

EXHIBIT D

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF STEUBEN

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TIM HARKENRIDER, GUY C. BROUGHT,
LAWRENCE CANNING, PATRICIA CLARINO,
GEORGE DOOHER, JR., STEPHEN EVANS, LINDA
FANTON, JERRY FISHMAN, JAY FRANTZ,
LAWRENCE GARVEY, ALAN NEPHEW, SUSAN
ROWLEY, JOSEPHINE THOMAS, and MARIANNE
VIOLANTE,

Index No. E2022-0116CV

**AFFIDAVIT OF TODD D.
VALENTINE**

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, LIEUTENANT
GOVERNOR AND PRESIDENT OF THE SENATE
BRIAN A. BENJAMIN, SENATE MAJORITY LEADER
AND PRESIDENT PRO TEMPORE OF THE SENATE
ANDREA STEWART-COUSINS, SPEAKER OF THE
ASSEMBLY CARL HEASTIE, NEW YORK STATE
BOARD OF ELECTIONS, and THE NEW YORK STATE
LEGISLATIVE TASK FORCE ON DEMOGRAPHIC
RESEARCH AND REAPPORTIONMENT,

Respondents.

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TODD D. VALENTINE, being duly sworn, says under penalty of perjury as follows:

1. I serve as Co-Executive Director for the New York State Board of Elections ("State Board"). I have held this position since 2008. From 1997 to 2008, I was Special Counsel at the State Board of Elections. I am familiar with state requirements and county board of elections' practices regarding redistricting, election procedures, election district creation, ballot creation, absentee voting, poll sites and poll worker training and assignment. I am fully familiar with the facts and circumstances set forth herein.

2. I make this affidavit in my personal capacity and based upon my extensive election experience to describe the ability for the county boards to run a court ordered primary election for

Congressional or State Senatorial district lines in 2022, and to respond to the affidavit of Thomas Connolly, submitted by Respondents on March 21, 2022, *see* NYSCEF No. 236, and if called to testify under oath, I could and would testify to the following facts.

Ballot Access Is Underway

3. The district boundaries for the offices of Members of the United States House of Representatives and New York State Senator (“Legislative Offices”) for the primary on June 28, 2022, and general election on November 8, 2022, were enacted into law on February 3, 2022, as Chapters 13 through 16 of the Laws of 2022.

4. While ballot access for the current 2022 lines is underway, as recently as 2020 executive orders have altered the process at the eleventh hour to address exigent circumstances, then due to a global pandemic. For instance, petition time periods and signature requirements were reduced by executive order of the governor during the recent pandemic.

5. Candidates adjusted to such changes in the past for prior redistricting changes due to court orders, and there is no real reason candidates and election officials cannot be similarly responsive to necessary changes in response to this Court’s remedial decisions.

Redistricting Process For Boards Of Elections

6. With a court order to change the congressional and senate districts lines, New York’s 58 boards of elections will have sufficient time to apply new district lines in their jurisdiction to their voter records.

7. When the new lines became effective on February 3, 2022, New York’s boards of elections turned their full attention to translating the new district boundaries into their voter registration systems. This work was largely but not completely done by March 1, 2022, showing that this process can be completed in less than a month’s time.

The Political Calendar And Change In Primary Dates

8. For a court-ordered August 23, 2022, Congressional and State Senate primary, the ballot access process could be adjusted to be completed no later than June 2, 2022, and the primary held August 23, 2022, this would provide the same 82 days that currently exist in under law for June 28, 2022 primary. This would allow time for the boards to certify the primary ballot and send any military and overseas ballots by July 8, 2022.

9. This would occur while county boards are running the June 28, 2022 primary. Since most ballot access is done at the State Board level for congressional and state senate offices impact on county boards would be minimized.

10. Indeed, although Mr. Connolly contends that “New York is not a top-down state in terms of its voter registration system,” NYSCEF No. 236 ¶ 15, that is largely irrelevant in terms of the election administration issues that would apply to moving back the 2022 primary to accommodate new maps ordered by this Court.

11. County boards would have time to plan for any added or alternative primary date. In some instances, a new, additional primary would require finding poll sites available on the new date as well as early voting sites that would be available for nine days in the lead up to the election and scheduling of poll workers to the additional primary, but county boards have ably made such changes in the recent past in response to court orders, and nothing would preclude them from doing so here.

12. As recently as 2018, New York had held a federal primary in June pursuant to a federal court order and a separate state primary in September for four election cycles.

13. Moving a primary to August 23, 2022, would allow sufficient time for state and county boards to certify the election by September 15, 2022, and print and send out military and overseas ballots by the federally required 45th day before the general election, September 23, 2022.

14. A change in primary would afford the necessary time for county boards to run a second primary election this year. As noted above, this has been the State's practice until 2018.



TODD D. VALENTINE

Sworn before me
on this 22 day of March, 2022


NOTARY PUBLIC