

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

ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW, *et al.* *

Plaintiffs, *

v. * **Case No. 07-cv-00092-AMD**

LISA L. DICKERSON, *et al.* *

Defendants. *

* * * * *

**JOINT MOTION TO PLACE CASE ON
INACTIVE DOCKET PENDING SETTLEMENT**

Plaintiffs Association of Community Organizations for Reform Now, Project Vote/Voting for America, Inc., Jonathan Pezold, and Sierra Leto, and Defendants Lisa L. Dickerson, Glenn M. Litsinger, and Officer Donald Morton, through undersigned counsel, hereby request this Court to place this matter on an inactive docket pending settlement, for the following reasons:

1. The parties have engaged in settlement negotiations and have mutually agreed in principle to settle this case, but have not finally resolved all issues in this case;
2. As part of the settlement negotiations, the Maryland Transit Administration (“MTA”) has agreed that it will take appropriate action to repeal its current regulations regarding the exercise of First Amendment rights and promulgate new regulations, pursuant to the Maryland Administrative Procedures Act, Md. State Gov’t Code Ann. §§ 10-101 *et seq.*;
3. Because the contemplated changes in the regulations would constitute a substantive change, the Maryland Administrative Procedures Act requires the changes to be “proposed anew and adopted in

accordance with the requirements of §§ 10-111 and 10-112,” which require submission of the proposed regulations to the Joint Committee on Administrative, Executive, and Legislative Review, publication of the proposed regulations in the Maryland Register, a thirty day notice and comment period, and publication of a notice of adoption. *See* Md. State Gov’t Code Ann. §§ 10-111, 10-112, 10-113, 10-114 & 10-117. Defendants anticipate that the process for repealing the current regulations and promulgating new regulations will take approximately six months;

4. Because the parties agree that the promulgation of new regulations is necessary for settlement of this suit, and Defendants seek to avoid additional litigation that may result in additional attorneys’ fees while the regulatory process is proceeding, the parties thus mutually seek to have this case placed on an inactive docket for the period of time necessary to promulgate new regulations;

5. In the interim period, while the case is on inactive status, the MTA will suspend enforcement of its current regulations governing free speech activities on MTA property, COMAR 11.06.01.06, including the requirement to obtain a permit in order to engage in First Amendment Activities and the time, place, and manner restrictions, and, instead, enforce only the following restrictions:

a. No free speech activities will be permitted in the underground areas of MTA stations or beyond the turnstiles or faregate positions for arriving and departing transit patrons;

b. No free speech activities will be permitted closer than 15 feet to any escalator, elevator, tracks, emergency exit, stairway, faregate, kiosk, farecard machine, money changer, information center, main terminal entrance, bus stop, or bus shelter, or, if the public sidewalk is within 15 feet of any of these structures, free speech activities must be conducted on the public sidewalks; and

c. No free speech activities will be permitted that in any way obstruct, delay, or interfere with

the free movement of pedestrian traffic or the public's use of MTA facilities, including ingress and egress to MTA stations;

6. The parties, through counsel, will negotiate as part of the anticipated settlement an award of plaintiffs' reasonable attorneys' fees, as may be awarded under 42 U.S.C. § 1988, and agree to submit the fee matter to the court if an agreement cannot be reached.

WHEREFORE, for the foregoing reasons, the parties jointly request that this Court:

- a. Place this matter on inactive status for a period of six months;
- b. At the end of that six month period, the parties shall report on the status of the regulatory process and the status of any settlement; and
- c. Refer this matter for an early settlement conference if still necessary..

Respectfully submitted,

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