judicial department to say what the law is," *Butcher v. Commonwealth*, 298 Va. 392, 398 n.7, 838 S.E.2d 538, 541 n.7 (Va. 2020) (quoting *Marbury v. Madison*, 5 U.S. 137, 177 (1803)), and to declare invalid those laws that are special, unconstitutional, and void under the Constitution of Virginia. The General Assembly's Special Venue Law is such a law.

II. Other circuit courts deciding venue challenges concerning proposed constitutional amendments after the General Assembly's Special Venue Law have held it is an unconstitutional special law.

In the challenges to the General Assembly's defunct redistricting amendment, several courts adopted the view that the General Assembly's Special Venue Law was an unconstitutional special law in violation of Article IV, Section 14. *See, e.g.*, *Republican Nat'l Comm. v. Koski*, 116 Va. Cir. 351, 2026 WL 1396780, *2 (Va. Cir.

Ct., Cnty. of Tazewell Feb. 19, 2026) ("Transfer is not warranted in this case because venue is proper in this Court under Va. Code § 8.01-261(2) and under Va. Code § 8.01-261(15)(c), and because HB 1384's transfer-of-venue provision is an unconstitutional 'special' law under Article IV, Section 14, and could not take effect in any event before July 1, 2026 because it is not a "general appropriation law" and is not 'emergency' legislation enacted 'by a vote of four-fifths of the members voting in each house.'" Va. Const., art. IV, section 13."); *McDougle v. Nardo*, 116 Va. Cir. 299, 2026 WL 1396581, *4 (Va. Cir. Ct. Cnty. of Tazewell Jan. 27, 2026) ("the attempt within the House Joint Resolution to have this pending case transferred to the Circuit Court of the City of Richmond is in direct violation of Article IV, Section 14(2) of the Constitution of Virginia which states that: 'The General Assembly shall not enact any local special, or private law in the following cases: (2) Providing for a change of venue in civil or criminal cases.'"); *City of Lynchburg. v. Koski*, No. CL26-183 (Va. Cir. Ct. City of Lynchburg Mar. 4, 2026) (denying motion to transfer venue to Richmond on the basis of the General Assembly's Special Venue Law). Defendants' and Proposed Intervenors' only response to these findings is that this Court should ignore them because they are not binding on the Circuit Court for the County of Bedford. (*See* Reynolds Memorandum, at 5.) That they are not binding is true enough, but that alone provides no reason to eschew them altogether. The Circuit Courts' decisions in each of these cases is instructive given that all dealt with constitutional amendments in the current cycle and upon motions for transfer of venue based on the

same contentions Defendants and Proposed Intervenor put forward here and based on the same Special Venue Law at issue here.

Moreover, though not directly at issue, the Supreme Court of Virginia reviewed the decisions in *McDougle* and *Republican National Committee* in *Scott v. McDougle*, 2026 WL 1261598 (Va. May 8, 2026) and affirmed the decision of the Tazewell Circuit Court. So, though Defendants may contend that the Circuit Court's decision are somehow "manifestly incorrect" (Reynolds Memorandum, at 5), the Supreme Court of Virginia affirmed each of its decisions on the merits of the appeal. Thus, at minimum, Judge Hurley's analysis on the sum total of the claims in those cases was not found incorrect at all, much less manifestly so. His reasoning is sound, his ruling upheld, and the Court should likewise find that the General Assembly's Special Venue Law is an unconstitutional special law in violation of Article IV, Section 14 of the Virginia Constitution.

III. Defendant Reynolds request for fees is disfavored and should not be granted.

Defendant Reynolds request that the Court award her attorney's fees for bringing her claims in this Court. (Reynolds Memorandum, at 8–9.) The sole premise behind that contention is that Plaintiff should have known venue was improper in this Circuit Court because of the purported change in venue statute. (*Id.*). The Court should reject Defendant Reynolds's claims.

First, as articulated *supra*, the Special Venue Law is an unconstitutional special law and is thus void *ab initio*. *Benderson Dev. Co., Inc. v. Sciortino*, 236 Va.

136, 151, 372 S.E.2d 751, 759 (Va. 1988); *Farmer v. Christian*, 154 Va. 48, 53, 152 S.E. 382, 383 (Va. 1930).

Second, Plaintiff had significant support for her contentions that venue was proper notwithstanding the Special Venue Law. *See, e.g.*, *Republican Nat'l Comm. v. Koski*, 116 Va. Cir. 351, 2026 WL 1396780, *2 (Va. Cir. Ct., Cnty. of Tazewell Feb. 19, 2026); *McDougle v. Nardo*, 116 Va. Cir. 299, 2026 WL 1396581, *4 (Va. Cir. Ct. Cnty. of Tazewell Jan. 27, 2026); *City of Lynchburg. v. Koski*, No. CL26-183 (Va. Cir. Ct. City of Lynchburg Mar. 4, 2026). As such, Plaintiff's reasonable basis for bringing her claims in this Circuit are well justified and do not merit an award of fees.

Finally, because Plaintiff had a good faith basis to bring her claims in this Court, the Court should exercise discretion to deny fees in this matter. Virginia Code § 8.01-266 gives the Court authority to "award those attorney's fees deemed just and reasonable which are occasioned by . . . commencement of a suit" that is ultimately transferred to another forum. Va. Code § 8.01-266. The award is discretionary and not awarded as of right. While there is sparse caselaw surrounding Section 8.01-266, courts have evaluated whether the Plaintiff had a "basis" or a good faith reason for filing suit in a particular venue. *See, e.g.*, *Stillwell v. United Cities Gas Co., Inc.*, 23 Va. Cir. 195, 1991 WL 834818, at *2 (Va. Cir. Ct., City of Richmond Mar. 4, 1991) (noting that fees were appropriate on a transfer of venue motion but only because "Plaintiff's choice to bring the action here is therefore without basis."); *Shoemaker v. Commonwealth*, 4 Va. Cir. 176, 1984 WL 276280 (Va. Cir. Ct., County of Frederick May 29, 1984) (transferring venue but made no mention of attorneys fees). Because

Defendants concede that venue would have certainly been permissible, and even preferred, in the absence of the unconstitutional Special Venue Law, Plaintiff plainly had a good faith basis to bring her claims where she resides and where the injury was felt. An award of fees under such circumstances would be manifestly unjust.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests this Court to deny the Motions to Change Venue and retain jurisdiction and venue in this matter here.

DATED this 17th day of June, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of June, 2026, I filed the foregoing electronically with the Court and also sent service to all counsel of record via electronic mail at the addresses of record.

/s/ Daniel J. Schmid
Daniel J. Schmid