

# New York Supreme Court

## APPELLATE DIVISION—FIRST DEPARTMENT

PAUL NICHOLS, GAVIN WAX, GARY GREENBERG,

*Petitioners-Appellants,*

—against—

CASE No.

**2022-02301**

GOVERNOR KATHY HOCHUL, 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, NEW YORK STATE LEGISLATIVE TASK FORCE ON DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,

*Respondents-Respondents.*

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### RECORD ON APPEAL VOLUME II OF II (Pages 501 to 1016)

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**FILED: NEWBENKCOONNTYCCERRK06302220022061407PM**

NYSCEF DOC. NO. 349

INDEXNO. E2022-0116CV

RECEIVED NYSCEF: 05/03/2022

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF STEUBEN

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 VOLANTE,

Petitioners,

v.

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.

GARY GREENBERG,

Intervenor-Petitioner,

v.

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,

Intervenor-Respondents.

Index No. E2022-0116CV

**PETITION IN INTERVENTION**

Intervenor-Petitioner Gary Greenberg (the “Petitioner”) brings this Petition in Intervention against State Respondents<sup>1</sup> to vindicate his constitutional and statutory right to have his vote counted in the 2022 New York State Assembly elections in accordance with the redistricting standards and procedures prescribed by the New York State Constitution and statutory law. The Court should grant intervention because (1) Petitioner’s right to the relief sought herein is indisputable, given that the Court of Appeals already found the State Respondents’ Assembly map unconstitutional,<sup>2</sup> (2) the existing parties are not adequately representing Petitioner’s interests, and a judgment in this case may foreclose Petitioner’s right to the relief sought, *i.e.*, the right to vote in, and qualify to be a candidate for, a lawful 2022 Assembly election, and (3) the matters asserted herein present common issues of law or fact with the existing Petition.

Petitioner, by and through his attorneys, **Walden Macht & Haran LLP**, alleges as follows:

### **PRELIMINARY STATEMENT**

1. This is an action for declaratory and injunctive relief in connection with (1) the redistricting of the New York Assembly following the 2020 Census, and (2) upcoming 2022 elections. Petitioner’s right to this relief is simple and straightforward.

2. On April 27, 2022, the New York Court of Appeals held that the procedure adopted by the New York Legislature in adopting the congressional and State Senate maps was unconstitutional. *Harkenrider v. Hochul* (“*Harkenrider III*”), No. 60, 2022 WL 1236822, at \*9 (N.Y. Apr. 27, 2022). However, because the petitioners did not seek to invalidate the 2022 State

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<sup>1</sup> “State Respondents” refers herein to each and every one of the Respondents listed in the caption above.

<sup>2</sup> *Harkenrider v. Hochul* (“*Harkenrider III*”), No. 60, 2022 WL 1236822, at \*9 (N.Y. Apr. 27, 2022).

Assembly redistricting legislation (either in the initial petition or on appeal), the Court of Appeals found that it “**may not invalidate the assembly map *despite its procedural infirmity.***” *Id.* at \*11, n.15. ***This Petition bridges that gap.*** Petitioner asks this court to apply the Court of Appeals’ analysis of the State Respondents’ unconstitutional redistricting process to the State Assembly legislation and declare the constitutional infirmity of the Assembly map—as this Court did already in its March 31, 2022 Order.<sup>3</sup>

3. With respect to the unconstitutional State Senate and congressional maps, the Court of Appeals held that the proper remedy was for the Supreme Court, with the aid of a neutral redistricting expert, serving as special master, to oversee the Senate and congressional redistricting. Petitioner seeks the same remedy with respect to the Assembly map.

4. Petitioner is proceeding by Order to Show Cause because of several upcoming election deadlines. Ballots are scheduled to be transmitted to eligible military voters (among others) on May 13. Certain primary elections—including Assembly primaries—are scheduled for June 28, 2022. But because voting district membership affects, *e.g.*, whether someone petitions to become a candidate, whose signatures count, the candidates on a ballot, and the actual votes cast in a district, the constitutional infirmity of the Assembly map carries through to other important elements of the Assembly election that also warrant a remedy. Thus, Petitioner requests that the Court adjourn the Assembly primaries pending resolution of the Assembly map issue, just as it has already done with the State Senate and congressional primaries. Petitioner further requests that the Court develop a schedule, as the Court of Appeals instructed, for impacted election deadlines

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<sup>3</sup> See NYSCEF Doc. No. [243](#), at 10 (“The court would note that not only are the Congressional District Maps and Senate District Maps void but the Assembly District Maps are void *ab initio* as well. The same faulty process was used for all three maps. Therefore new maps will need to be prepared for the Assembly Districts as well.”).

and administrative milestones. *See Harkenrider III*, 2022 WL 1236822, at \*12. Consolidating and fast-tracking the remedial phase of this action, to redeem all three of the elections that have been stained by the State Respondents’ unconstitutional power-grab, will be efficient.

5. The New York Constitution guarantees Petitioner a neutral and non-partisan Assembly map and election. Petitioner asks this Court to deliver on that guarantee of representative democracy by invalidating the State Respondents’ illegal attempt to consolidate majority-party political power by carving up New York voters.

### **INTERVENOR-PETITIONER**

6. Gary Greenberg is a registered, eligible, and active voter in the State of New York, residing in New Baltimore, Greene County, within Assembly District 102. Petitioner ran for a State Senate seat in 2020 in District 46.

7. With the redrawing of district maps for congressional, State Senate, and, as Petitioner requests, State Assembly office, Petitioner is a potential candidate for each.

### **FACTUAL BACKGROUND**

#### **I. The “Scourge” of Gerrymandering**

8. Defining the boundaries of voting districts—and thus including or excluding certain communities and neighborhoods—has tremendous political ramifications. For that reason, parties have historically vied for control over the process of defining those boundaries, and this power struggle has been—and remains to this day—subject to tremendous political manipulation and abuse.

9. Gerrymandering is the political manipulation of voting district boundaries to serve nakedly partisan ends—shuffling minority party votes into uncompetitive majority-dominant districts (where the minority votes are meaningless); dividing and conquering powerful communities and neighborhoods; and stacking majority-party blocks to flip or secure districts that

are considered too “competitive” by the majority party. In short, gerrymandering is effectively **vote rigging**, using manipulated district lines to ensure dominance by incumbents or candidates favored by the majority party. In this way, gerrymandering is patently anti-democratic.

10. As one author succinctly explained:

Once a decade, every state redraws its electoral districts, determining which people will be represented by each politician. In many states, this means that politicians gather behind computer screens to figure out how they can manipulate the lines to box out their competition and maximize the power of their political party. While an increasing number of states employ independent commissions to draw district lines, the large majority still lack safeguards to prevent partisan favoritism in the redistricting process—also known as partisan gerrymandering.<sup>4</sup>

11. **“The core principle of republican government” is “that the voters should choose their representatives, not the other way around.”** *Arizona State Legislature v. Arizona Independent Redistricting Comm’n*, 135 S. Ct. 2652, 2677 (2015). But this principle is negated when political parties in power, like the State Respondents here, foist on the minority party and the electorate illegal voting district maps.

12. Historically, entrenched politicians sought to “pack” all of the disfavored party voters into the smallest number of districts, while also “cracking” the other minority-dominated districts to ensure disfavored candidates do not have sufficient votes to win in any other district.

13. Minority votes become practically meaningless because they are not cast in competitive races. The power to make the map becomes the power to pick which party candidate will win each electoral district.

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<sup>4</sup> Alex Tausanovitch, *The Impact of Partisan Gerrymandering*, Ctr. Am. Progress (Oct. 1, 2019), <https://www.americanprogress.org/article/impact-partisan-gerrymandering/>.

14. As this Court aptly described, gerrymandering is a “**scourge**” on our democratic process and the health of the Republic. Decision & Order at 2 (Doc. No. [243](#)) (“*Harkenrider P*”).

## II. The People Amend the Constitution and Adopt Redistricting Reforms

15. In 2014, the citizens of New York amended the Constitution to combat political manipulation and gerrymandering of voting districts. These amendments, and implementing statutes, created an independent redistricting commission (the “IRC”), as well as an “**exclusive method of redistricting**” congressional, State Senate, and State Assembly districts. *Harkenrider III* 2022 WL 1236822, at \*2, \*5, \*8; N.Y. Const. art. III, § 4(b).

16. This constitutionally mandated method was designed to limit legislative gamesmanship—so no single party could steer the redistricting process to its own ends. *Harkenrider III*, 2022 WL 1236822, at \*2. It was further designed to promote citizen participation, fair representation, and, ultimately, confidence in the outcome of elections, thereby ushering in “**a new era of bipartisanship and transparency.**” *Id.*

17. Sadly, the State Respondents intentionally created an elaborate subterfuge to eviscerate the will of the voters and assure the majority party’s stranglehold on the legislature, denuding the role of the IRC.

18. The IRC is comprised of ten members. Eight of the members are appointed by the majority and minority leaders of the Senate and Assembly. The eight members then appoint the remaining two members. This bipartisan group is “**constitutionally required to pursue consensus to draw redistricting lines**” and follow a transparent process that engages the public as it crafts new maps to propose to the Legislature. *Id.* at \*7.

19. Critically, the 2014 constitutional reforms constrain the Legislature’s power to bypass the IRC. The reforms require the Legislature to consider and vote on the maps proposed by the IRC. After the IRC drafts maps and holds public hearings, the IRC must submit a first set

of maps to the Legislature by January 15 of the second year following the Census. *Id.* at \*5 (citing N.Y. Const. art. III, § 4(b)). If either the Legislature or Governor reject the maps, the IRC must revise and submit new maps to the Legislature within 15 days, but no later than February 28. *Id.* The Legislature must then consider and vote on this second set of maps. *Id.*

20. Only in the event the Legislature *votes down the second set of IRC maps*—which it must do in an “up or down” vote (*i.e.*, without making modification)—does the New York Constitution permit the Legislature to undertake amending the IRC’s proposed maps and ultimately enact its own district maps. N.Y. Const. art. III, § 4(b); N.Y. Legis. Law § 93(1); *see Harkenrider III*, 2022 WL 1236822, at \*2.

21. The IRC process was thus “**crafted to guarantee that redistricting maps have their origin in the collective and transparent work product of a bipartisan commission.**” *Harkenrider III*, 2022 WL 1236822, at \*7. The process ensures that the IRC—a bipartisan group independent from the Legislature—has “**a substantial and constitutionally required role in the map drawing process**” as a “**precondition to redistricting legislation.**” *Id.* at \*8.

22. After the constitutional deadline for the IRC to submit a second redistricting plan, the *only* alternative to the carefully crafted process set forth in Article III, § 4, is “**court intervention following a violation of the law.**” *Id.* at \*8, \*12.

23. To that end, the Constitution and State statute empower “**any citizen**” to enforce the 2014 amendments, expressly conferring standing on any citizen of New York, such as Petitioner, to bring an action to challenge the Legislature’s enacted maps as either procedurally or substantively defective. *Id.* at \*4 (quoting N.Y. Const. art. III, § 5 and N.Y. Unconsolidated Laws § 4221).

24. The Legislature's maps are procedurally defective where, as set forth above, the IRC fails to present a plan to the Legislature, or the Legislature fails to consider and vote on such a plan. *Id.* at \*9. The Legislature's maps are substantively defective where they have been drawn with an intent or motive **"to 'discourage competition' or 'favor or disfavor incumbents or other particular candidates or political parties.'"** *Id.* at \*10 (quoting N.Y. Const. art. III, § 4(c)(5)). Either a procedural or a substantive defect renders the Legislature's maps unconstitutional, necessitating judicial intervention and remedy pursuant to Article III, § 4. *Id.* at \*11-12.

### III. The IRC and Legislature Attempt to Evade the 2014 Constitutional Reforms

25. As alleged above, every ten years, New York must redraw its legislative districts to account for population changes reported in the Federal Census. *Harkenrider III*, 2022 WL 1236822, at \*7 (citing N.Y. Const. art. III, § 4).

26. The State's prior redistricting occurred in 2012, after the 2010 Census. Ten years later, new maps are constitutionally mandated. *Id.* Naturally, population changes occurred in the State of New York between 2012 and 2022. For example, as reported by the 2020 Census, released on April 26, 2021, New York's resident population increased by more than 4 percent, or 823,147 residents, since 2010—enough new voters to change the outcomes of multiple Assembly races.

27. After the 2020 Census was released, Democratic and Republican leaders in the New York Legislature appointed their respective delegations to the IRC, and the IRC commenced drafting new districting maps to account for the population change reported in the 2020 Census.

28. As required by the Constitution, the IRC held public meetings across the State throughout 2021 to hear public testimony about draft maps and the redistricting process.<sup>5</sup> N.Y. Const. art. III, § 4(c).

29. After nine meetings, the IRC released initial map drafts on September 15, 2021.

30. Through October and November, the IRC held fourteen more public hearings on the draft maps and the redistricting process. It also solicited written comments from the public, where stakeholders and voters voiced further concerns and suggestions.<sup>6</sup>

31. During that time, eschewing the will of voters, the Legislature tried, but failed, to enact a constitutional amendment in November 2021 that would have created an end-run around the IRC process created by the 2014 reforms.

32. Under this failed amendment, the Legislature would have been able to create its own redistricting plan should the IRC submit no map for consideration and vote, effectively removing the IRC and associated public participation from the map-drawing process.

33. Unsurprisingly, New York citizens voted down the Legislature's craven amendment, which was intended to protect favored candidates and incumbents.

34. Undaunted, the IRC held its last public hearing on December 5, 2021, and the final deadline for public comment on draft maps was December 6.

35. With public hearings and comments closed, the IRC members began negotiations amongst themselves to finalize a set of maps to submit to the Legislature. But the IRC members were unable to reach an agreement or consensus.

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<sup>5</sup> See N.Y. State Independent Redistricting Comm'n, *Meetings*, NYIRC, <https://www.nyirc.gov/meetings> (last visited May 2, 2022).

<sup>6</sup> See N.Y. State Independent Redistricting Comm'n, *Submissions*, NYIRC, <https://www.nyirc.gov/submissions> (last visited May 2, 2022).

36. On January 3, 2022, the Democratic delegation and their appointee voted for one redistricting plan, and the Republican delegation and their appointee voted for another. *Harkenrider III*, 2022 WL 1236822, at \*2.

37. The Legislature received both plans from the IRC and voted upon them without amendment, rejecting both without public input. *Id.* It notified the IRC of its rejection on January 10, 2022. *Id.*

38. Consequently, under Article III, § 4(b) of the New York Constitution, the IRC was *required* to draft a new redistricting plan to submit to the Legislature within 15 days, by January 25, 2022. And the Legislature was *required* to review and vote on this second plan.

39. Rather than submit a new plan, the IRC informed the Legislature that it was again deadlocked and would not send a second set of maps to the Legislature for review or a vote. *Id.* The January 25 deadline passed without the IRC submitting any new maps, or the Legislature voting on such maps, as was constitutionally required. *Id.*

40. Instead, over the next week, the Democrat-controlled Legislature drafted and enacted its own set of maps—along a party-line vote without public input—thereby effectuating a partisan redistricting of congressional, Senate, and Assembly districts. *Id.*

41. Sadly, despite the undeniable (and now declared) infirmity, Democratic Governor Hochul signed these maps into law on February 3, 2022. *See* 2021–2022 N.Y. Reg. Sess. Leg. Bills A.9040- A and A.9168.

#### **IV. The Court of Appeals Recognizes that the 2022 Maps Are Unconstitutional**

42. The same day the Governor signed the maps into law, New York citizens filed a special proceeding in this Court challenging the constitutionality of the congressional and (after amending their petition) Senate maps. *See* Amended Petition (Doc. No. [18](#)).

43. The petitioners claimed that the maps (1) were the product of a constitutionally defective process and (2) were unconstitutional partisan gerrymanders.

44. On March 31, 2022, following a bench trial and extensive expert testimony, this Court voided the congressional and Senate maps, holding that the IRC and Legislature had failed to follow the necessary constitutional procedure for submitting and reviewing a second set of redistricting plans when the Legislature rejected the IRC's first redistricting plan.

45. The Supreme Court further held that the congressional maps had been drawn with impermissible political bias—*i.e.*, were gerrymandered—and were void for that reason as well. *See Harkenrider I* at 14.

46. The Supreme Court also voided the Assembly maps because “[t]he same faulty process was used for all three maps” and “[t]herefore new maps will need to be prepared for the Assembly Districts as well.” *Id.* at 10.

47. On appeal, the Fourth Department vacated the Supreme Court's holding that the Senate and Assembly maps were procedurally defective and therefore void. *Harkenrider v. Hochul*, No. 22-00506, 2022 WL 1193180, at \*3 (4th Dep't Apr. 21, 2022) (“*Harkenrider II*”).

48. The Fourth Department's decision was quickly overturned.

49. Six days later, on April 27, 2022, the New York Court of Appeals reversed the Fourth Department, reinstating the Supreme Court's decision that “the legislature and the IRC deviated from the constitutionally mandated procedure” and so the congressional, Senate, and Assembly maps were all defective. *Harkenrider III*, 2022 WL 1236822, at \*5. “[T]here can be no question,” the Court of Appeals found, “that the drafters of the 2014 constitutional amendments and the voters of this state intended compliance with the IRC process to be a constitutionally required precondition to the legislature's enactment of redistricting

legislation.” *Id.* at \*9. Indeed, “**no one disputes**” that the IRC and Legislature had “**failed to follow the procedure commanded by the State Constitution.**” *Id.* at \*1.

50. The Court of Appeals found that the Assembly maps suffer from the same “**procedural infirmity**” as the congressional and Senate maps. *Id.* at \*11 n.15.

51. But the Court of Appeals declined to *sua sponte* invalidate the Assembly maps because the petitioners had neither sought such relief nor appealed the Fourth Department’s vacatur of the Supreme Court’s voiding of the Assembly maps. *Id.* at \*11 n.15.

52. In short, the Assembly maps are clearly void, and a declaration to that effect depends on nothing more than the institution of this action, thus finally giving full effect to the 2014 constitutional amendments.

#### V. The Court of Appeals Remands to the Supreme Court to Oversee Redistricting

53. The constitutional deadline for the IRC to submit a second redistricting plan has passed. Consequently, the Legislature’s unconstitutional maps are “**incapable of a legislative cure.**” *Harkenrider III*, 2022 WL 1236822, at \*12.

54. The Court of Appeals therefore remanded the matter to this Court to craft and adopt redistricting maps in a court-supervised process, as authorized by Article III, § 4(e) of the New York Constitution. *Id.* Judicial oversight, the Court Appeals explained, is “**required to facilitate the expeditious creation of constitutionally conforming maps for use in the 2022 election and to safeguard the constitutionally protected right of New Yorkers to a fair election.**” *Id.* at \*1.

55. This Court was directed to follow the course of action that it had already set in motion during the pendency of these appeals: adopt a redistricting plan “**with the assistance of a neutral expert, designated a special master, following submissions from the parties, the legislature, and any interested stakeholders who wish to be heard.**” *Id.* at \*12.

56. This Court’s special master hearings are proceeding apace. The Court has set a schedule and retained a neutral expert to redraw nonpartisan congressional and Senate maps. A hearing for public input on proposed maps is presently set for May 6, 2022, and the deadline for the special master to complete final maps is May 20, 2022. *See* Second Amended Order (Doc. No. [296](#)). Moreover, the Supreme Court has pushed back the primaries for congressional and State Senate elections from June 28 to August 23, 2022. *See* Preliminary Order (Doc. No. [301](#)).

57. This Court should likewise follow the clear mandate of the Court of Appeals and void the 2022 State Assembly map. The IRC and the Legislature indisputably failed to comply with Article III, § 4(b) of the New York Constitution—enacting, as the Court of Appeals held, an Assembly map with a fatal constitutional defect that undermines the goals of the 2014 amendments. The only option here is for this Court to declare the unconstitutional Assembly map void and adopt a new one, with assistance from the special master, and make necessary arrangements for the 2022 election cycle.

58. Further, as *Harkenrider III* found no good reason to delay a remedy for the unconstitutional congressional and State Senate maps, there is no good reason to delay a remedy to the unconstitutional Assembly map. The Court of Appeals rejected state respondents’ request to defer a remedy until after the 2022 election cycle. *Harkenrider III*, 2022 WL 1236822, at \*12.

59. The Court of Appeals was “**confident that, in consultation with the Board of Elections, Supreme Court can swiftly develop a schedule to facilitate an August primary election, allowing time for the adoption of new constitutional maps, the dissemination of correct information to voters, the completion of the petitioning process, and compliance with federal voting laws, including the Uniformed and Overseas Citizens Absentee Voting Act.**” *Id.* at \*12.

60. This Court should therefore move expeditiously to enjoin the State’s primary for the State Assembly election and begin proceedings to adopt a new Assembly map.

61. The primary is currently scheduled for June 28, 2022. But, as the Supreme Court has ordered in *Harkenrider*, moving them to August will “**likely be necessary**” for there to be time to adopt constitutional maps. *Id.* at \*12. Waiting until after the 2022 elections would “**subject the People of this state to an election conducted pursuant to an unconstitutional reapportionment.**” *Id.* at \*11.

62. Further, the current petitioners do not appear to have addressed the likely defects that will occur—once the special-master redistricting process is completed—with the petition signatures that candidates for office must obtain to appear on a ballot.

63. These defects would affect the ballots for congressional, State Senate, State Assembly, as well as statewide offices.

64. To appear on a ballot, a potential candidate must obtain signatures from voters who meet specific residency requirements, and these residency requirements are tied to the boundaries of districts. *See, e.g.*, N.Y. Elec. Law § 6-138.

65. After maps are redrawn, many of the signatures that candidates have obtained may no longer comply with state law and will be invalid. Further, many New Yorkers will be eligible to provide petitions for potential candidates in different districts or political units.

66. This Court should establish measures to remedy invalid petitions and reopen the period to current primary candidates for obtaining such petitions, so that they may obtain replacement signatures. This Court should further reopen the period for potential new candidates who—after finding themselves in a redrawn district where they are now competitive and can obtain

signatures they could not have before—wish to run for office.<sup>7</sup> New Yorkers should not be denied this opportunity because the Legislature has enacted poisoned maps.

### **FIRST CAUSE OF ACTION**

#### **Failure to Follow Constitutional Procedures for Redistricting (N.Y. Const. art. III, § 4(b))**

67. Petitioner incorporates each of the foregoing paragraphs as if fully set forth herein.

68. Every ten years, New York must reapportion State Assembly districts **“to account for population shifts”** reported in the Federal Census. *Harkenrider III*, 2022 WL 1236822, at \*1.

69. Article III, § 4(e) of the New York Constitution provides that **“[t]he process for redistricting congressional and state legislative districts established by this section and sections five and five-b of this article shall govern redistricting in this state.”** N.Y. Const. art. III, § 4(e).

70. Article III, § 4(b) requires that, should the Legislature **“fail to approve the legislation implementing the first redistricting plan”** prepared by the IRC, the IRC then **“shall prepare and submit to the legislature a second redistricting plan and the necessary implementing legislation for such plan,”** and that **“[s]uch legislation shall be voted upon, without amendment.”** N.Y. Const. art. III, § 4(b).

71. Only then, after rejecting a second redistricting plan, or, after the Governor vetoes such plan, may the Legislature **“introduce”** its own **“implementing legislation”** along with **“any amendments”** that comply with Article III, Section 4. N.Y. Const. art. III, § 4(b).

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<sup>7</sup> Because candidates for statewide office have to get petition signatures from voters in 50% of the congressional districts, for example, changing the congressional district lines (which the Court has already ordered) necessarily requires new petitions from existing (and potentially new) candidates, as some signatories will obviously find themselves in different districts than they were in when signing in support of a candidate.

72. After the Legislature rejected the first-round maps introduced by the IRC, and the IRC did not adopt and introduce second-round maps to the Legislature within 15 days, the Legislature was left with no maps to act on within the scope of its limited constitutional role.

73. As a result, the Legislature did not consider a second map from the IRC, which mandatory consideration was required before the Legislature was constitutionally permitted to adopt its own congressional map. N.Y. Const. art. III, § 4(b).

74. On February 3, 2022, several voters of New York challenged the constitutionality of this process, and, on April 27, 2022, the Court of Appeals held that the procedure used by the IRC and Legislature was unconstitutional. *Harkenrider III*, 2022 WL 1236822, at \*11.

75. The State Constitution “**requires expedited judicial review of redistricting challenges . . . and authorizes the judiciary to ‘order the adoption of, or changes to, a redistricting plan’ in the absence of a constitutionally-viable legislative plan.**” *Id.* at \*2 (citing NY Const, art III, § 4(e) then quoting *id.* § 4(e)). Further, “**judicial oversight is required to facilitate the expeditious creation of constitutionally conforming maps for use in the 2022 election and to safeguard the constitutionally protected right of New Yorkers to a fair election.**” *Id.* at \*1.

76. Thus, this Court should draw its own map for the Assembly prior to the upcoming deadlines for candidates to gain access to the ballot.

## **SECOND CAUSE OF ACTION**

### **Declaratory Judgment (CPLR § 3001)**

77. Petitioner incorporates each of the foregoing paragraphs as if fully set forth herein.

78. Petitioner seeks a declaratory judgment from the Court “**as to the rights and other legal relations of the parties,**” CPLR § 3001, regarding the constitutionality of the Assembly map (“2022 State Assembly map”). *See* 2021–2022 N.Y. Reg. Sess. Leg. Bills A.9040-A and A.9168.

79. This issue is ripe for judicial review.

80. If this constitutional question is not resolved, neither Respondents nor the citizens of New York will have adequate guidance regarding the propriety of the enacted maps, in preparation for impending elections, which will be left in limbo following the Court of Appeals decision in *Harkenrider v. Hochul*.

81. If this constitutional question is not promptly resolved, it will be too late to do so without threatening the integrity of upcoming elections, leaving the voters of New York with an indisputably unconstitutional map in the elections.

82. This Court should enter judgment declaring that the 2022 State Assembly map violates the New York Constitution and is therefore void *ab initio*.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner prays for relief as follows:

*First*, declaring pursuant to CPLR § 3001 that the 2022 State Assembly map, *see* 2021–2022 N.Y. Reg. Sess. Leg. Bills A.9040-A and A.9168, is void based upon the procedural flaws in its adoption previously set forth by the Court of Appeals;

*Second*, enjoining Respondents to adjourn the primary election date for the New York Assembly from June 28, 2022, to August 23, 2022 (thus, aligning the primary election date for the State Assembly with the adjourned primary election dates for the State Senate and U.S. Congress);

*Third*, enjoining the deadline for military and overseas ballots to July 8, 2022, or a date that this Court otherwise deems appropriate;

*Fourth*, applying the same remedial procedures this Court has ordered in this action with respect to congressional and State Senate apportionment and redistricting to State Assembly apportionment and redistricting, including the creation and adoption of a new, constitutionally and legally compliant State Assembly map;

*Fifth*, adopting appropriate measures and processes with respect to congressional, State Assembly, State Senate, and statewide office:

- i. to remediate signatures on petitions that are no longer valid under N.Y. Elec. Law § 6-138 or other state law;
- ii. to allow existing candidates with invalid signatures to obtain new signatures;
- iii. to allow new candidates to obtain signatures to qualify for primary elections;

*Sixth*, suspending or enjoining the operation of any other state laws, or vacating any certifications or other official acts of the acts of the New York State Board of Elections or other governmental body, that would undermine this Court's ability to offer effective and complete relief for the November 2022 elections and related primaries;

*Seventh*, awarding Petitioner reasonable attorneys' fees and costs; and

*Eighth*, awarding such other and further relief as this Court may deem just and proper.

**FILED: NEW YORK COUNTY CLERK 0530322022051407PM**

INDEX NO. E2642101262Y

NYSCEF DOC. NO. 339

RECEIVED NYSCEF: 05/03/2022

Dated: New York, NY  
May 3, 2022

Respectfully submitted,

**WALDEN MACHT & HARAN LLP**

By: /s/ Jim Walden

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Brian Mogck  
Daniel Cohen  
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*Attorneys for Intervenor-Petitioner Gary  
Greenberg*

**Exhibit O to Salcedo Affirmation-  
Related News Article and Copies of Printouts from WebCivil  
Supreme  
[pp. 520 - 523]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

NYSCEF DOC. NO. 46

RECEIVED NYSCEF: 05/22/2022

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## NYS Senate candidate Greenberg off the ballot due to invalid signatures

Thursday, April 30, 2020 - 15:10

ALBANY COUNTY — New York State Senate 46th District candidate [Gary Greenberg](#) has lost his position on the ballot for the June 23 Democratic primary following a [challenge](#) by Rensselaerville Democratic Chairman Hébert Joseph over the number of signatures Greenberg collected for his petition.

The decision was made on April 27 by the New York State Board of Elections. Greenberg told The Enterprise that he immediately filed a motion in the New York State Supreme Court — the lowest level court in the state's three-tiered system — to fight his way back onto the ballot.

The first hearing is scheduled this Friday, May 1.

"They are trying to subvert a race of two candidates," Greenberg said, referring to Joseph, who he says is a proxy for Democrat [Michelle Hinchey](#), his primary opponent. "Now what's Michelle Hinchey scared of?"

Hinchey of Saugerties is the daughter of the late United States Congressman Maurice Hinchey, and is backed by the Democratic committees of each of the five counties covered totally or partially by the 46th District (Greene, Montgomery, Albany, Schenectady, and Ulster).



*Gary Greenberg*

Greenberg, who lives in Greene County, is a child-victims advocate, having been one himself.

The incumbent senator, Republican George Amedore, is not seeking re-election. Conservative Richard Amedure, of Rensselaerville, is running for the 46th on the Republican line and is seeking the Independence, Conservative, and Serve America Movement lines. Robert D. Alft Jr. is running on the Green Party line. In addition to the Democratic line, Hinchey is seeking the Working Families and Serve America Movement lines.

New York State Senate petitions are typically required to have at least 1,000 signatures from registered voters to secure a candidate's place on the ballot. Because of the coronavirus, Governor Andrew Cuomo temporarily lowered that threshold to 300 signatures.

Greenberg submitted his petition with 337 signatures — a number that he told The Enterprise in March was hard to get under the circumstances. By the time the petitions were reviewed by a State Board of Elections hearing official, only 291 of those signatures were considered valid.

Hinchey told The Enterprise in March that she submitted a petition with more than 2,500 signatures. Her campaign could not immediately be reached for comment on Greenberg's removal from the ballot, nor his ensuing legal challenge.

Greenberg expressed frustration this week over "petty" complaints about the signatures, such as sloppily written dates and incorrect locations, that were nevertheless significant enough to render the signatures invalid.

"There's people that think they live in [the village of] Voorheesville and it's [the town of] New Scotland," Greenberg told The Enterprise, explaining how a voter can unwittingly put down incorrect personal information. "Or they put Slingerlands, their mailing address, but they live in Guilderland."

Greenberg, who will be represented by attorney John Sweeney, said that he's confident his name will be on the ballot.

"I promise when I'm elected as Senator," he said, "I will make ballot access easier for residents."

Tags: [New York State Senate](#) [election 2020](#)

## More Regional News

- **Week CXIII: 'Endemicity is not a victory,' COVID researchers say**

When Governor Kathy Hochul on Sunday afternoon, May 8, [tweeted](#) that she had tested positive for the virus — "Thankfully, I'm vaccinated and boosted, and I'm asymptomatic," she posted — her followers were divided in their advice and remonstrances.



- **Week CXIV: Reinfection rates rise along with spread of Omicron subvariants**

"As the Omicron variant emerged in New York State, the number of people who have been infected with COVID for a second time has increased dramatically," the state's health department reports.



- **Albany County publishes first redistricting map draft**

The map will be subject to a public hearing on May 26.



**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

5/20/22 1:56 PM  
NYSCEF DOC. NO. 46

WebCivil Supreme - Appearance Detail

RECEIVED NYSCEF: 05/22/2022



## New York State Unified Court System

*WebCivil Supreme - Appearance Detail*

Court: **Albany Supreme Court**  
 Index Number: **3476-20**  
 Case Name: **Greenberg vs. Joseph And NYS BOE**  
 Case Type: **SPEC PROCEED-ELECTION**  
 Track: **Standard**

**Appearance Information:**

Appearance Date	Time	Court Date Purpose	Outcome Type	Justice Part	Remarks	Motion Seq
05/04/2020		Motion	MOTION DECIDED	DAVID A. WEINSTEIN WEINSTEIN (Motion Part)		<u>1</u>
05/04/2020		Disposition	PRE-DISMISSSED	DAVID A. WEINSTEIN WEINSTEIN (Court Activity)		
05/01/2020		Motion	RETURN/SUBMIT	DAVID A. WEINSTEIN WEINSTEIN (Motion Part)		<u>1</u>
05/01/2020	10:30 AM	Hearing	HEARING HELD	DAVID A. WEINSTEIN WEINSTEIN (Hearing)		
04/28/2020		Motion	MOTION FILED	DAVID A. WEINSTEIN WEINSTEIN (Motion Part)		<u>1</u>

Close

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

5/20/22 1:55 PM  
NYSCEF DOC. NO. 46

WebCivil Supreme - Motion Detail

RECEIVED NYSCEF: 05/22/2022



New York State Unified Court System

**WebCivil Supreme - Motion Detail**

Court: **Albany Supreme Court**  
 Index Number: **3476-20**  
 Case Name: **Greenberg vs. Joseph And NYS BOE**  
 Case Type: **SPEC PROCEED-ELECTION**  
 Track: **Standard**

**Motion Information:**

Motion Number	Date Filed	Filed By	Relief Sought	Submit Date	Answer Demanded	Status	Decision	Order Signed Date
1	04/28/2020	Plaintiff	Declare Designating Petition	05/01/2020	No	Decided: 05/04/2020 DISMISSED Before Justice: DAVID A. WEINSTEIN		

Close

Exhibit P to Salcedo Affirmation-  
Twitter messages posted by Mr. Greenberg related to the Adult  
Survivors Act, a proposed New York State Law  
[pp. 524 - 541]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 47

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

 Gary Greenberg Retweeted



**Gary Greenberg** @GAGreenberg · Apr 27

Replying to @AndreaSCousins

Major editorials called 1st to set up a legal victims fund .Your leaving abusers on NY streets .You ignored thousands of victims pleas for help. Instead passed a flawed bill . YOUR PACKAGE PASSED as usually IS NOTHING BUT A hotch-potch.Nothing will change.



[dailygazette.com](https://www.dailygazette.com)

EDITORIAL: Establish legal fund for sex abuse victims – The Daily Gazette

The whole point of the Child Victims Act for victims of child sex abuse — and the potential passage of the Adult Survivors Act for adult abuse ...





**Gary Greenberg** @GAGreenberg · Apr 28

...

All survivors do so why are you leaving thousands behind ? These victims were shut out of Child Victims Act . No lawyer will take their case since they weren't abused by a rich abuser or institution. Adult Survivors Act will harm more victims than help. Pass a victims fund 1st.



**Alessandra Biaggi** @SenatorBiaggi · Apr 27

Yesterday, the NYS Senate reaffirmed its commitment to survivors by passing the Adult Survivors Act.

This #DenimDay, the Assembly must follow suit and pass the ASA. All survivors, regardless of when their abuse happened, deserve the opportunity to hold their abusers accountable.



Gary Greenberg Retweeted

**Gary Greenberg** @GAGreenberg · May 5

...

@CharlesDLavine @CarlHeastie please do not support the Adult Survivors Act , Those demanding you support are misinformed & ill advised. Major newspapers editorial boards in NYS have said such . There are thousands who couldn't file claims under CVA. Let's pass a victims fund.

### Flooded With Plaintiffs Under Child Victims Act, a Legislative Push May Help

More than 10,000 cases were filed throughout New York, but thousands of others are not being served because they can't find a lawyer willing to take on their cases, advocates say. A legislative effort has begun to establish a fund to help these victims have their day in court.

April 12, 2022 at 11:31 AM



PHOTOGRAPHER: SHUTTERSTOCK IMAGE

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 Gary Greenberg Retweeted



**Protect NY Kids** @protectnykids · May 6

...

You intentions are well minded but there are falsehoods. Thousands of victims were denied justice from Child Victims Act because lawyers wouldn't take cases . No rich institution or abuser. We must pass as editorial boards across NYS and survivors are calling for. A victims fund!



**Evelyn Yang**  @EvelynYang · May 5

.@deardrewdixon

& I and so many more are done waiting. @CarlHeastie  
pass the #AdultSurvivorsAct!

#### STATEMENT FROM EVELYN YANG AND DREW DIXON

"Victims of sexual assault are done waiting. We have been brave and fearless, Speaker Heastie. Now, it's your turn.

Even as we healed from our profound pain as survivors, we advocated for this important legislation as citizens. We found the will to carry on for years without justice, and we expect you to find the will to carry this bill across the finish line.

The eyes of thousands of survivors in New York State are on you and the New York Assembly in this moment. We are watching and waiting, and we unequivocally insist: Pass the Adult Survivors Act now!"



Gary Greenberg Retweeted

**Protect NY Kids** @protectnykids · May 6

...

Replying to @shanlonwu @PasstheASA and 3 others

These laws are flawed particularly the Child Victims Act . Stop stating every victim will get justice under Adult Survivors Act . It's a false hood . We need a victims legal fund as editorial boards & thousands of victims who were left out of the CVA need & want .[#JusticeForAll](#)

By Gazette Editorial Board | February 25, 2022



PHOTOGRAPHER: SHUTTERSTOCK IMAGE

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**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**  
 NYSCF DOC: NO. 4/ RECEIVED NYSCF: 05/22/2022



**Gary Greenberg** @GAGreenberg · May 9

[@meeshdelrey](#) Why female lawyers? These lawyers called for Cuomo to resign without due process Same lawyers who threaten to sue both Cuomos & mainly men .The cases you discussed are rich abusers & institutions Adult Survivors Act will revictimize victims who will not find lawyers.



1



9



24



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NYSCEF RECEIVED NYSCEF: 05/22/2022

Replying to [@thegalasisters](#) [@nancyholimant](#) and 4 others

Not all legislators want to help all victims with a fund .Mindboggling!

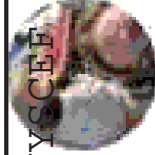


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**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOCKETED AT: 05/22/2022 11:07 PM RECEIVED NYSCEF: 05/22/2022



**Gary Greenberg** @GAGreenberg · May 9

[@meeshdeirey](#) Contact lawyers who understand why victims need a legal fund .[@marshlawfirm](#) James Marsh has represented hundreds of victims in NYS , thousands nationwide and sees the value in helping all victims obtain justice in whatever way possible including a fund .



5



16



**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

**NYSCEF DOCKET ENTRY** **GREENBERG @GAGreenberg · May 9** RECEIVED NYSCEF: 05/22/2022



@CharlesDLavine @CarlHeastie Of Course attorneys want to sue .  
@GloriaAllred How about the thousands of victims who didn't find 1  
attorney from Child Victims Act ? Are you or female lawyers helping these  
victims. @meeshdelrey 🍌 A VICTIMS FUND !



timesunion.com

Female attorneys write letter of support for Adult Survivors Act  
Attorneys who represent victims of Harvey Weinstein as well as those  
who say they were...

5



10



24



**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

**GeryNGreenberg** @GAGreenberg · May 10 RECEIVED NYSCEF: 05/22/2022

Replying to [@Restore\\_NewYork](#) and [@leezeldin](#)

He was found guilty. Predator supporters , [@leezeldin](#) was a state Senator who refused to take a vote on the Child Victims Act . This caused predators to stay on the streets & justice denied for victims. We had to flip Senate & rid NYS of the Lee Zeldins of the world. Thank God!



1



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17



**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 AM**

**RECEIVED NYSCEF: 05/22/2022**

REPLYING TO @CabanD22 and @CarlHeastie

Do not pass Adult Survivors Act it has a flawed lookback. Child Victims Act lookback denied justice to thousands of victims who had no rich abuser or institution involved. No lawyers would take their cases . @CharlesDLavine @Gaughran4Senate Victims legal fund needs to pass 1st.



1



2



FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM INDEX NO. 7543/2022



Gary Greenberg @GAGreenberg · May 13

RECEIVED NYSCEF: 05/22/2022

Your wrong get your facts correct . The language is flawed as it is same as in the Child Victims Act .Thousands were left at door of justice from CVA , no lawyer would take cases without a rich abuser or institution involved. We need a victims fund . Read editorials written 1st!

## Flooded With Plaintiffs Under Child Victims Act, a Legislative Push May Help

More than 10,000 cases were filed throughout New York, but thousands of others are not being served because they can't find a lawyer willing to take on their cases, advocates say. A legislative effort has begun to establish a fund to help these victims have their day in court.

April 12, 2022 at 11:31 AM



PHOTOGRAPHER: SHUTTERSTOCK IMAGE

← Shares 0

f Facebook

Twitter

✉ Email

Ana Maria Archila 🦋🐱🔵 @AnaMariaforNY · May 13

There is already specific #AdultSurvivorsAct language. The Governor should support it.

There is absolutely no reason why this bill shouldn't be sailing through. Women's bodies and rights are under attack in this country. There is n...



1



7



16



**FILED: NEW YORK COUNTY CLERK 05/22/2022 EX-110:07 PM**  
 NYSCEF DOC. NO. 47 RECEIVED NYSCEF: 05/22/2022



**Gary Greenberg** @GAGreenberg · May 13

Replying to @Samynemir

We need a victims legal fund @CharlesDLavine @Gaughran4Senate have proposed. The Adult Survivors Act is flawed since lookback is same as Child Victims Act. Under CVA thousands of victims could not file claims no rich abuser or institution involved so no lawyer will take case .

## Flooded With Plaintiffs Under Child Victims Act, a Legislative Push May Help

More than 10,000 cases were filed throughout New York, but thousands of others are not being served because they can't find a lawyer willing to take on their cases, advocates say. A legislative effort has begun to establish a fund to help these victims have their day in court.

April 12, 2022 at 11:31 AM



PHOTOGRAPH BY SHUTTERSTOCK IMAGE

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Email



FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM INDEX NO 15/2213/2022

NYSCEF DOC NO 15/2213/2022 Gary Greenberg @GAGreenberg · May 13

RECEIVED NYSCEF: 05/22/2022

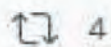


Thank you ! Well-said .

🇺🇦 Miss K: #CuomoFriends #Ukraine #WeB... @karynpalm... · May 13

@GAGreenberg ~ I added #VictimsFund to my profile, in hopes that more people realize, too often, victims have less rights than their abusers .. sad, but true.

#VictimsRights #VictimsLegalFund



4

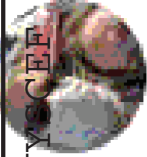


12



FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM

RECEIVED NYSCEF: 05/22/2022



RECEIVED NYSCEF: 05/22/2022

Thanks for using your voice to help other survivors. We will get a victims fund to help as unfortunately I know multiple lawyers rejected taking your case . It's revictimization . @CharlesDLavine

tracy ❤️ @FichterTracy · May 13

I was only 11. THE TEACHER THAT SEXUALLY ABUSED ME HASIVED A DAMN GOOD LIFE twitter.com/GAGreenberg/st...



5



8



**FILED: NEW YORK COUNTY CLERK 05/22/2022 INDEXED 05/22/2022 11:07 PM**

**GARY GREENBERG** @GAGreenberg · May 13 RECEIVED NYSCEF: 05/22/2022



It's not about an individual being able to sue a rich abuser or institution using a high profile attorney. It's not about Trump . It's about victims suffering anywhere who have no voice, have no rich abuser or institution but wants healing .Pass a victim legal fund![#JusticeForAll](#)



4



15

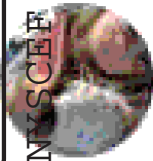


44



**FILED: NEW YORK COUNTY CLERK 05/22/2022 EX-110:07 PM** / 2022

**NYSCEF** **dGarrynGreenberg** @GAGreenberg · May 13 RECEIVED NYSCEF: 05/22/2022



Why is [@LizKrueger](#) [@NYSenDems](#) holding up [@Gaughran4Senate](#) Victims legal fund bill for last 2 yrs? Let's get Jim's bill to floor in [@NYSenate](#) & [@Lavine4Assembly](#) Victims legal fund bill to floor in [@NYSa\\_Majority](#) .  
Help victims who did not get justice from the Child Victims Act!



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12



32



**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC NO: **GaryGreenberg** @GAGreenberg · 22h RECEIVED NYSCEF: 05/22/2022

A Victims Fund is best solution to insure victims of sexual assault get justice . The language in the Adult Survivors Act needs to insure all victims who want to take their abuser or institution to court can . Poor or Rich . White , Black and Brown . [@CarlHeastie](#) [@CharlesDLavine](#)



2



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20



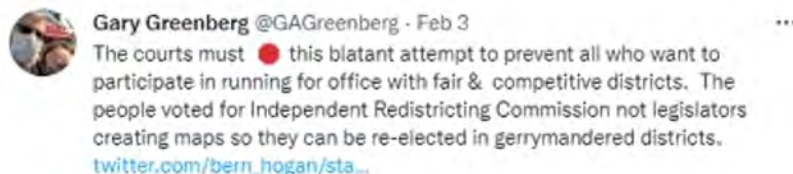
**Exhibit Q to Salcedo Affirmation-  
Twitter messages posted by Mr. Greenberg related to New York's  
redistricting process and the Harkenrider Lawsuit  
[pp. 542 - 556]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 48

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022





**Gary Greenberg** @GAGreenberg · Feb 3

...

Upstate Dem Senators sold out upstate constituents by voting for plan where 2 NYC left wing seats are put in place over 2 existing upstate seats . I hoped current leadership in Senate would bring a new "Albany " by letting an Independent comm. set maps .Instead we got same -same.



**Zack Fink** ✓ @ZackFinkNews · Feb 3

The @NYSenate has passed the legislative district lines by a strict partisan vote of 43 -20

This legislation, along with Congressional district lines passed yesterday, now goes to @GovKathyHochul who is expected to sign off on the new maps, which will be in place for next decade



1



1



**Gary Greenberg** @GAGreenberg · Feb 3

...

To say we have to fix gerrymandering with more gerrymandering is ludicrous. Millions of 🗳️ were wasted on a commission that was set up to draw maps by state constitution changes approved by voters twice .  
• Instead we get legislators who voted for protection plan for themselves. 🤔



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Gary Greenberg @GAGreenberg · Feb 3

...

Republicans lay groundwork for potential legal challenge.



[spectrumlocalnews.com](https://www.spectrumlocalnews.com)

Redistricting fight in New York shifts to courts

Democrats insist the process was fair.





Gary Greenberg @GAGreenberg · Feb 3

NYC gets 2 more Albany seats at expense of upstate GOP under redistricting [nypost.com/2022/02/03/nyc...](https://nypost.com/2022/02/03/nyc...) via [@nypmetro](#)



[nypost.com](https://nypost.com)

NYC gets 2 more Albany seats at expense of upstate GOP under...

New York City will gain two new state Senate seats in 2023 under the redrawn district lines by Democratic lawmakers, the move coming at ...



 Gary Greenberg Retweeted  
 Michael Li 李之樸  @mcpli · Feb 3  
 And redistricting in New York is done - now for the litigation.

 Bill Mahoney  @mahoneyw · Feb 3  
 Hochul has signed the redistricting bills



STATE OF NEW YORK  
 ALBANY 12224

APPROVAL # 2  
 CHAPTER # 13

February 3, 2022

MEMORANDUM filed with Assembly Bill 9039-A, entitled:

"AN ACT to amend the state law, in relation to creation of congressional districts; and to repeal article 7 of such law relating thereto"

MEMORANDUM filed with Assembly Bill 9040-A, entitled:

"AN ACT to amend the state law, in relation to establishing assembly and senate districts; and to repeal article 8 of such law relating thereto"

MEMORANDUM filed with Assembly Bill 9167, entitled:

"AN ACT to amend the state law, in relation to congressional districts"

MEMORANDUM filed with Assembly Bill 9168, entitled:

"AN ACT to amend the state law, in relation to assembly and senate districts"

#### APPROVED

These bills are necessary to reapportion districts and to provide certainty and clarity regarding such districts in a timely manner, allowing for efficient administration of the electoral process.

The enactment of these bills marks the culmination of the legal process of redistricting for congressional and State legislative districts in New York State. These bills create new congressional districts and State Senate and Assembly districts, based on the 2020 United States Census, and as required by the State and federal constitutions.

Signing these bills will allow the boards of elections to begin the process of administering elections with these new district maps, and will ensure that New Yorkers and candidates for elected office have the information they need with as much notice as possible to exercise their right to vote and participate in our democracy.

This bill is approved.

*Kathy Hochul*



**Gary Greenberg @GAGreenberg · Feb 4**

...

Assigned Judge: 🏴 Patrick F Mcallister Redistricting case filed in Steuben County State Supreme Court.

Judge is a former Republican Steuben County Legislator well versed on redistricting issues.



Seventh Judicial District of New York. The Multi-Bench in Steuben County includes its County, Family, and Surrogates Courts. Judge McAllister was elected to the bench in 2018. He is a registered Republican.

He received his B.A. from Niagara University in 1976. McAllister went on to earn a J.D. from California Western School of Law in 1981. Shortly after graduating from law school, he joined the Steuben County District Attorneys Office where he worked as an assistant district attorney from 1982 to 1985. McAllister also entered into solo practice at his own law firm in 1982. He remained in private practice until his election to the bench.

In addition to his law practice, he served as an assistant county attorney with the Steuben



**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

NYSCEF DOC. NO. 48

RECEIVED NYSCEF: 05/22/2022

**Gary Greenberg** @GAGreenberg · Feb 6

...

EDITORIAL: So much for fair and open elections | Opinion | [niagara-gazette.com](https://niagara-gazette.com) [niagara-gazette.com/opinion/editor...](https://niagara-gazette.com/opinion/editor...)[niagara-gazette.com](https://niagara-gazette.com)[niagara-gazette.com](https://niagara-gazette.com)



Gary Greenberg @GAGreenberg · Feb 6

ny redistricting | Newsday



newsday.com

New York's redistricting failures need to be reformed

A new constitutional amendment must create a fairer process.





Gary Greenberg @GAGreenberg · Feb 6

...

EDITORIAL: Surprise! Politics again rules redistricting – The Daily Gazette



[dailygazette.com](https://dailygazette.com)

EDITORIAL: Surprise! Politics again rules redistricting – The Daily Gaz...

Politics is all about opportunism in the pursuit of victory. If you can get an advantage over the other political party you don't hesitate to take i...





Gary Greenberg @GAGreenberg · Feb 9

Local political committees should not endorse candidates until the court case is decided . 🗳️ State Senate lines will also face legal challenge in NY



[spectrumlocalnews.com](https://www.spectrumlocalnews.com)

State Senate districts will also face legal challenge in New York  
House lines already facing lawsuit.



Gary Greenberg Retweeted

**Nick Reisman** @NickReisman · Feb 9

State Senate districts will also face legal challenge in New York

[nystateofpolitics.com](http://nystateofpolitics.com)State Senate districts will also face legal challenge in New York  
House lines already facing lawsuit.

1



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**Gary Greenberg** @GAGreenberg · Feb 10

The process to be on ballot can be modified by state legislature and Gov. Primary can be moved to new date . It's not rationale to uphold gerrymandered maps for incumbents. We live in a democracy where as it states in NY constitution fair and competitive elections must be held!

**Dave Wasserman** @Redistrict · Feb 10A reason Dems' new NY lines are likely to be upheld: the same rationale of "too close to the election to change the rules" SCOTUS applied in the Alabama stay could be applied by NY courts, b/c petitioning will already be underway. [twitter.com/NYElectionNews...](https://twitter.com/NYElectionNews)

1





**Gary Greenberg** @GAGreenberg · Feb 16

...

New York redistricting: Republican megadonors raise money for legal fight



cnbc.com

Republican megadonors aim to raise up to \$3 milli...  
Republican megadonors are aiming to raise up to \$3 million in a legal battle against New York's ...



2



Gary Greenberg Retweeted



**Ryan Whalen** ✓ @RyanWhalenCT · Mar 3

...

Judge McAllister says the courts have decided legislators do NOT have absolute privilege. He is granting expedited discovery. It needs to be completed by March 12. Legislators specifically can be questioned about any partisanship and the public process.



2



17



11





**Gary Greenberg** @GAGreenberg · Mar 3

...

Judge won't delay NY elections over gerrymandering, but still considering constitutionality | Govt-and-politics | [buffalonews.com](https://buffalonews.com)  
[buffalonews.com/news/state-and...](https://buffalonews.com/news/state-and...)

## THE BUFFALO NEWS

[buffalonews.com](https://buffalonews.com)

[buffalonews.com](https://buffalonews.com) | Read the latest Buffalo, NY, and Erie County news ...  
Read the latest Buffalo, NY, and Erie County news from the Buffalo News. Get headlines on local weather, entertainment, and events.



**Gary Greenberg** @GAGreenberg · Mar 9

...

"It's definitely skewed towards Democrats significantly," Rakich said. "I think the insistence that you saw from a lot of state legislators, 'Oh, it was a fair map, Oh, we didn't draw it for partisan gain,' is just pretty clearly not true."



[wbfo.org](https://wbfo.org)


NY misses the mark on independent legislative red...  
The task of drawing state and congressional legislative lines traditionally falls to state ...



1





 Gary Greenberg Retweeted



**Ryan Whalen**  @RyanWhalenCT · Mar 3

Judge McAllister also denies a motion to dismiss the case on lack of standing ruling every citizen has a right to challenge the redistricting.




 5

 9



[Show this thread](#)

 Gary Greenberg Retweeted



**Ryan Whalen**  @RyanWhalenCT · Mar 3

State Supreme Court Justice Patrick McAllister grants the petitioners leave to amend the petition to add the state Senate map to the petition so long as it is submitted by March 10.


 1

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 3



[Show this thread](#)

 Gary Greenberg Retweeted



**Ryan Whalen**  @RyanWhalenCT · Mar 3

McAllister says he will not suspend elections pointing out the petitioners have a very high burden of proof and suspending elections would likely leave the state without duly elected members of Congress - instead if petitioners win he would order new elections next year.



 7

 1



**Exhibit R to Salcedo Affirmation-  
Decision and Order of the Honorable Patrick F. McAllister, in  
Harkenrider I., dated May 11, 2022  
[pp. 557 - 561]**

**FILED: NEW YORK COUNTY CLERK 05/12/2022 11:29 AM**

NYSCEF DOC. NO. 420

INDEX NO. E2022-0116CV

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF STEUBEN

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

Index No. E2022-0116CV

Petitioners,

-against-

DECISION and ORDER

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.

PRESENT: Hon. Patrick F. McAllister  
Acting Supreme Court Justice

The court heard oral argument brought on by Order to Show Cause and Motion by separate putative intervenors to intervene in this action. Putative intervenor, Gary Greenberg, was represented by Jim Walden, Esq. James Ostrowski, Esq. represented putative intervenors Benjamin Carlisle, Emin Eddie Egriu, Michael Rakebrandt, Jonathan Howe and Howard Rabin. Putative Intervenor, Gavin Wax, was represented by Aaron Foldenauer, Esq. The court heard oral argument from Attorneys Foldenauer, Ostrowski and Walden. In opposition to the motions to intervene the court heard oral argument from George Winner, Esq. as representative for the Petitioners; Assistant Attorney General Heather McKay for the Respondents, Governor Hochul and the former Lieutenant Governor Brian Benjamin; Eric Hecker, Esq. represented Senate Majority Leader, Andrea Stewart-Cousins; Craig Bucki, Esq. represented Speaker of the Assembly, Carl Heastie; and Brian Quail, Esq. appeared on behalf of the Board of Elections. After hearing oral argument the court reserved decision.

Both Gavin Wax and Gary Greenberg seek to intervene so they can challenge the Assembly District maps. The other putative intervenors represented by James Ostrowski, Esq. are candidates, or potential candidates, for political office and seek to intervene so they will have some say in the process going forward with regard to new deadlines for gathering signatures, etc.

A motion to intervene is governed by CPLR §1012 and CPLR § 1013. Under those sections a person can bring a motion to be included in an action. CPLR §1012 deals with intervenors as of right and §1013 are for those people that the court grants permission to be intervenors because they have a similar interest to the parties currently involved in the litigation..

The court will deal with putative intervenors, Gary Greenberg and Gavin Wax together as they have similar claims. Both wish to intervene so that they can challenge the State Assembly District maps as being unconstitutional. Indeed this court previously ruled on March 31, 2022 that the process used by the legislature to enact their own maps (Congressional, Senate, and Assembly) failed to follow the constitutional process and were therefore void and unconstitutional. From the time the Petitioners filed their Amended Petition in early to mid-February it was clear that the Petitioners were not specifically challenging the Assembly maps. On appeal to the Appellate Division the Petitioners indicated that they had not challenged the Assembly maps. Thus when the Court of Appeals ruled April 27, 2021 that the process used was unconstitutional the Court of Appeals struck down the Congressional and the State Senate maps, but did not order new Assembly maps to be drawn since those maps had not been challenged in this action. Greenberg and Wax wish to intervene so that now those maps may now be challenged in this action.

In a rare show of bipartisan agreement the Petitioners and the Respondents all oppose intervenors Greenberg and Wax. The first three words in both CPLR §§1012(a)(2) & 1013 are "Upon timely motion". The attorneys for the Petitioners and the Respondents all contend that the motions by Greenberg and Wax are not timely. According to Professor Seigel even intervenors of right under CPLR §1012 are sometimes denied the right to intervene by the courts because of an issue of timeliness.

Under CPLR §1013 the court must ask (1) will admitting the intervenor unduly delay the determination of the current matter; (2) will there be prejudice of a substantial right of an existing party; and (3) if denied can the intervenor bring a separate action.

It was clear from the Petition and Amended Petition that the Assembly Districts were not being challenged. Although this court's ruling on March 31, 2022 *sua sponte* threw out the Assembly maps there was nothing in the proceedings leading up to the court's decision that would have led these putative intervenors to think that the Assembly District maps were being included in this action. In fact it was precisely for that reason that the Court of Appeals did not strike down the Assembly maps.

This action by law requires expedited proceedings. The court had just 60 days from the commencement of the action (February 3, 2022) to render a decision. Now three months after the commencement of the action these intervenors seek to join in this action to add a challenge to the Assembly maps.

Intervention under CPLR §§1012 or 1013 requires a timely motion to intervene. Rutherford Chemicals, LLC v. Assessor of Town of Woodbury, 115 AD3d 960 (Second Dept. 2014); In re HSBC Bank U.S.A., 135 AD3d 534 (2016). “[I]ntervention . . . will not be allowed merely to permit the intervenor to accomplish now what it could have done as of right but . . . omitted to do earlier.” Darlington v. City of Ithaca Bd. of Zoning Appeals, 202 AD2d 831 at 834 (Third Dept. 1994). A party seeking equity must do equity. Pecorella v. Greater Buffalo Press, Inc., 107 AD2d 1064 (Fourth Dpt. 1985)

In the response to these motions Attorney Bucki, representing the Respondent Speaker of the Assembly, Carl Heastie, demonstrated that both Greenberg and Wax were aware of this pending action shortly after it was commenced in February, 2022. Hence, it cannot be said the putative intervenors did not know about the action or the potential impact it could have on them. Yet they chose to do nothing at that time.

This court agrees with the potential intervenors Greenberg and Wax that the Assembly maps were unconstitutional in the manner in which they were enacted. However, the question is whether or not permitting intervention at this time in this action is timely. At least one of the intervenor’s counsel conceded that a separate action could be brought to challenge the Assembly maps. Under §1012 (a) (1) a person can intervene when a statute specifically confers an absolute right to intervene; (a)(2) when the current representation seems inadequate to represent the potential intervenor; or (a)(3) when the potential intervenors rights such as (property, money, etc.) may be affected by the decision. The court agrees that the current petitions and Petitioners do not adequately represent the interests of Greenberg and Wax when it comes to challenging the Assembly District maps. However, if a separate action can be maintained then the intervenors rights are not affected by a decision in this case. On the other hand permitting intervention could substantially affect the rights of the Petitioners in that it could and likely would result in new maps not being enacted in time for a primary this year. Such a result would impact the Congressional and State Senate maps that should be in place by May 20<sup>th</sup>. Since the court has received no potential maps with regard to new Assembly District lines it would almost assuredly mean that new maps could not be in place by May 20<sup>th</sup>.

Not only do intervenors, Greenberg and Wax, want new Assembly maps, but they are asking the court to invalidate all the signatures previously gathered, create new time periods for gathering signatures after new maps are enacted, change the signature requirements for both primary and independent petitions, etc. Overseas primary ballots for the June 28, 2022 primary are scheduled to be mailed out this week on May 13<sup>th</sup>. These items of requested relief in Greenberg and Wax’s application are in direct contradiction to the other putative intervenors represented by James Ostrowski, Esq. He represents candidates or prospective candidates who

have already gathered signatures and submitted application to be on the ballot.

Brian Quail, Esq. of the Board of Elections stated that the State Board of Elections and the New York City Board of Elections have already certified the ballots. To permit intervention that this time would create total confusion.

In Matter of Fink v. Salerno, 105 AD2d 489 (Third Dept. 1984) a proceeding to challenge a candidate appearing on the ballot was commenced October 3<sup>rd</sup>. The court had set a return date of October 9<sup>th</sup>. A putative intervenor sought intervention on October 8<sup>th</sup>. The court denied the motion as untimely. The Appellate Division affirmed the court's denial of intervention citing an expedited process for election matters.

The court is mindful that a change in the Assembly Districts would impact several other elected officials. This would include delegates to the State Supreme Court judicial nominating conventions, representatives to county party committees, and the New York State Democratic Committee. In the case of the judicial nominating conventions they are normally held in early August which would be well before the August 23<sup>rd</sup> primary. So the judicial nominating conventions would have to be pushed back until some time in September making it difficult, if not impossible, for their work to be completed so candidates could be placed on the November ballot. The overseas ballots for the November election must be mailed in September to meet Federal election requirements.

Respondents further challenge putative intervenors Greenberg and Wax claiming they lack standing because they are not candidates, chairpersons or someone that has filed objections. Further, they contend that Greenberg and Wax failed to serve the Respondents as required by law.

For the reason stated above the court finds the motions to intervene by Greenberg and Wax to be untimely and to permit them to intervene at this time would be extremely burdensome to the court and the existing parties. Therefore, their motion to intervene is denied. Nothing in this Decision and order is meant to prevent either or both from pursuing a separate action to challenge the Assembly maps.

The court will now turn to the motion to intervene brought by Attorney Ostrowski who represents several putative intervenors. This motion does not seek to add a new action (Assembly maps) to this current action. These putative intervenors merely seek to have input in how the August 23, 2022 primary will play out. These putative intervenors are candidates or potential candidates so the lack of standing argument does not apply. However, the court still finds their intervention at this late stage to be untimely. For the same reason Justice Lindley of the Appellate Division Fourth Department on April 14, 2022 denied proposed intervenors from joining this suit in April, this court is denying these candidates' or potential candidates' motion to intervene now, nearly a month later. Justice Lindley was considering a motion to intervene by congressional members and candidates for office. They would seem to be similarly

positioned as these putative intervenors are. The motion for intervention by putative intervenors Benjamin Carlisle, Emin Eddie Egriu, Michael Rakebrandt, Jonathan Howe and Howard Rabin is also denied as untimely. The court is confident that the existing parties will be able to adequately represent the interests of these people going forward.

The court is well aware of the frustration that potential candidates throughout this state face with regard to the uncertainty of district boundaries, signature requirements, filing deadlines, etc. This court is working with the Board of Elections to create as quickly as possible a roadmap for the August 23<sup>rd</sup> primary. The court is considering a variety of alternatives, but everything is dependant on new Congressional and State Senate maps being in place on or before May 20<sup>th</sup>. This court is now aware that Federal District Court Judge Sharpe has ruled by Summary Order dated May 10, 2022 that an August 23<sup>rd</sup> primary is appropriate provided the Uniformed and Overseas Citizens Absentee Voting Act is complied with under federal law.


NOW, therefore, upon consideration of all papers and proceedings heretofore had herein, and after due deliberation, it is

**ORDERED, ADJUDGED, and DECREED** that the motion to intervene by Gavin Wax be, and hereby is denied; and it is further

**ORDERED, ADJUDGED, and DECREED** that the motion to intervene by Benjamin Carlisle, Emin Eddie Egriu, Michael Rakebrandt, Jonathan Howe and Howard Rabin be, and hereby is denied; and it is further

**ORDERED, ADJUDGED, and DECREED** that the motion to intervene by Gary Greenberg be, and hereby is denied.

Dated: May 11, 2022

  
 Hon. Patrick F. McAllister  
 Acting Supreme Court Justice

ENTER

**Exhibit S to Salcedo Affirmation-  
Affidavit of Thomas Connolly, in Harkenrider I.,  
sworn to March 21, 2022  
[pp. 562 - 572]**

**FILED: NEWBUNKCOUNTYCLERK00522220022031567PM**

NYSCEF DOC. NO. 286

INDEXNO. E2022-0116CV

RECEIVED NYSCEF: 05/22/2022

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF STEUBEN

---

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**

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.

---

**THOMAS CONNOLLY**, being duly sworn, says under penalties of perjury  
as follows:

1. I serve as Director of Operations for the New York State Board of  
Elections ("State Board"). I have held this position since 2017. From 2011 to  
2017, I was Deputy Director of the Public Information Office at the State Board of  
Elections. In my previous position I worked with the State Board Counsel's Office

to monitor the transmission of military ballots within the federally mandated time periods and as such am intimately familiar with that transmission system and process. In my current capacity, the Operations Unit of the New York State Board of Elections supports and provides guidance to county boards of elections and the commissioners of each county board of elections pertaining to the administration of elections. Accordingly, 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. This affidavit is based on my personal knowledge.

2. I make this affidavit to describe the disruption to the electoral process that would result from altering Congressional or State Senatorial district lines in 2022 for the primary and general election in 2022. The New York State Board of Elections has taken no position in this litigation, so my affidavit is my own and is not made in a representative capacity for the agency.

***Ballot Access Is Underway***

3. The district boundaries for the offices of Member of 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. Pursuant to New York's Election Law candidates seeking the nomination of the Democratic, Republican, Conservative and Working Families parties for Legislative Offices obtain access to the primary ballot and ultimately the general election ballot by first filing designating petitions. A valid Congressional designating petition requires 1,250 signatures from enrolled members of the relevant party from the district or the number of signatures that is at least 5% of the enrollees in the district, whichever is less. A State Senate petition requires 1,000 such valid signatures or the signatures of 5% of the party enrollment in the district, whichever is less (Election Law § 6-136).

5. Designating petitioning for statewide offices (Governor, Attorney General, Comptroller) and the Legislative Offices at issue in this proceeding along with many other state and local offices began on March 1, 2022 as provided for in Election Law § 6-134 (4). As of March 1, 2022, parties had endorsed candidates, candidates had printed designating petitions and campaigns had mobilized volunteers and/or paid workers to solicit for signatures.

6. As of Monday March 21, 2022 more than half of the designating petitioning period has elapsed, with only two weeks and two days remaining until the last day to file designating petitions on Thursday April 7, 2022.

7. If the court were to order a halt to the designating process now, it would cause substantial disruption to candidates, political parties and boards of elections. The logistical difficulties would be magnified by the fact that any such order would assuredly be appealed creating a further period of uncertainty.

### *The Political Calendar*

8. As provided by New York law applicable to the June 28, 2022 primary, there are 82 days between the last day to file designating petitions on April 7, 2022 and the date of the June 28, 2022 primary. The latest objections to petitions can be filed is on or about April 11 and specifications and hearings at the state or local boards of elections rapidly to follow. The last day to commence a court challenge to a designating petition is April 21, 2022. The primary election ballot pursuant to Election Law 4-110 *et seq.* must be certified by May 4, 2022, allowing time for boards to then print ballots and begin distribution of absentee ballots. Military and overseas ballots pursuant to law must be sent no later than May 13, 2022. See New York State Political Calendar, <https://www.elections.ny.gov/NYSBOE/law/2022PoliticalCalendar.pdf>.

9. Under ideal circumstances it is difficult for boards of elections to settle the ballot in time for the certification deadline and the military and overseas ballot transmittal deadlines. If the court ordered new district lines to be applicable this year, assuming boards would need multiple weeks to make adjustments to lines and assuming ballot access processes would need to start over again on the new lines (the petition period is typically 37 days and the post-petition review and litigation process takes about a month beyond that), there is no imaginable scenario where the primary could occur on June 28, 2022 for the Legislative Offices as provided for in current law.

10. No planning has been made for any added or alternative primary date. 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 thousands of poll workers for the postponed or additional primary. If a new additional primary were ordered, boards of elections would need to prepare simultaneously to provide for new ballot access for a new primary, run the June 28, 2022 primary for the state and local offices not impacted by this proceeding and prepare for the running of an additional primary that may not occur depending on the disposition of this case as well as any appeals.

11. While New York had held a federal primary in June pursuant to a federal court order and a separate state and local primary in September for four

federal election cycles prior to and including 2018, New York did not hold two primaries in the same year with intervening redistricting between the dates of the two primaries being necessary. The federal court order giving rise to the bifurcated primary schedule in New York in 2012 was issued in January 2012 before any ballot access procedures had even begun.

12. In 2012, the congressional, state senate and assembly lines were in place by mid-March. Any remedy in this case involving new lines would not be known until much later and would actually stop ballot access procedures already underway for some offices and not others.

13. The majority of the current voter registration systems used by county boards are simply incapable of maintaining multiple sets of the same district, further complicating any effort to prepare for an additional primary.

14. Under normal circumstances, in the context of a special election for Congress, Public Officer's Law § 42 recognizes that a single congressional special election requires at least seventy days lead time and preferably eighty days from the day of the proclamation of the election to have a primary that complies with federal law requirements related to transmission of overseas and military ballot. This timeframe for a special election reflects only one contest on the ballot and party ballot access is not by petition (a document with hundreds of signatures

subject to objection) but instead by a streamlined party committee nomination (essentially a single document wherein the party notifies the board of elections as to the identity of the candidate), *and* in the special election context the district lines are already established. In contrast a multi-office primary with ballot access by petitions subject to challenge is far more complicated, and alteration of district office lines and election district lines would take additional time (likely weeks) before the actual ballot access process for a new primary could even begin again.

***Redistricting Process for Boards of Elections***

15. New York is not a top-down state in terms of its voter registration system. Accordingly, each of New York's 58 boards of elections (one board of elections for the City of New York and one for each county outside of the City of New York) is responsible for applying new district lines in their jurisdiction to their voter records and then sending to the statewide voter registration list (NYSVoter) the updated official voter records.

16. 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 so that New York's 12,982, 819 voters would be assigned to their correct districts. This is necessary to create poll books for elections, allow voters to receive the correct absentee ballots and to

provide data for candidates to create lists of voters from whom to seek petition signatures and to determine the correct number of designating petition signatures required for various offices. This work was largely but not completely done by March 1, 2022.

17. Upon receiving the shapefiles for the new Legislative Office districts, many boards of elections required roughly a month to prepare the local and state registration system for the beginning of petitioning. And in the time since, various latent errors and problems have arisen. Redoing any portion of redistricting introduces the risk of new errors, and the closer to an election event the changes must be made the less likely the problems are to be found and remedied without a disenfranchising impact.

### ***Election Districts***

18. For boards of elections, redistricting involves not simply reassigning millions of voter records to the appropriate new political geography, it often involves drawing new election district boundaries before that can occur. Election Districts are drawn by New York's 58 boards of elections.

19. The election district is the foundational unit of political geography that defines a voter's ballot (every general voter in an election district has the same ballot). Each election district is assigned to a poll site, which may have one or

more election districts. There are 15,587 election districts in New York, as of 2021 assigned to 5,354 poll sites managed by New York's 58 boards of elections. Redrawing election districts to reflect redistricting is a significant undertaking.

20. When a larger political subdivision boundary change bisects an existing election district, the election district must be redrawn before voter records can be finally updated. For every bisected election district impacted by redistricting, at least one other adjacent election districts necessarily must also be adjusted or a new additional election district must be designated. This micro-redistricting task of drawing election districts requires considerations of available polling locations, map analysis and consideration of other practicalities related to how voters are impacted.

21. Further, because New York's political parties are comprised of party committees whose representatives are elected from election districts, changes in election districts impact party committees. In many counties petitions are being circulated for member of county committees from election districts. If new Legislative District lines were to be drawn for 2022 some unknown number of election districts will need to be redrawn for the reasons described herein and those election district changes will nullify petitions being circulated for the impacted party positions of member of county committee.

22. Given that so many election related processes depend on the definition of election districts (election district definition defines ballots, defines where a voter votes and defines how party committees are constituted), the normal statutory deadline for altering election district boundaries is one of the earliest deadlines in the unfolding of the political process. Election district changes are required to be made by February 15 of any given year, with certain exceptions. And the last date for local boards to assign poll sites was March 15, 2022. See Election Law § 4-104.

### ***Technical Issues***

23. Making changes to the underlying architecture of the voter registration systems of the counties after the election process is underway (as it is now) could impair ballot access and voter registration and absentee ballot assignment functions (absentee voters are applying and being assigned to election districts already). If new lines were ordered at this juncture, it is simply not clear how compliance would be possible without significant risk to the integrity of the electoral process.

### ***Voter and Candidate Confusion***

24. Newly registered voters and transferred voters are receiving informational notifications required by law that state their election district and

other district designations and their polling locations. This information will prove false in many instances if a remedy is ordered this year involving altered district lines or a new election.

25. Imminently, as required by Election Law § 4-117, boards of elections will be sending **all** of New York's 11,905,886 active voters an annual informational mailing informing them of their poll site, the primary date and their political geography. A change to district boundaries would create significant voter confusion potentially even requiring these notices to be reissued.

26. At this point hundreds of candidates have engaged in petitioning based on the new lines, created campaign committees and expended funds to seek office based on the new lines.

27. Stopping the ballot access process and restarting it on revised as yet unknown lines and adding an additional primary will cause confusion as well as financial, logistical and administrative burdens on boards of elections.

Dated: March 21, 2022



THOMAS CONNOLLY

*Sworn to before me this  
21<sup>st</sup> day of March 2022*



Notary Public  
BRIAN L. QUAIL, Esq.  
Notary Public, State of New York  
No. 02QU6071886  
Qualified in Schenectady County  
Commission Expires 8/5/23

**Exhibit T to Salcedo Affirmation-  
Preliminary Order of the Honorable Patrick F. McAllister, in  
Harkenrider I., dated April 29, 2022  
[pp. 573 - 574]**

**FILED: NEWBENKCOUNTYCLERK04529220022041107PM**

INNEKXNNO.E2022-0116CV

NYSCEF DOC. NO. 801

RECEIVED NYSCEF: 05/29/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF STEUBEN

Index No. E2022-0116CV

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

Petitioners,

-against-

PRELIMINARY ORDER

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.

PRESENT: Hon. Patrick F. McAllister  
Acting Supreme Court Justice

The Court of Appeals Opinion dated April 27, 2022 declared the recently enacted Congressional and State Senate redistricting maps to be unconstitutional and further directed this Court to have an independent special master develop both new Congressional and State Senate maps. This court appointed Dr. Jonathan Cervas to serve as the special master. Based on the current time pressure and after consulting with special master Cervas and the State Board of Elections this court is issuing the following preliminary order with regard to when the redistricting maps will be completed; when the primary for the Congressional and State Senate will be held; and when the military and other overseas ballots will need to be mailed. A further more detailed order will follow with regard to ballot access and other issues.

This order will only pertain to the Congressional and State Senate primary elections. It will be up to the Legislature to determine whether or not to continue the June primary for all

other offices or whether the Legislature will want to change the currently scheduled June primary to coincide with the Congressional and State Senate primary.

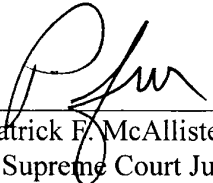
NOW, therefore, upon consideration of all papers and proceedings heretofore had herein, and after due deliberation, it is

**ORDERED** that the new 2022 impartial redistricting maps for the Congressional and State Senate districts to be prepared by Special Master Dr. Jonathan Cervas will be available by May 20, 2022; and it is further

**ORDERED** that the 2022 primary for the Congressional and State Senate elections will be held on Tuesday, August 23, 2022; and it is further

**ORDERED** that the deadline for military and overseas ballots to be mailed will be July 8, 2022.

Dated: April 29, 2022

  
Hon. Patrick F. McAllister  
Acting Supreme Court Justice

ENTER

**Exhibit U to Salcedo Affirmation-  
New York State Board of Elections' Certification for the  
June 28, 2022 Primary Election  
[pp. 575 - 723]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 52

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RECEIVED NYSCEF: 05/22/2022



**Certification for the June 28, 2022 Primary Election**

We, Kristen Zebrowski Stavisky and Todd D. Valentine, being Co-Directors of the New York State Board of Elections, hereby certify that the respective persons hereafter named have been designated by petitions of enrolled voters of the said party as candidates for the several public offices recited and that the names of such candidates are to be placed in the following order on the Primary Ballot of the said party for the Primary Election to be held on June 28, 2022.

**Dated: May 4, 2022**

---

Kristen Zebrowski Stavisky  
Co-Executive Director

---

Todd D. Valentine  
Co-Executive Director

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

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### **Version History**

05.04.2022 - Original version

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**Office: U.S. Senator****District: Statewide****Party: Democratic****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Charles E. Schumer	9 Prospect Park West, Apt. 10B Brooklyn, NY 11215

**Office: U.S. Senator****District: Statewide****Party: Republican****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joe Pinion	276 St. Johns Ave. Yonkers, NY 10704

**Office: U.S. Senator****District: Statewide****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joe Pinion	276 St. Johns Ave. Yonkers, NY 10704

**Office:** U.S. Senator  
**District:** Statewide  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Charles E. Schumer	9 Prospect Park West, Apt. 10B Brooklyn, NY 11215

**Office:** Governor  
**District:** Statewide  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Thomas R. Suozzi	9 September Ln. Glen Cove, NY 11542
2	Kathy C. Hochul	405 Gull Landing Buffalo, NY 14202
3	Jumaane D. Williams	221 Washington Road, Apt. A Brooklyn, NY 11209

**Office:** Governor  
**District:** Statewide  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Rob Astorino	281 Pythian Avenue Hawthorne, NY 10532
2	Andrew Giuliani	400 Chambers St, Apt 5K New York, NY 10288
3	Harry Wilson	36 Garden Rd. Scarsdale, NY 10583
4	Lee Zeldin	58 St George Dr. W Shirley, NY 11967

**Office:** Governor  
**District:** Statewide  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Lee Zeldin	58 St George Dr. W Shirley, NY 11967

**Office:** Governor  
**District:** Statewide  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jumaane D. Williams	221 Washington Road, Unit A Brooklyn, NY 11209

**Office:** Lt. Governor  
**District:** Statewide  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Ana Maria Archila	347A State Street, Apt. A Brooklyn, NY 11217
2	Diana Reyna	322 Central Ave., Apt. 2R Brooklyn, NY 11221
3	Antonio Delgado	27 Will Tremper Dr. Rhinebeck, NY 12572

**Office: Lt. Governor****District: Statewide****Party: Republican****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Alison Esposito	225 East 95 St., Apt. 20M New York, NY 10128

**Office: Lt. Governor****District: Statewide****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Alison Esposito	225 East 95 St., Apt. 20M New York, NY 10128

**Office: Lt. Governor****District: Statewide****Party: Working Families****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Ana Maria Archila	347A State Street, Apt. A Brooklyn, NY 11217

**Office: Comptroller****District: Statewide****Party: Democratic****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Thomas P. DiNapoli	100 Great Neck Road Great Neck, NY 11021

**Office: Comptroller****District: Statewide****Party: Republican****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Paul Rodriguez	7501 Ft. Hamilton Pkwy, 2nd Brooklyn, NY 11228

**Office: Comptroller****District: Statewide****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Paul Rodriguez	7501 Ft. Hamilton Pkwy, 2nd Brooklyn, NY 11228

**Office: Comptroller**  
**District: Statewide**  
**Party: Working Families**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Thomas P. DiNapoli	100 Great Neck Road Great Neck, NY 11021

**Office: Attorney General**  
**District: Statewide**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Letitia A. James	296 Lafayette Ave. Brooklyn, NY 11238

**Office: Attorney General**  
**District: Statewide**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael Henry	27-35 21st St., 8C Astoria, NY 11102

**Office: Attorney General**  
**District: Statewide**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael Henry	27-35 21st St., 8C Astoria, NY 11102

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**Office: Attorney General**  
**District: Statewide**  
**Party: Working Families**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Letitia A. James	296 Lafayette Ave. Brooklyn, NY 11238

**Office: Member of Assembly**  
**District: 9**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Steven J. Dellavecchia	269 Lafayette Rd. West Babylon, NY 11704

**Office: Member of Assembly**  
**District: 9**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael A. Durso	416 East Lake Avenue Massapequa Park, NY 11762

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**Office: Member of Assembly**  
**District: 9**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael A. Durso	416 East Lake Avenue Massapequa Park, NY 11762

**Office: Member of Assembly**  
**District: 10**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Steve Stern	14 Winter Lane Dix Hills, NY 11746

**Office: Member of Assembly**  
**District: 10**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Aamir Sultan	17 Red Maple Lane Huntington Station, NY 11748

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**Office: Member of Assembly**  
**District: 10**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Aamir Sultan	17 Red Maple Lane Huntington Station, NY 11748

**Office: Member of Assembly**  
**District: 11**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kimberly Jean-Pierre	56 Landscape Drive Wyandanch, NY 11798

**Office: Member of Assembly**  
**District: 11**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christopher Sperber	8 Ecker Ave. W. Babylon, NY 11704

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**Office: Member of Assembly**  
**District: 11**  
**Counties: Part of Nassau & Part of Suffolk**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christopher Sperber	8 Ecker Ave. W. Babylon, NY 11704

**Office: Member of Assembly**  
**District: 94**  
**Counties: Part of Putnam & Part of Westchester**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kathleen M. Valletta	76 Glenvue Dr. Carmel, NY 10512

**Office: Member of Assembly**  
**District: 94**  
**Counties: Part of Putnam & Part of Westchester**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Matthew J. Slater	20 Whittier Ct. Yorktown Heights, NY 10598

**Office:** Member of Assembly  
**District:** 94  
**Counties:** Part of Putnam & Part of Westchester  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Matthew J. Slater	20 Whittier Ct. Yorktown Heights, NY 10598

**Office:** Member of Assembly  
**District:** 95  
**Counties:** Part of Putnam & Part of Westchester  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Colin D. Smith	5 Hemlock Cir. Peekskill, NY 10566
2	Dana Levenberg	18 Emwilton Pl. Ossining, NY 10562
3	Vanessa B. Agudelo	1101 Brown St., Apt. 5H Peekskill, NY 10566

**Office:** Member of Assembly  
**District:** 95  
**Counties:** Part of Putnam & Part of Westchester  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Stacy Halper	105 Whitson Road Briarcliff Manor, NY 10510

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**Office: Member of Assembly**  
**District: 95**  
**Counties: Part of Putnam & Part of Westchester**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Stacy Halper	105 Whitson Road Briarcliff Manor, NY 10510

**Office: Member of Assembly**  
**District: 95**  
**Counties: Part of Putnam & Part of Westchester**  
**Party: Working Families**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Vanessa B. Agudelo	1101 Brown St., Apt. 5H Peekskill, NY 10566

**Office: Member of Assembly**  
**District: 98**  
**Counties: Part of Orange & Part of Rockland**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Bruce M. Levine	9 Robin Hood Road Suffern, NY 10901

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RECEIVED NYSCEF: 05/22/2022

**Office:** Member of Assembly  
**District:** 98  
**Counties:** Part of Orange & Part of Rockland  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Karl A. Brabenec	12 Apple Lane, PO Box 185 Westbrookville, NY 12785

**Office:** Member of Assembly  
**District:** 98  
**Counties:** Part of Orange & Part of Rockland  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Karl A. Brabenec	12 Apple Lane, PO Box 185 Westbrookville, NY 12785

**Office:** Member of Assembly  
**District:** 99  
**Counties:** Part of Orange & Part of Rockland  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christopher W. Eachus	65 Clancy Ave. New Windsor, NY 12553

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**Office: Member of Assembly**  
**District: 99**  
**Counties: Part of Orange & Part of Rockland**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kathryn D. Luciani	64 Sunset Terrace Highland Mills, NY 10930

**Office: Member of Assembly**  
**District: 99**  
**Counties: Part of Orange & Part of Rockland**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kathryn D. Luciani	64 Sunset Terrace Highland Mills, NY 10930

**Office: Member of Assembly**  
**District: 100**  
**Counties: Part of Orange & Part of Sullivan**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Aileen M. Gunther	1211 Sackett Lake Road Forestburgh, NY 12777

**Office:** Member of Assembly  
**District:** 100  
**Counties:** Part of Orange & Part of Sullivan  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Lisa LaBue	17 Willow Pl. Middletown, NY 10940

**Office:** Member of Assembly  
**District:** 100  
**Counties:** Part of Orange & Part of Sullivan  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Lisa LaBue	17 Willow Pl. Middletown, NY 10940

**Office:** Member of Assembly  
**District:** 100  
**Counties:** Part of Orange & Part of Sullivan  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Aileen M. Gunther	1211 Sackett Lake Road Forestburgh, NY 12777

**Office: Member of Assembly****District: 101****Counties: Part of Delaware, Part of Madison, Part of Orange, Part of Otsego, Part of Sullivan  
& Part of Ulster****Party: Democratic****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Matthew Mackey	8 Second Street Kerhonkson, NY 12446

**Office: Member of Assembly****District: 101****Counties: Part of Delaware, Part of Madison, Part of Orange, Part of Otsego, Part of Sullivan  
& Part of Ulster****Party: Republican****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Brian M. Maher	92 Browns Road Walden, NY 12586

**Office: Member of Assembly****District: 101****Counties: Part of Delaware, Part of Madison, Part of Orange, Part of Otsego, Part of Sullivan  
& Part of Ulster****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Brian M. Maher	92 Browns Road Walden, NY 12586

**Office: Member of Assembly****District: 101****Counties: Part of Delaware, Part of Madison, Part of Orange, Part of Otsego, Part of Sullivan  
& Part of Ulster****Party: Working Families****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Matthew Mackey	8 Second Street Kerhonkson, NY 12446

**Office: Member of Assembly****District: 102****Counties: Part of Albany, Part of Delaware, All of Greene, Part of Otsego, All of Schoharie &  
Part of Ulster****Party: Democratic****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Nicholas S. Chase	9 Ouleout Creek Rd. Meridale, NY 13806

**Office: Member of Assembly****District: 102****Counties: Part of Albany, Part of Delaware, All of Greene, Part of Otsego, All of Schoharie &  
Part of Ulster****Party: Republican****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christopher Tague	213 Orchard St. Schoharie, NY 12157

**Office: Member of Assembly****District: 102****Counties: Part of Albany, Part of Delaware, All of Greene, Part of Otsego, All of Schoharie & Part of Ulster****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christopher Tague	213 Orchard St. Schoharie, NY 12157

**Office: Member of Assembly****District: 103****Counties: Part of Dutchess & Part of Ulster****Party: Democratic****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
1	Sarahana Shrestha	76 Esopus Ave. Ulster Park, NY 12487
2	Kevin A. Cahill	80 Emerson St. Kingston, NY 12401

**Office: Member of Assembly****District: 103****Counties: Part of Dutchess & Part of Ulster****Party: Republican****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Patrick Sheehan	8 Lena Ln. Ruby, NY 12475

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**Office: Member of Assembly**  
**District: 103**  
**Counties: Part of Dutchess & Part of Ulster**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Patrick Sheehan	8 Lena Ln. Ruby, NY 12475

**Office: Member of Assembly**  
**District: 103**  
**Counties: Part of Dutchess & Part of Ulster**  
**Party: Working Families**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Sarahana Shrestha	76 Esopus Ave. Ulster Park, NY 12487

**Office: Member of Assembly**  
**District: 104**  
**Counties: Part of Dutchess, Part of Orange & Part of Ulster**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jonathan G. Jacobson	25 Pierces Road, Apt. 11 Newburgh, NY 12550

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**Office: Member of Assembly**  
**District: 104**  
**Counties: Part of Dutchess, Part of Orange & Part of Ulster**  
**Party: Working Families**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jonathan G. Jacobson	25 Pierces Road, Apt. 11 Newburgh, NY 12550

**Office: Member of Assembly**  
**District: 106**  
**Counties: Part of Columbia & Part of Dutchess**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Didi Barrett	301 Millbrook Rd., P.O. Box 476 Claverack, NY 12513

**Office: Member of Assembly**  
**District: 106**  
**Counties: Part of Columbia & Part of Dutchess**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
1	Brandon Craig Gaylord	38 Payn Ave. Chatham, NY 12037
2	Dean Michael	803 Centre Rd., #3 Staatsburg, NY 12580

**Office:** Member of Assembly  
**District:** 106  
**Counties:** Part of Columbia & Part of Dutchess  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Brandon Craig Gaylord	38 Payn Ave. Chatham, NY 12037

**Office:** Member of Assembly  
**District:** 107  
**Counties:** Part of Albany, Part of Columbia, Part of Rensselaer & Part of Washington  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jacob C. Ashby	2190 Brookview Rd. Castleton, NY 12033

**Office:** Member of Assembly  
**District:** 107  
**Counties:** Part of Albany, Part of Columbia, Part of Rensselaer & Part of Washington  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jacob C. Ashby	2190 Brookview Rd. Castleton, NY 12033

**Office:** Member of Assembly  
**District:** 108  
**Counties:** Part of Albany, Part of Rensselaer & Part of Saratoga  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	John T. McDonald III	10 Roosevelt Blvd. Cohoes, NY 12047

**Office:** Member of Assembly  
**District:** 110  
**Counties:** Part of Albany & Part of Schenectady  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Phillip G. Steck	12 Paul Holly Drive Albany, NY 12211

**Office:** Member of Assembly  
**District:** 110  
**Counties:** Part of Albany & Part of Schenectady  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Alexandra M. Veleva	26 Maria Drive Loudonville, NY 12211

**Office:** Member of Assembly  
**District:** 110  
**Counties:** Part of Albany & Part of Schenectady  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Alexandra M. Velella	26 Maria Drive Loudonville, NY 12211

**Office:** Member of Assembly  
**District:** 110  
**Counties:** Part of Albany & Part of Schenectady  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Phillip G. Steck	12 Paul Holly Drive Albany, NY 12211

**Office:** Member of Assembly  
**District:** 111  
**Counties:** Part of Montgomery & Part of Schenectady  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Angelo L. Santabarbara	163 Conqua Lane Schenectady, NY 12306
2	Justin Chaires	1719 Avenue B Schenectady, NY 12308

**Office:** Member of Assembly  
**District:** 111  
**Counties:** Part of Montgomery & Part of Schenectady  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Joseph C. Mastroianni	1007 Princetown Rd. Rotterdam, NY 12306
2	Michael Arbige	27 Teller St. Amsterdam, NY 12010

**Office:** Member of Assembly  
**District:** 111  
**Counties:** Part of Montgomery & Part of Schenectady  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Angelo L. Santabarbara	163 Conqua Lane Schenectady, NY 12306
2	Joseph C. Mastroianni	1007 Princetown Rd. Rotterdam, NY 12306

**Office:** Member of Assembly  
**District:** 111  
**Counties:** Part of Montgomery & Part of Schenectady  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Justin Chaires	1719 Avenue B Schenectady, NY 12308
2	Robert J. Menzies	8572 Western Turnpike Delanson, NY 12053

**Office:** Member of Assembly  
**District:** 112  
**Counties:** Part of Fulton, Part of Saratoga & Part of Schenectady  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Andrew McAdoo	5 Cinnamon Lane Clifton Park, NY 12065

**Office:** Member of Assembly  
**District:** 112  
**Counties:** Part of Fulton, Part of Saratoga & Part of Schenectady  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Mary Beth Walsh	251 Scotch Bush Road Burnt Hills, NY 12027

**Office:** Member of Assembly  
**District:** 112  
**Counties:** Part of Fulton, Part of Saratoga & Part of Schenectady  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Mary Beth Walsh	251 Scotch Bush Road Burnt Hills, NY 12027

**Office:** Member of Assembly  
**District:** 112  
**Counties:** Part of Fulton, Part of Saratoga & Part of Schenectady  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Andrew McAdoo	5 Cinnamon Lane Clifton Park, NY 12065

**Office:** Member of Assembly  
**District:** 113  
**Counties:** Part of Saratoga, Part of Warren & Part of Washington  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Carrie Woerner	6 Fletcher Avenue Round Lake, NY 12151

**Office:** Member of Assembly  
**District:** 113  
**Counties:** Part of Saratoga, Part of Warren & Part of Washington  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	David Catalfamo	27 Preserve Way Saratoga Springs, NY 12866

**Office:** Member of Assembly  
**District:** 113  
**Counties:** Part of Saratoga, Part of Warren & Part of Washington  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	David Catalfamo	27 Preserve Way Saratoga Springs, NY 12866

**Office:** Member of Assembly  
**District:** 114  
**Counties:** Part of Essex, Part of Fulton, Part of Saratoga, Part of Warren & Part of Washington  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Matthew J. Simpson	PO Box 324 Brant Lake, NY 12815

**Office:** Member of Assembly  
**District:** 114  
**Counties:** Part of Essex, Part of Fulton, Part of Saratoga, Part of Warren & Part of Washington  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Matthew J. Simpson	PO Box 324 Brant Lake, NY 12815

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**Office: Member of Assembly**  
**District: 115**  
**Counties: All of Clinton, Part of Essex & All of Franklin**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	D. Billy Jones	5711 State Route 374 Chateaugay, NY 12920

**Office: Member of Assembly**  
**District: 115**  
**Counties: All of Clinton, Part of Essex & All of Franklin**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Stephen H. Chilton III	6621 Military Turnpike Ellenburg Center, NY 12934

**Office: Member of Assembly**  
**District: 115**  
**Counties: All of Clinton, Part of Essex & All of Franklin**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Stephen H. Chilton III	6621 Military Turnpike Ellenburg Center, NY 12934

**Office:** Member of Assembly  
**District:** 116  
**Counties:** Part of Jefferson & Part of St. Lawrence  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
1	Susan M. Duffy	191 St. Lawrence Ave. Waddington, NY 13694
2	Scott A. Gray	179 Thompson Blvd., P.O. Box 825 Watertown, NY 13601

**Office:** Member of Assembly  
**District:** 116  
**Counties:** Part of Jefferson & Part of St. Lawrence  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Susan M. Duffy	191 St. Lawrence Ave. Waddington, NY 13694

**Office:** Member of Assembly  
**District:** 117  
**Counties:** Part of Jefferson, All of Lewis, Part of Oneida & Part of St. Lawrence  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kenneth Blankenbush	102 Wendell Lane Black River, NY 13612

**Office:** Member of Assembly  
**District:** 117  
**Counties:** Part of Jefferson, All of Lewis, Part of Oneida & Part of St. Lawrence  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kenneth Blankenbush	102 Wendell Lane Black River, NY 13612

**Office:** Member of Assembly  
**District:** 118  
**Counties:** Part of Fulton, All of Hamilton, Part of Herkimer, Part of Montgomery & Part of Oneida  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Robert J. Smullen	265 State Highway 309 Gloversville, NY 12078

**Office:** Member of Assembly  
**District:** 118  
**Counties:** Part of Fulton, All of Hamilton, Part of Herkimer, Part of Montgomery & Part of Oneida  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Robert J. Smullen	265 State Highway 309 Gloversville, NY 12078

**Office:** Member of Assembly  
**District:** 120  
**Counties:** Part of Cayuga, Part of Jefferson & All of Oswego  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	William A. Barclay	4312 State Route 13 Pulaski, NY 13142

**Office:** Member of Assembly  
**District:** 120  
**Counties:** Part of Cayuga, Part of Jefferson & All of Oswego  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	William A. Barclay	4312 State Route 13 Pulaski, NY 13142

**Office:** Member of Assembly  
**District:** 121  
**Counties:** Part of Broome, Part of Chenango, Part of Delaware, Part of Madison,  
Part of Otsego & Part of Sullivan  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joe Angelino	9 Cole Drive Norwich, NY 13815

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**Office:** Member of Assembly  
**District:** 121  
**Counties:** Part of Broome, Part of Chenango, Part of Delaware, Part of Madison,  
Part of Otsego & Part of Sullivan  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joe Angelino	9 Cole Drive Norwich, NY 13815

**Office:** Member of Assembly  
**District:** 122  
**Counties:** Part of Herkimer, Part of Madison, Part of Oneida & Part of Otsego  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Dan Buttermann	14 Ford Avenue Oneonta, NY 13820

**Office:** Member of Assembly  
**District:** 122  
**Counties:** Part of Herkimer, Part of Madison, Part of Oneida & Part of Otsego  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Brian D. Miller	9195 Red Hill Road New Hartford, NY 13413

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**Office: Member of Assembly****District: 122****Counties: Part of Herkimer, Part of Madison, Part of Oneida & Part of Otsego****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Brian D. Miller	9195 Red Hill Road New Hartford, NY 13413

**Office: Member of Assembly****District: 122****Counties: Part of Herkimer, Part of Madison, Part of Oneida & Part of Otsego****Party: Working Families****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Colton Mennig	20 Carriage Lane, Unit 12 Cazenovia, NY 13035

**Office: Member of Assembly****District: 124****Counties: Part of Broome, Part of Chemung & All of Tioga****Party: Republican****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christopher S. Friend	44 Liberty Way Horseheads, NY 14845

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**Office: Member of Assembly**  
**District: 124**  
**Counties: Part of Broome, Part of Chemung & All of Tioga**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christopher S. Friend	44 Liberty Way Horseheads, NY 14845

**Office: Member of Assembly**  
**District: 125**  
**Counties: Part of Cortland & All of Tompkins**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Anna Kelles	4 Tanbark Circle Freeville, NY 13068

**Office: Member of Assembly**  
**District: 125**  
**Counties: Part of Cortland & All of Tompkins**  
**Party: Working Families**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Anna Kelles	4 Tanbark Circle Freeville, NY 13068

**Office:** Member of Assembly  
**District:** 126  
**Counties:** Part of Cayuga & Part of Onondaga  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Bruce MacBain	128 Clymer St. Auburn, NY 13021

**Office:** Member of Assembly  
**District:** 126  
**Counties:** Part of Cayuga & Part of Onondaga  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	John Lemondes, Jr.	3390 Eager Road Jamesville, NY 13078

**Office:** Member of Assembly  
**District:** 126  
**Counties:** Part of Cayuga & Part of Onondaga  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	John Lemondes, Jr.	3390 Eager Road Jamesville, NY 13078

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**Office:** Member of Assembly  
**District:** 127  
**Counties:** Part of Madison & Part of Onondaga  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Albert A. Stirpe, Jr.	6021 Lisi Gardens Dr. N. Syracuse, NY 13212

**Office:** Member of Assembly  
**District:** 127  
**Counties:** Part of Madison & Part of Onondaga  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Rebecca Shiroff	8454 Prestwick Drive Manlius, NY 13104

**Office:** Member of Assembly  
**District:** 127  
**Counties:** Part of Madison & Part of Onondaga  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Rebecca Shiroff	8454 Prestwick Drive Manlius, NY 13104

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**Office:** Member of Assembly  
**District:** 127  
**Counties:** Part of Madison & Part of Onondaga  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Albert A. Stirpe, Jr.	6021 Lisi Gardens Dr. N. Syracuse, NY 13212

**Office:** Member of Assembly  
**District:** 130  
**Counties:** Part of Monroe & All of Wayne  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Scott Comegys	2873 State Route 21 Palmyra, NY 14522

**Office:** Member of Assembly  
**District:** 130  
**Counties:** Part of Monroe & All of Wayne  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Brian D. Manktelow	2911 State Route 14 Lyons, NY 14489

**Office:** Member of Assembly  
**District:** 130  
**Counties:** Part of Monroe & All of Wayne  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Brian D. Manktelow	2911 State Route 14 Lyons, NY 14489

**Office:** Member of Assembly  
**District:** 130  
**Counties:** Part of Monroe & All of Wayne  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Scott Comegys	2873 State Route 21 Palmyra, NY 14522

**Office:** Member of Assembly  
**District:** 131  
**Counties:** Part of Broome, Part of Cayuga, Part of Chenango, Part of Cortland,  
Part of Madison, Part of Ontario & Part of Seneca  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jeff Gallahan	746 County Road 7 Clifton Springs, NY 14432

**Office:** Member of Assembly  
**District:** 131  
**Counties:** Part of Broome, Part of Cayuga, Part of Chenango, Part of Cortland,  
Part of Madison, Part of Ontario & Part of Seneca  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jeff Gallahan	746 County Road 7 Clifton Springs, NY 14432

**Office:** Member of Assembly  
**District:** 132  
**Counties:** Part of Chemung, All of Schuyler, Part of Seneca, Part of Steuben & All of Yates  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Philip A. Palmesano	224 Pearl St. Corning, NY 14830

**Office:** Member of Assembly  
**District:** 132  
**Counties:** Part of Chemung, All of Schuyler, Part of Seneca, Part of Steuben & All of Yates  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Philip A. Palmesano	224 Pearl St. Corning, NY 14830

**Office:** Member of Assembly  
**District:** 133  
**Counties:** All of Livingston, Part of Monroe, Part of Ontario, Part of Steuben & Part of Wyoming  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Sara M. Spezzano	872 Wheatland Center Rd. Scottsville, NY 14546

**Office:** Member of Assembly  
**District:** 133  
**Counties:** All of Livingston, Part of Monroe, Part of Ontario, Part of Steuben & Part of Wyoming  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Marjorie L. Byrnes	332 Park Place Caledonia, NY 14423

**Office:** Member of Assembly  
**District:** 133  
**Counties:** All of Livingston, Part of Monroe, Part of Ontario, Part of Steuben & Part of Wyoming  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Marjorie L. Byrnes	332 Park Place Caledonia, NY 14423

**Office:** Member of Assembly  
**District:** 139  
**Counties:** Part of Erie, All of Genesee, Part of Monroe & All of Orleans  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jennifer A.O. Keys	43 East Main Street Leroy, NY 14482

**Office:** Member of Assembly  
**District:** 139  
**Counties:** Part of Erie, All of Genesee, Part of Monroe & All of Orleans  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Stephen M. Hawley	8303 Bank St. Rd. Batavia, NY 14021

**Office:** Member of Assembly  
**District:** 139  
**Counties:** Part of Erie, All of Genesee, Part of Monroe & All of Orleans  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Stephen M. Hawley	8303 Bank St. Rd. Batavia, NY 14021

**Office: Member of Assembly**  
**District: 140**  
**Counties: Part of Erie & Part of Niagara**  
**Party: Democratic**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	William C. Conrad, III	203 Belmont Ave. Buffalo, NY 14223

**Office: Member of Assembly**  
**District: 140**  
**Counties: Part of Erie & Part of Niagara**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Scott A. Marciszewski	585 Cornwall Ave. Tonawanda, NY 14150

**Office: Member of Assembly**  
**District: 140**  
**Counties: Part of Erie & Part of Niagara**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Scott A. Marciszewski	585 Cornwall Ave. Tonawanda, NY 14150

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**Office: Member of Assembly**  
**District: 140**  
**Counties: Part of Erie & Part of Niagara**  
**Party: Working Families**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	William C. Conrad, III	203 Belmont Ave. Buffalo, NY 14223

**Office: Member of Assembly**  
**District: 144**  
**Counties: Part of Erie & Part of Niagara**  
**Party: Republican**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael J. Norris	7281 Woodhaven Dr. Lockport, NY 14094

**Office: Member of Assembly**  
**District: 144**  
**Counties: Part of Erie & Part of Niagara**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael J. Norris	7281 Woodhaven Dr. Lockport, NY 14094

**Office:** Member of Assembly  
**District:** 145  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Democratic  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Douglas E. Mooradian	6964 Lakeside Dr. Niagara Falls, NY 14303

**Office:** Member of Assembly  
**District:** 145  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Angelo J. Morinello	250 Rainbow Boulevard, Unit 806 Niagara Falls, NY 14303

**Office:** Member of Assembly  
**District:** 145  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Angelo J. Morinello	250 Rainbow Boulevard, Unit 806 Niagara Falls, NY 14303

**Office:** Member of Assembly  
**District:** 147  
**Counties:** Part of Erie & Part of Wyoming  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	David J. DiPietro	16 Nye Hill Road Aurora, NY 14052

**Office:** Member of Assembly  
**District:** 147  
**Counties:** Part of Erie & Part of Wyoming  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	David J. DiPietro	16 Nye Hill Road Aurora, NY 14052

**Office:** Member of Assembly  
**District:** 148  
**Counties:** All of Allegany, All of Cattaraugus, Part of Erie & Part of Steuben  
**Party:** Republican  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joseph M. Giglio	10132 Broadway Road Gowanda, NY 14070

**Office: Member of Assembly****District: 148****Counties: All of Allegany, All of Cattaraugus, Part of Erie & Part of Steuben****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joseph M. Giglio	10132 Broadway Road Gowanda, NY 14070

**Office: Member of Assembly****District: 150****Counties: All of Chautauqua & Part of Erie****Party: Democratic****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Sandra A. Lewis	25 Curtis Pl. Fredonia, NY 14063

**Office: Member of Assembly****District: 150****Counties: All of Chautauqua & Part of Erie****Party: Republican****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Andrew W. Goodell	3270 Gerry Levant Road Falconer, NY 14733

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**Office: Member of Assembly**  
**District: 150**  
**Counties: All of Chautauqua & Part of Erie**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Andrew W. Goodell	3270 Gerry Levant Road Falconer, NY 14733

**Office: Judicial Delegate**  
**District: 3**  
**District2: 101**  
**Counties: Part of Sullivan & Part of Ulster**  
**Party: Democratic**  
**Vote For: Four**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Rebecca Baldwin Mantello	29 CE Penny Dr. Wallkill, NY 12589
Uncontested	Anna Mott	259 Steam Hollow Rd. Ellenville, NY 12428
Uncontested	Jerry C. Stevens	107 Rennison Road Grahamsville, NY 12740
Uncontested	Deborah Schneer	38 Clove Valley Rd Ext. High Falls, NY 12440

**Office:** Judicial Delegate  
**District:** 3  
**District2:** 101  
**Counties:** Part of Sullivan & Part of Ulster  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Richard Barnhardt	60 Wallkill Avenue Wallkill, NY 12589

**Office:** Judicial Delegate  
**District:** 3  
**District2:** 102  
**Counties:** Part of Albany, All of Greene, All of Schoharie & Part of Ulster  
**Party:** Democratic  
**Vote For:** Six

Ballot Order	Candidate Name	Candidate Address
Uncontested	Hebert Joseph	15 Smigel Road Rensselaerville, NY 12147
Uncontested	Greg Lubow	70 Brookside Dr. Hunter, NY 12442
Uncontested	Amy Lauterbach Pokorny	69 Beebe Rd Berne, NY 12023
Uncontested	Daniel Arshack	62 Snake Road Catskill, NY 12414
Uncontested	Theresa Heary	1234 Cotton Hill Road Berne, NY 12023
Uncontested	Edwin C. Stevens III	952 County Rte. 411 Westerlo, NY 12193

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**Office: Judicial Delegate****District: 3****District2: 102****Counties: Part of Albany, All of Greene, All of Schoharie & Part of Ulster****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael Buttino	229 Surprise Result Road Earlton, NY 12058
Uncontested	Mary A. Stanzione	57 Echo Ridge Ln. Athens, NY 12015

**Office: Judicial Delegate****District: 3****District2: 107****Counties: Part of Albany, Part of Columbia & Part of Rensselaer****Party: Democratic****Vote For: Ten**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael J. Monescalchi	4 Bellwood Ln. Castleton-On-Hudson, NY 12033
Uncontested	Daniel C. Lynch	9 Sheffield Dr. Delmar, NY 12054
Uncontested	Joshua Oppenheimer	45 North St. Delmar, NY 12054
Uncontested	Pamela Robbins	27 Bittersweet Ln. Slingerlands, NY 12159
Uncontested	Daniel W. Coffey	131 Fernbank Ave. Delmar, NY 12054
Uncontested	Joanne M. DelRossi	100 Kinderhook Street Chatham, NY 12037
Uncontested	Edward G. McDonough	60 Milky Way Rd. Troy, NY 12182
Uncontested	Susan Mullen Kalafut	109 Tymeson Rd. Averill Park, NY 12018
Uncontested	Olivia Karis	12 Pleasant Hill Drive Poestenkill, NY 12140
Uncontested	Brenda Gevertz	PO Box 156 Ghent, NY 12075

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**Office: Judicial Delegate****District: 3****District2: 107****Counties: Part of Albany, Part of Columbia & Part of Rensselaer****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Carl J. Kempf	26 Snow St. Hoosick Falls, NY 12090
Uncontested	Thomas Santandera	612 Pinewoods Ave. Troy, NY 12180

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**Office: Judicial Delegate****District: 3****District2: 108****Counties: Part of Albany, Part of Rensselaer & Part of Saratoga****Party: Democratic****Vote For: Eight**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Maggie A. Alix	65 High Street Green Island, NY 12183
Uncontested	Carole Claren-Weaver	240 Stow Avenue, Apt. 1 Troy , NY 12180
Uncontested	John T. McDonald, III	10 Roosevelt Boulevard Cohoes, NY 12047
Uncontested	Joshua A. Sabo	40 Buckbee Road Troy, NY 12180
Uncontested	Emily A. Menn	122 1st St, Apt. 2 Troy, NY 12180
Uncontested	Todd L. Rutecki	2008 10th Street Rensselaer, NY 12144
Uncontested	Robert B. Poitras, Jr	14 Redwood Court Rensselaer, NY 12144
Uncontested	Joseph M. Spairana, Jr.	143 Marion Avenue Wynantskill, NY 12198

**Office: Judicial Delegate****District: 3****District2: 108****Counties: Part of Albany & Part of Rensselaer****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Philip J. Danaher	22 Troy Rd. East Greenbush, NY 12061

**Office:** Judicial Delegate  
**District:** 4  
**District2:** 111  
**Counties:** Part of Montgomery & Part of Schenectady  
**Party:** Democratic  
**Vote For:** Seven

Ballot Order	Candidate Name	Candidate Address
Uncontested	Anthony W. Jasenki	3078 Guilderland Ave. Schnectady, NY 12306
Uncontested	Gary Hughes	1602 Bradley St. Schenectady, NY 12304
Uncontested	Cara M. Ackerley	693 Birchwood Dr. Duanesburg, NY 12056
Uncontested	Frank Salamone	236 State St., Apt. 301 Schenectady, NY 12305
Uncontested	Thomas Bellick	245 Broadway, Apt. 117 Schenectady, NY 12305
Uncontested	Joseph F. McQueen, Jr.	312 5th Street Scotia, NY 12302
Uncontested	Marion Porterfield	842 Strong St. Schenectady, NY 12307

**Office:** Judicial Delegate  
**District:** 4  
**District2:** 111  
**Counties:** Part of Montgomery & Part of Schenectady  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	James J. Barrett	159 Hilltop Road Pattersonville, NY 12137

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**Office: Judicial Delegate****District: 4****District2: 112****Counties: Part of Fulton, Part of Saratoga & Part of Schenectady****Party: Democratic****Vote For: Nine**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Todd M. Kerner	49 Spruce St. Clifton Park , NY 12065
Uncontested	Suzanne M. Dugan	49 Spruce St. Clifton Park , NY 12065
Uncontested	Jennifer P. Jeram	29 Via Da Vinci Clifton Park, NY 12065
Uncontested	Martha A. Iacolucci	9 Russell St. Ballston Spa, NY 12020
Uncontested	Patrick J. Lyons	2 Brookwood Dr. Clifton Park , NY 12065
Uncontested	Susan F. Robbiano	201 Kingsley Rd. Burnt Hills , NY 12027
Uncontested	Lisa M. Kenneally-Dochat	22 Hearthside Dr. Ballston Lake, NY 12019
Uncontested	Amy M. Hild	20 Sheldon Dr. Ballston Lake, NY 12019
Uncontested	Cathryn F. Bern-Smith	24 Lillian Dr. Scotia, NY 12302

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**Office: Judicial Delegate****District: 4****District2: 112****Counties: Part of Fulton, Part of Saratoga & Part of Schenectady****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Ralph F. Bohlke	44 Lake Road Ballston Lake, NY 12019
Uncontested	Mark Laviolette	963 Sacandaga Rd. Glenville, NY 12302

**Office: Judicial Delegate****District: 4****District2: 113****Counties: Part of Saratoga, Part of Warren & Part of Washington****Party: Democratic****Vote For: Nine**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Patricia W. Tuz	648 Crescent Ave. Saratoga Springs, NY 12866
Uncontested	Gordon M. Boyd	99 State St. Saratoga Springs, NY 12866
Uncontested	Martha M. Devaney	60 Fieldstone Dr. Gansevoort, NY 12831
Uncontested	Erin H. Trombley	126 Lamplighter Acres Ft Edward, NY 12828
Uncontested	Thomas H. Williams	724 Malta Ave. Ext. Ballston Spa, NY 12020
Uncontested	Cynthia C. Young	38 Collamer Dr. Ballston Spa, NY 12020
Uncontested	Sarah J. Burger	30 Ridge Ct. Saratoga Springs, NY 12866
Uncontested	John B. Reilly	14 Hudson Ave, Apt 320 Glens Falls, NY 12801
Uncontested	Alan Stern	45 Hartshorn Rd. Greenwich, NY 12834

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**Office: Judicial Delegate****District: 4****District2: 113****Counties: Part of Saratoga, Part of Warren & Part of Washington****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	David F. Buchyn	201 Heritage Way Ganesvoort, NY 12831
Uncontested	Benjamin J. Potiker	2A Ponderosa Dr. Clifton Park, NY 12065

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**Office: Judicial Delegate****District: 4****District2: 114****Counties: Part of Essex, Part of Fulton, Part of Saratoga, Part of Warren &  
Part of Washington****Party: Democratic****Vote For: Eight**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Lynne C. Boecher	9 Oakwood Dr. Queensbury, NY 12804
Uncontested	Thomas J. McDonough	28 Twicwood Lane Queensbury, NY 12804
Uncontested	Carol L. Turney	117 N. Greenfield Rd. Porters Corners, NY 12859
Uncontested	Jay Bellanca	137 Blind Buck Rd Salem, NY 12865-2903
Uncontested	J.Davis O'Brien	36 Maid Marion Way Queensbury, NY 12804
Uncontested	Margaret Bartley	10 Kellogg Way New Russia, NY 12964
Uncontested	Gail Else	8 Campe Park Way, PO Box 822 Elizabethtown, NY 12932
Uncontested	Dennis J. Tarantino	277 Butler Pond Road Queensbury, NY 12804

**Office: Judicial Delegate****District: 4****District2: 114****Counties: Part of Essex, Part of Fulton, Part of Saratoga, Part of Warren &  
Part of Washington****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Carol Birkholz	1 Pucker St. Warrensburg, NY 12885

**Office: Judicial Delegate****District: 4****District2: 115****Counties: All of Clinton, Part of Essex & All of Franklin****Party: Democratic****Vote For: Nine**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Sydney Sue Garrant	774 Point Au Roche Rd. Plattsburgh, NY 12901
Uncontested	James J. Coffey	42 Lake Breeze Dr. Plattsburgh, NY 12901
Uncontested	Kimberly A. Davis	436 Alder Bend Dr. Ellenburg Depot, NY 12935
Uncontested	Patricia W. Bentley	33 Clinton St. Rouses Point, NY 12979
Uncontested	Sara E. Rowden	70 Gravelly Point Rd. Plattsburgh, NY 12901
Uncontested	Stephen A. Vanier	399 Badore Rd. Malone, NY 12953
Uncontested	Amy Quinn	19 Oak Way Lake Placid, NY 12946

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**Office:** Judicial Delegate  
**District:** 4  
**District2:** 115  
**Counties:** All of Clinton, Part of Essex & All of Franklin  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Robert E. White	559 County Route 60 Rainbow Lake, NY 12976

**Office:** Judicial Delegate  
**District:** 4  
**District2:** 118  
**Counties:** Part of Fulton, All of Hamilton & Part of Montgomery  
**Party:** Democratic  
**Vote For:** Four

Ballot Order	Candidate Name	Candidate Address
Uncontested	Edmund C. Jasewicz	280 Reidel Road Amsterdam, NY 12010
Uncontested	Marilyn J. Cornell	27 Northern Terr. Gloversville, NY 12078

**Office: Judicial Delegate****District: 4****District2: 118****Counties: Part of Fulton, All of Hamilton & Part of Montgomery****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
1	Anne M. Desiderio	152 Eden Lane Mayfield, NY 12117
2	Ashleigh Sellick	107 Prospect St. Tribes Hill, NY 12177

**Office: Judicial Delegate****District: 5****District2: 117****Counties: Part of Jefferson, All of Lewis & Part of Oneida****Party: Democratic****Vote For: Four**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Paul W. Phister Jr.	154 Northwood Circle Rome, NY 13440
Uncontested	Margaret M. Peterson	11345 Mc Koon Rd Remsen, NY 13438
Uncontested	Edward M. Murphy	5510 Jackson Street Lowville, NY 13367
Uncontested	Corey D. Decillis	139 East Remington St. Black River, NY 13612

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**Office: Judicial Delegate****District: 5****District2: 117****Counties: Part of Jefferson, All of Lewis & Part of Oneida****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kenneth H. Parks	19520 Ball Road Black River, NY 13612

**Office: Judicial Delegate****District: 5****District2: 118****Counties: Part of Herkimer & Part of Oneida****Party: Democratic****Vote For: Four**

Ballot Order	Candidate Name	Candidate Address
Uncontested	F. Thomas Gehrig	9626 Whittaker Rd. Holland Patent, NY 13354
Uncontested	Colleen Kelli Samson	8892 Parker Hollow Rd. Barneveld, NY 13304
Uncontested	Nicholas C. Brumm	10630 State Rte. 365 Barneveld, NY 13304
Uncontested	Joseph C. Samson	8892 Parker Hollow Rd. Barneveld, NY 13304

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**Office:** Judicial Delegate  
**District:** 5  
**District2:** 118  
**Counties:** Part of Herkimer & Part of Oneida  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Marilyn R. Williams	106 South Main Street Dolgeville, NY 13329

**Office:** Judicial Delegate  
**District:** 5  
**District2:** 120  
**Counties:** Part of Jefferson & All of Oswego  
**Party:** Democratic  
**Vote For:** Six

Ballot Order	Candidate Name	Candidate Address
Uncontested	Amy Connolly	384 State Rt. 49 Cleveland, NY 13042
Uncontested	Kathy Mantaro	932 County Route 25 Oswego, NY 13126
Uncontested	Thomas Rinefierd	137 Thelma Rd. Central Square, NY 13036
Uncontested	Mary Regan Benson	19 Hilton St. Central Square, NY 13036
Uncontested	Amy L. Venskus	18 Twins Rd. Pennelville, NY 13132
Uncontested	Sharon Dellinger	66 S. Pollard St. Fulton, NY 13069

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**Office:** Judicial Delegate  
**District:** 5  
**District2:** 120  
**Counties:** Part of Jefferson & All of Oswego  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Ronald K. Greenleaf	879 Cayuga St. Hannibal, NY 13074

**Office:** Judicial Delegate  
**District:** 5  
**District2:** 122  
**Counties:** Part of Herkimer & Part of Oneida  
**Party:** Democratic  
**Vote For:** Five

Ballot Order	Candidate Name	Candidate Address
Uncontested	Mitchell G. Ford	45 Wills Dr. New Hartford, NY 13413
Uncontested	William R. Thickstun	76 Utica St. Clinton, NY 13323
Uncontested	Benjamin J. Wood	7353 Sangerhill Rd. Waterville, NY 13480
Uncontested	Virginia S. Keith	162 W. Bacon Street Waterville, NY 13480
Uncontested	Kimberly A. Kolch	13 Janet Terr. New Hartford, NY 13413

**Office:** Judicial Delegate  
**District:** 5  
**District2:** 122  
**Counties:** Part of Herkimer & Part of Oneida  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Daniel F. Fitzgerald, Jr.	118 Sanford Avenue Clinton, NY 13323

**Office:** Judicial Delegate  
**District:** 6  
**District2:** 121  
**Counties:** Part of Broome, Part of Chenango, Part of Delaware, Part of Madison  
 & Part of Otsego  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Karen M. Beebe	2 Terry Ave. Binghamton, NY 13901
Uncontested	Janet Stevens	756 River Rd. Binghamton, NY 13901
Uncontested	S. Janet Beal	6 Thistle Way Binghamton, NY 13901
Uncontested	Kim VanAtta	840 Upper East Brook Rd Walton, NY 13856
Uncontested	Wanda Kathleen Hayek	3736 County Highway 22 Walton, NY 13856
Uncontested	Patricia B. Giltner	16 Pellett St. Norwich, NY 13815
Uncontested	Bruce Moseley	1189 Williams Rd. Hubbardsville, NY 13355
Uncontested	Cathleen Perry	337 Nelson Rd. South New Berlin, NY 13843

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**Office: Judicial Delegate****District: 6****District2: 124****Counties: Part of Broome, Part of Chemung & All of Tioga****Party: Democratic****Vote For: Eight**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Dora L. Leland	116 Davenport Rd. Big Flats, NY 14814
Uncontested	Michael C. Seifert	570 Beecher St. Elmira, NY 14904
Uncontested	Tina Kane	901 W. Second St. Elmira, NY 14905
Uncontested	Jennfier Clark	482 Watercure Hill Rd. Elmira, NY 14901
Uncontested	Irena T. R. H. Raia	275 Tilbury Hill Rd. Endicott, NY 13760
Uncontested	Meredith K. Bocek	75 Glann Rd. Apalachin, NY 13732
Uncontested	William F. Leonard	1834 Sibley Rd. Owego, NY 13827
Uncontested	Juanita Hale	463 East Maine Rd. Johnson City, NY 13790

**Office: Judicial Delegate****District: 6****District2: 125****Counties: Part of Cortland & All of Tompkins****Party: Democratic****Vote For: Twelve**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael E. Lane	42 East Main Street, P.O. Box 835 Dryden, NY 13053
Uncontested	Diane V. Bruns	7 Nottingham Dr. Ithaca, NY 14850
Uncontested	Hallie Mitnick	217 S. Cayuga Street, #24 Ithaca, NY 14850
Uncontested	Ted Crane	888 Comfort Rd. Spencer, NY 14883
Uncontested	Rich John	502 E. Seneca St. Ithaca, NY 14850
Uncontested	Deborah Dawson	51 Dart Drive Ithaca, NY 14850
Uncontested	Michael Perehenic	530 North Road Freeville, NY 13068
Uncontested	John Oakley	510 Turner Pl. Ithaca, NY 14850
Uncontested	Shawna Black	102 Kay St. Ithaca, NY 14850
Uncontested	Whitney A. Hargett	160 Groton Ave., #1 Cortland, NY 13045
Uncontested	Dean R. Corbin	2 Parkwood Circle Cortland, NY 13045
Uncontested	Rebecca R. Bryan	784 MacBean Ln. Cortland, NY 13045

**Office:** Judicial Delegate  
**District:** 7  
**District2:** 130  
**Counties:** Part of Monroe & All of Wayne  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Victoria W. Bahl	1467 Cherry Blossom Ln. Webster, NY 14580
Uncontested	Sasha M. DiMaria	811 Coventry Dr. Webster, NY 14580
Uncontested	Lino A. Dianetti	93 Springwood Dr. Webster, NY 14580
Uncontested	Arline L. Hanna	801 Rokkery Way Macedon, NY 14502
Uncontested	David S. Stern	1822 Lake Rd. Webster, NY 14580
Uncontested	Patricia J.S. Thompson	882 Independence Dr. Webster, NY 14580
Uncontested	Christian N. Valentino	428 Heathland Cir. Webster, NY 14580

**Office:** Judicial Delegate  
**District:** 7  
**District2:** 130  
**Counties:** Part of Monroe & All of Wayne  
**Party:** Conservative  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	Robert S. King	1170 Sagebrook Way Webster, NY 14580
Uncontested	Karen A. Ritter	846 Gravel Rd. Webster, NY 14580

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**Office: Judicial Delegate**  
**District: 7**  
**District2: 130**  
**Counties: Part of Monroe & All of Wayne**  
**Party: Working Families**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Thomas Wega	36 Parker Dr. Pittsford, NY 14534

**Office: Judicial Delegate**  
**District: 7**  
**District2: 133**  
**Counties: All of Livingston, Part of Monroe, Part of Ontario & Part of Steuben**  
**Party: Democratic**  
**Vote For: Eight**

Ballot Order	Candidate Name	Candidate Address
Uncontested	David M. Dipasquale	3 Pine Cir. Mount Morris, NY 14510
Uncontested	Judith A. Hunter	39 South St. Geneseo, NY 14454
Uncontested	John F. Hurley	1039 Oak Ridge Drive Victor, NY 14564
Uncontested	Shawn D. Hogan	12 Mays Ave. Hornell, NY 14843
Uncontested	Susan F. Bailey	20 Ivy Ln. Geneseo, NY 14454
Uncontested	Donald J. Scheg	979 Rush West Rush Rd. Rush, NY 14543
Uncontested	Sara M. Spezzano	872 Wheatland Center Rd. Scottsville, NY 14546

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**Office: Judicial Delegate****District: 7****District2: 133****Counties: All of Livingston, Part of Monroe, Part of Ontario & Part of Steuben****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joseph A. Defreze	12 Wyvil Ave. Scottsville, NY 14546
Uncontested	Rosemarie G. Defreze	12 Wyvil Ave. Scottsville, NY 14546

**Office:** Judicial Delegate  
**District:** 8  
**District2:** 139  
**Counties:** Part of Erie, All of Genesee & All of Orleans  
**Party:** Democratic  
**Vote For:** Five

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael A. Plitt	10252 Harlow Rd. Darien Center, NY 14040
Uncontested	Jeffrey D. Lewis	1683 Oak Orchard Rd. Albion, NY 14411
Uncontested	Ninja-Aileene M. Calhoun	24 Platt Ave. LeRoy, NY 14482
Uncontested	Janus Mary Jones	8573 W. Bergen Rd. LeRoy, NY 14482
Uncontested	Justin M. Rooney	14 Bloomingdale Ave. Akron, NY 14001

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**Office: Judicial Delegate****District: 8****District2: 139****Counties: Part of Erie, All of Genesee & All of Orleans****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Paul Lauricella, Jr.	12469 Roosevelt Highway Lydonville, NY 14098
Uncontested	John L. Ross	12168 Nice Road Akron, NY 14001

**Office:** Judicial Delegate  
**District:** 8  
**District2:** 140  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Democratic  
**Vote For:** Eleven

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jeremy J. Zellner	613 Niagara St. Tonawanda, NY 14150
Uncontested	John J. Crangle, Jr.	594 Fries Road Tonawanda, NY 14150
Uncontested	Gayle L. Syposs	301 Broad Street Tonawanda, NY 14150
Uncontested	Lisa Chimera	12 Deerhurst Park Blvd. Kenmore, NY 14217
Uncontested	Jeremy Schnurr	453 Goundry St. North Tonawanda, NY 14120
Uncontested	Marguerite Greco	68 Courier Blvd. Kenmore, NY 14217
Uncontested	Leonard L. Lenihan, Jr.	233 Glendale Dr. Tonawanda, NY 14150
Uncontested	Michael Kooshoian	38 Grimbsy Rd. W. Buffalo, NY 14223
Uncontested	Salvatore M. Rua	255 Niagara St. Tonawanda, NY 14150
Uncontested	John P. Lennon	198 Southwood Dr. Buffalo, NY 14223

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**Office:** Judicial Delegate  
**District:** 8  
**District2:** 140  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Conservative  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	George E. Koch, Jr.	738 Fletcher St. Tonawanda, NY 14150
Uncontested	Annmarie Cultrara	207 Brighton Road Tonawanda, NY 14150

**Office:** Judicial Delegate  
**District:** 8  
**District2:** 140  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Working Families  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	Thomas Roulley	1896 Langdon Road Ransomville, NY 14131
Uncontested	Louisa Pacheco	334 Huntington Avenue Buffalo, NY 14214

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**Office:** Judicial Delegate  
**District:** 8  
**District2:** 144  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Rebecca A. Bylewski	5861 Goodrich Rd. Unit 12D Clarence Center, NY 14032
Uncontested	John M. Dudziak	5 Pear Tree Ln. Lancaster, NY 14086
Uncontested	Paul Patterson	5513 Hallmark Ln. Lockport, NY 14094
Uncontested	Doug C. Nicholson	22 Roosevelt Dr. Lockport, NY 14094
Uncontested	Michael E. Benedict	38 Woodbury Dr. Lockport, NY 14094
Uncontested	Anita Mullane	93 Lindhurst Dr. Lockport, NY 14094
Uncontested	Jamie R. Moxham	129 Ontario Street Wilson, NY 14172
Uncontested	Laura A. Miskell Benedict	38 Woodbury Dr. Lockport, NY 14094

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**Office:** Judicial Delegate  
**District:** 8  
**District2:** 144  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Conservative  
**Vote For:** Three

Ballot Order	Candidate Name	Candidate Address
Uncontested	Herbert L. Greenman	6360 Lakemont Court East Amherst, NY 14051
Uncontested	Carolyn R. Vinci	4445 Westwood Rd. Williamsville, NY 14221
Uncontested	Deborah E. Lemaster	720 Schwartz Road Lancaster, NY 14086

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**Office:** Judicial Delegate  
**District:** 8  
**District2:** 145  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Democratic  
**Vote For:** Nine

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christopher M. Borgatti	1263 86th St. Niagara Falls, NY 14304
Uncontested	Diane M. Perri Roberts	707 Northridge Dr. Lewiston, NY 14092
Uncontested	Jason J. Cafarella	826 James Avenue Niagara Falls, NY 14305
Uncontested	Lora A. Allen	1656 Michigan Ave. Niagara Falls, NY 14305
Uncontested	John O. Jacoby Jr.	4621 Lower River Rd. Lewiston, NY 14092
Uncontested	Geraldine M. Carpenter	3230 Wildwood Drive Niagara Falls, NY 14304
Uncontested	Jeffrey Elder	1143 Ontario Ave. Niagara Falls, NY 14305
Uncontested	Rebecca A. Dyster	626 Orchard Pkwy. Niagara Falls, NY 14301
Uncontested	James R. Sharpe	3138 E. River Rd. Grand Island, NY 14072

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**Office:** Judicial Delegate  
**District:** 8  
**District2:** 145  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Conservative  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kevin M. Backus	1422 E. Park Rd. Grand Island, NY 14072
Uncontested	William L. Ross	6761 Walmore Rd. Niagara Falls, NY 14304

**Office:** Judicial Delegate  
**District:** 8  
**District2:** 145  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Working Families  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Roger Cook	1515 West River Parkway Grand Island, NY 14072

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**Office:** Judicial Delegate  
**District:** 8  
**District2:** 147  
**Counties:** Part of Erie & Part of Wyoming  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Cynthia M. Appleton	126 Jefferson St. Warsaw, NY 14569
Uncontested	Harold J. Bush	4579 Miller Rd. Silver Springs, NY 14550
Uncontested	Vincent R. Gugliuzza	436 Lakeside Ave. Angola, NY 14006
Uncontested	Jessica A. Schuster	514 Franklin St. Springville, NY 14550
Uncontested	Denise M. Coffey	18 Church St. Silver Springs, NY 14550
Uncontested	Michelle J. Schoeneman	107 N. Grove St. East Aurora, NY 14052
Uncontested	James F. Granville	405 Girard Ave. East Aurora, NY 14052
Uncontested	Joanna E. Bush	11 Mount View Ave. Warsaw, NY 14569

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**Office: Judicial Delegate**  
**District: 8**  
**District2: 147**  
**Counties: Part of Erie & Part of Wyoming**  
**Party: Conservative**  
**Vote For: Three**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Raymond F. Gallagher	One Fox Run Ln. Orchard Park, NY 14127
Uncontested	Charles A. Castiglia	741 Lake Street Angola, NY 14006
Uncontested	Michael A. Cartechine	9172 Boston State Road Boston, NY 14025

**Office: Judicial Delegate**  
**District: 8**  
**District2: 147**  
**Counties: Part of Erie & Part of Wyoming**  
**Party: Working Families**  
**Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Terri Schelter	3691 Breckenridge Road Hamburg, NY 14075

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**Office: Judicial Delegate****District: 8****District2: 148****Counties: All of Allegany, All of Cattaraugus & Part of Erie****Party: Democratic****Vote For: Five**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Frank V. Puglisi	7627 S. Grove Road Franklinville, NY 14737
Uncontested	Kevin C. Burleson	5534 Burleson Rd. Great Valley, NY 14741
Uncontested	Linda L. Witte	653 Main St. Olean, NY 14760
Uncontested	Austin T. Morgan	1402 Cross Rd. Freedom, NY 14065
Uncontested	Michael J. McCormick	839 State Route 417 Andover, NY 14806

**Office: Judicial Delegate****District: 8****District2: 148****Counties: All of Allegany, All of Cattaraugus & Part of Erie****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jay W. Frantz	39 Orchard Place Gowanda, NY 14070

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**Office: Judicial Delegate**  
**District: 8**  
**District2: 150**  
**Counties: All of Chautauqua & Part of Erie**  
**Party: Democratic**  
**Vote For: Seven**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Norman P. Green	54 Oneida Dr., P.O. Box 225 Mayville, NY 14757
Uncontested	Charles S. DeAngelo	20 Laurie Lane Jamestown, NY 14701
Uncontested	Willie Rosas	768 Central Ave. Dunkirk, NY 14048
Uncontested	Eddie A. Sunquist	313 E. Virginia Blvd. Jamestown, NY 14701
Uncontested	Nancy G. Bargar	11 West Terrace Avenue, PO Box 401 Lakewood, NY 14750
Uncontested	Margaret Cornell	3 Marilane St. Lakewood, NY 14750
Uncontested	Richard J. Morrisroe	748 Eagle Street Dunkirk, NY 14048

**Office: Judicial Delegate**  
**District: 8**  
**District2: 150**  
**Counties: All of Chautauqua & Part of Erie**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Anna M. Wilcox	3105 Cable Road Fredonia, NY 14063

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**Office: Judicial Delegate****District: 8****District2: 150****Counties: All of Chautauqua & Part of Erie****Party: Working Families****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Robert Dando, Jr.	8631 Fredonia-Stockton Rd. Fredonia, NY 14063

**Office: Judicial Delegate****District: 9****District2: 94****Counties: Part of Putnam & Part of Westchester****Party: Democratic****Vote For: Ten**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Christine J. Robbins	16 Logging Road Katonah, NY 10536
Uncontested	Karen A. Ondrovic	6 Deans Bridge Road Somers, NY 10589
Uncontested	Melissa Benjamin	41 Spring Meadow Court Somers, NY 10589
Uncontested	Mark A. Lieberman	3305 Wells Street Yorktown Heights, NY 10598
Uncontested	Marni V. Rabin-Marron	1640 Overhill St. Yorktown Heights, NY 10598
Uncontested	Peter Cleary	118 Hitching Post Ln. Yorktown Heights, NY 10598
Uncontested	Scott H. Reing	125 McLaughlin Drive Mahopac, NY 10541
Uncontested	Alexander J. Law	251 Fair Street Carmel, NY 10512
Uncontested	Daniel M. Kuchta	63 Sunset Drive Patterson, NY 12563
Uncontested	Stephen M. Papas	16 Darryl Lane Carmel, NY 10512

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**Office: Judicial Delegate****District: 9****District2: 94****Counties: Part of Putnam & Part of Westchester****Party: Conservative****Vote For: Three**

Ballot Order	Candidate Name	Candidate Address
Uncontested	John P. O'Connor	412 Gage Road Southeast, NY 10509
Uncontested	Joseph A. Maccariello	12 Keyrel Lane Somers, NY 10541
Uncontested	Joseph J. D'Imperio	63 Fairfield Dr. Patterson, NY 12563

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**Office: Judicial Delegate****District: 9****District2: 95****Counties: Part of Putnam & Part of Westchester****Party: Democratic****Vote For: Twelve**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Thomasino Laidley-Brown	28 State St. Ossining, NY 10562
Uncontested	Susanne Donnelly	17 Susquehanna Road Ossining, NY 10562
Uncontested	Tracy Wilcher	33 Broad Ave., 2 Ossining, NY 10562
Uncontested	Steve Kollias	9 N. James St., C Peekskill, NY 10566
Uncontested	Michael E. Bongar	426 Smith Street Peekskill, NY 10566
Uncontested	Benito Martinez	164 Frederick Street Cortlandt Manor, NY 10567
Uncontested	Emiljana Uljaj	101 Benedict Boulevard, 3 Croton on Hudson, NY 10520
Uncontested	Maria F. Slippen	5 Michaels Lane Croton on Hudson, NY 10520
Uncontested	Marcia L. Stone	1251 Williams Dr. Shrub Oak, NY 10588
Uncontested	Richard M. Gell	22 Market Street Cold Spring, NY 10516
Uncontested	Sonia E. Ryz-Ryski	17 Halfmoon Ridge Nelsonville, NY 10516
Uncontested	Nancy A. Montgomery	5 Forest Ln. Cold Spring, NY 10516

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**Office: Judicial Delegate****District: 9****District2: 95****Counties: Part of Putnam & Part of Westchester****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Lawrence A. Chiulli	12 Ernst Road Cortlandt Manor, NY 10567
Uncontested	Steven P. Winkelmann	24 College Hill Road Montrose, NY 10548

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**Office: Judicial Delegate****District: 9****District2: 98****Counties: Part of Orange & Part of Rockland****Party: Democratic****Vote For: Eight**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Louise B. Vandermark	680 Prospect Hill Rd. Huguenot, NY 12746
Uncontested	Christine Stage	155 Little York Road, P.O. Box 134 Warwick, NY 10990
Uncontested	Douglas Stage	155 Little York Rd, P.O. Box 134 Warwick, NY 10990
Uncontested	Alison Miller	351 Old Mountain Rd. Otisville, NY 10963
Uncontested	Laurence O. Toole	5 East Haskell Ave. Suffren, NY 10901
Uncontested	Susan McDonald	30 Darin Rd. Warwick, NY 10990
Uncontested	Patricia McMillan	17 Black Rock Road Warwick, NY 10990
Uncontested	Joan Hutcher	1361 Route 284 Westtown, NY 10998

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**Office: Judicial Delegate****District: 9****District2: 98****Counties: Part of Orange & Part of Rockland****Party: Conservative****Vote For: Three**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Grace White	144 Vetosky Rd., PO Box 11 Slate Hill, NY 10973
Uncontested	Svetlana Khrimian	509 Jumano Ct. Suffren, NY 10901
Uncontested	Simon Leschinsky	96 Bon Aire Cir., Apt. V6 Suffren, NY 10901

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**Office: Judicial Delegate**  
**District: 9**  
**District2: 99**  
**Counties: Part of Orange & Part of Rockland**  
**Party: Democratic**  
**Vote For: Seven**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jonathan Chase	1 Taft Pl. Cornwall-on-Hudson, NY 12520
Uncontested	Gregory B. Julian	15 Ridgetop Drive Tomkins Cove, NY 10986
Uncontested	Laurie Tautel	25 Forest Hill Rd. Fort Montgomery, NY 10922
Uncontested	Itzik Gold	13 Chevron Rd., Unit 201 Monroe, NY 10950
Uncontested	Moshe Weiss	4 Kerestier Ct., Unit 406 Monroe, NY 10950
Uncontested	Willa Freiband	50 Elmwood Dr. Highland Mills, NY 10930
Uncontested	Rachel Bruce	2 Sunny Lane Highland Mills, NY 10930

**Office: Judicial Delegate**  
**District: 9**  
**District2: 99**  
**Counties: Part of Orange & Part of Rockland**  
**Party: Conservative**  
**Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Warren Martin	711 St. Rte. 32 Highland Mills, NY 10930
Uncontested	Edward Keegan	3 Slater Drive Stony Point, NY 10980

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**Office: Judicial Delegate**  
**District: 9**  
**District2: 104**  
**Counties: Part of Dutchess & Part of Orange**  
**Party: Democratic**  
**Vote For: Eight**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jonathan G. Jacobson	25 Pierces Road, Apt 11 Newburgh, NY 12550
Uncontested	Vanessa Tirado	89 Lakeside Road Newburgh, NY 12550
Uncontested	Tamie D. Hollins	55 Varick Homes Newburgh, NY 12550
Uncontested	Julie Shiroishi	123 E. Willow St. Beacon, NY 12508
Uncontested	Lisa Jessup	61 Tioronda Ave., Apt. 1 Beacon, NY 12508
Uncontested	Sarah Brannen	55 Ferris Ln. Poughkeepsie, NY 12601
Uncontested	Teresa Blancato-Horton	28 Carriage Dr. Newburgh, NY 12550
Uncontested	Julie Ridgeway	367 N. Montgomery St. Newburgh, NY 12550

**Office: Judicial Delegate**  
**District: 9**  
**District2: 104**  
**Counties: Part of Dutchess, Part of Orange & Part of Ulster**  
**Party: Conservative**  
**Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	John P. Delessio	7 Hill Street Newburgh, NY 12550

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**Office: Judicial Delegate****District: 10****District2: 9****Counties: Part of Nassau & Part of Suffolk****Party: Democratic****Vote For: Nine**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael E. Cafaro	22 Gaulton Drive N. Babylon, NY 11703
Uncontested	Lucia Domingo	100 Wampum Rd. Babylon, NY 11702
Uncontested	Anthony M. Humpf	103 Queens Ave. W. Babylon, NY 11704
Uncontested	Luis Montes-Amaya	10 Thayer Place West Islip, NY 11795
Uncontested	Brian J. O'Shaughnessy	70 Hunter Ave. N. Babylon, NY 11703
Uncontested	Richard H. Schaffer	105 Village Line Rd. Babylon, NY 11702
Uncontested	Kevin G. Snover	3C Commodore Ln. W. Babylon, NY 11704
Uncontested	Meagan M. Sullivan	23 Sawyer Ave. W. Babylon, NY 11704
Uncontested	Kevin Truncali	16 Railroad Ave., #4 Babylon, NY 11702

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**Office: Judicial Delegate****District: 10****District2: 9****Counties: Part of Nassau & Part of Suffolk****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Thomas A. Gargiulo	58 Annuskemunnica Rd. Babylon, NY 11702
Uncontested	Thomas A. Montiglio, Sr.	28 Sheridan Rd. Babylon, NY 11702

**Office:** Judicial Delegate  
**District:** 10  
**District2:** 10  
**Counties:** Part of Nassau & Part of Suffolk  
**Party:** Democratic  
**Vote For:** Twelve

Ballot Order	Candidate Name	Candidate Address
Uncontested	Ann M. Berger	32 Fairmont Street Huntington, NY 11743
Uncontested	Matthew Bucaro, Jr.	29 Lindbergh Circle Huntington, NY 11743
Uncontested	Richard Casey	6 Red Deer Lane Huntington, NY 11743
Uncontested	Jane R. Devine	145 Nassau Road Huntington, NY 11743
Uncontested	Dominick P. Feeney, Jr.	21 Kallenberger Drive Melville, NY 11747
Uncontested	Janice L. Feeney	21 Kallenberger Drive Melville, NY 11747
Uncontested	Omar A. Figueroa	174 West 19th St., PO Box 20248 Huntington Station, NY 11746
Uncontested	Lora Gellerstein	28 Juniper Place Huntington, NY 11743
Uncontested	Jill C. Kaufman	6 Regina Ave. Dix Hills, NY 11746
Uncontested	Edwin Perez	40 North Lane Huntington, NY 11743
Uncontested	Jairo Sanin	1 Cherokee Ct. Huntington Station, NY 11746
Uncontested	Jeffrey Stark	25 Hillside Avenue Huntington, NY 11743

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**Office: Judicial Delegate****District: 10****District2: 10****Counties: Part of Nassau & Part of Suffolk****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Michael Helfer	17 Lucille Ln. Dix Hills, NY 11746
Uncontested	Gregory Grizopoulos	139 Breely Blvd. Melville, NY 11747

**Office:** Judicial Delegate  
**District:** 10  
**District2:** 11  
**Counties:** Part of Nassau & Part of Suffolk  
**Party:** Democratic  
**Vote For:** Eleven

Ballot Order	Candidate Name	Candidate Address
Uncontested	Karla M. Bryant	20 Melody Lane Amityville, NY 11701
Uncontested	Mateusz Ciecka	459 East John St. Lindenhurst, NY 11757
Uncontested	Marcus J. Duffin	408 Wellington Park Villas Dr., PO Box 196 Amityville, NY 11701
Uncontested	Dale Fisher	809 N. Greene Ave. Lindenhurst, NY 11757
Uncontested	Augustus J. Gordon-Davy	348 Jackson Avenue Copiague, NY 11726
Uncontested	Jerzy M. Kruszinski, Jr.	264 E. John St. Lindenhurst, NY 11757
Uncontested	Linda M. Labbate	10 Dominick Court Lindenhurst, NY 11757
Uncontested	Marisol Martinez	9 Highview Ct. Wheatley Hgts., NY 11798
Uncontested	Ralphael J. Moses	182 Oldfield Ave. Amittyville, NY 11701
Uncontested	Elijah M. Sampson	725 Centerwood St. West Babylon, NY 11704
Uncontested	Jordan K. Wilson, Jr.	42 Centerwood Street N. Babylon, NY 11704

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**Office:** Judicial Delegate  
**District:** 10  
**District2:** 11  
**Counties:** Part of Nassau & Part of Suffolk  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Eugene Murray	9 Cape Rd. Amityville, NY 11701

**Office:** Alternate Judicial Delegate  
**District:** 3  
**District2:** 101  
**Counties:** Part of Sullivan & Part of Ulster  
**Party:** Democratic  
**Vote For:** Four

Ballot Order	Candidate Name	Candidate Address
Uncontested	Madlyn Phelan	32 Caston Rd. Greenfield Park, NY 12435
Uncontested	Steve Ellis	1549 Denning Rd. Claryville, NY 12725
Uncontested	Carol M. Montana	80 Gilles Rd. Grahamsville, NY 12740
Uncontested	Claudia Brown	856 Samsonville Rd. Kerhonkson, NY 12446

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**Office:** Alternate Judicial Delegate  
**District:** 3  
**District2:** 101  
**Counties:** Part of Sullivan & Part of Ulster  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jeanette Tuzzolino	64 Caston Road Greenfield Park, NY 12435

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**Office: Alternate Judicial Delegate****District: 3****District2: 102****Counties: Part of Albany, All of Greene, All of Schoharie & Part of Ulster****Party: Democratic****Vote For: Six**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Laura Goodwin	214 Red Rock Rd. Cairo, NY 12413
Uncontested	Carolyn Riggs	40 Raspberry Lane Hunter, NY 12442
Uncontested	Russell Pokorny	69 Beebe Rd. Berne, NY 12023
Uncontested	Martin Messner	298 Colby Rd. Schoharie, NY 12157
Uncontested	Rebecca Leggieri	296 Weller Rd. Richmondville, NY 12149
Uncontested	Thomas Dolan	2 Dock Street Coeymans, NY 12045

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**Office: Alternate Judicial Delegate****District: 3****District2: 102****Counties: Part of Albany, All of Greene, All of Schoharie & Part of Ulster****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Raymond Pacifico	388 Joseph D. Kollar Rd. Cairo, NY 12413
Uncontested	John R. Leone	70 Majestic Drive Stuyvesant, NY 12173

**Office:** Alternate Judicial Delegate  
**District:** 3  
**District2:** 107  
**Counties:** Part of Albany, Part of Columbia & Part of Rensselaer  
**Party:** Democratic  
**Vote For:** Ten

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joanne Cunningham	430 Delaware Ave. Delmar, NY 12054
Uncontested	Theodore Hartman	115 Rowland Ave. Delmar, NY 12054
Uncontested	Dominic J. Pasinella, Jr.	87 Calhoun Drive Troy, NY 12182
Uncontested	Kathy Betzinger	1 Valley View Dr. Troy, NY 12180
Uncontested	James D. Bilik	27 Forest Rd. Delmar, NY 12054
Uncontested	Garrett DeGraff	17 Holcomb Road Averill Park, NY 12018
Uncontested	Lee Jamison	18 Riverview Street, PO Box 164 Stuyvesant, NY 12173
Uncontested	Mark F. Leinung	18 Whitney Dr. Valatie, NY 12184
Uncontested	Robert Crowley	10 Plank Road Poestenkill, NY 12140
Uncontested	Sadhanand Devaprasad	35 Woodstream Dr. Delmar, NY 12054

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**Office: Alternate Judicial Delegate****District: 3****District2: 107****Counties: Part of Albany, Part of Columbia & Part of Rensselaer****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Sharon B. Clairmont	3937 NY 67 Eagle Bridge, NY 12057
Uncontested	Gerald Mcauliffe, Sr.	185 Hill Rd. Hoosick Falls, NY 12090

**Office:** Alternate Judicial Delegate  
**District:** 3  
**District2:** 108  
**Counties:** Part of Albany, Part of Rensselaer & Part of Saratoga  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	John A. DeFrancesco	1453 3rd Street Rensselaer, NY 12144
Uncontested	Gilbert F. Ethier	26 Middle Street Cohoes, NY 12047
Uncontested	James L. Quinn	2311 15th Street, Apt. 1 Troy, NY 12180
Uncontested	Robert D. Carlson	1312 Fourth Avenue Watervliet, NY 12189
Uncontested	Mary E. Sweeney	161 8th Avenue Troy, NY 12180
Uncontested	Mary F. Sabo	40 Buckbee Road Troy, NY 12180
Uncontested	Melissa Shanley	7 Carriage Road Rensselaer, NY 12144
Uncontested	Dominic G. Indelicato	53 Bloomingdale Avenue East Greenbush, NY 12061

**Office:** Alternate Judicial Delegate  
**District:** 3  
**District2:** 108  
**Counties:** Part of Albany & Part of Rensselaer  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Eric T. Schofield, Jr.	495 Pawling Ave Troy, NY 12180

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**Office:** Alternate Judicial Delegate  
**District:** 4  
**District2:** 111  
**Counties:** Part of Montgomery & Part of Schenectady  
**Party:** Democratic  
**Vote For:** Seven

Ballot Order	Candidate Name	Candidate Address
Uncontested	Samanta Mykoo	1397 Kingston Ave. Schenectady, NY 12308
Uncontested	Heather Gray	33 Halcyon St. Scotia, NY 12302
Uncontested	Diane Marco	842 Curry Rd. Schenectady, NY 12306
Uncontested	Doug Williams	2582 Albany St. Schenectady, NY 12304
Uncontested	Sharon Jordan	1055 Brierwood Blvd Schenectady, NY 12308
Uncontested	John Mootooveren	1808 The Plaza Schenectady, NY 12309
Uncontested	Marva Isaacs	304 Duane Ave. Schenectady, NY 12307

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**Office:** Alternate Judicial Delegate  
**District:** 4  
**District2:** 111  
**Counties:** Part of Montgomery & Part of Schenectady  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joseph Guidarelli	2703 Myrtle Ave. Rotterdam, NY 12306

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**Office:** Alternate Judicial Delegate  
**District:** 4  
**District2:** 112  
**Counties:** Part of Fulton, Part of Saratoga & Part of Schenectady  
**Party:** Democratic  
**Vote For:** Nine

Ballot Order	Candidate Name	Candidate Address
Uncontested	Anthony M. LaFleche	21 Wheeler Dr. Clifton Park, NY 12065
Uncontested	Elizabeth A. Dugan	4B Macoun Dr. Clifton Park, NY 12065
Uncontested	Nancy R. Bellamy	147 Eastside Dr. Ballston Lake, NY 12019
Uncontested	Eleanor K. Dillion	116 Malta Ave. Ballston Lake, NY 12020
Uncontested	Cynthia L. Shaw-Slutsky	37 Maplewood Dr. Ballston Lake, NY 12019
Uncontested	Rebecca A. Popp-Lyons	2 Brookwood Dr. Clifton Park, NY 12065
Uncontested	Yvette C. Fitzgerald	8 Sun Valley Ln. Clifton Park, NY 12065
Uncontested	Michael Aragosa	153 Horstman Dr. Scotia, NY 12302
Uncontested	Michael R. Godlewski	5 David Dr. Scotia, NY 12302

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**Office: Alternate Judicial Delegate****District: 4****District2: 112****Counties: Part of Fulton, Part of Saratoga & Part of Schenectady****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Linda F. Bohlke	44 Lake Road Ballston Lake, NY 12019
Uncontested	Mark Kirker	12 Ralmar Drive Glenville, NY 12302

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**Office: Alternate Judicial Delegate****District: 4****District2: 113****Counties: Part of Saratoga, Part of Warren & Part of Washington****Party: Democratic****Vote For: Nine**

Ballot Order	Candidate Name	Candidate Address
Uncontested	James M. Sullivan	11 Pearl St. Schuylerville, NY 12871
Uncontested	Patricia M. Morrison	67 Union St. Saratoga Springs, NY 12866
Uncontested	Joy A.L. King	6 Marion Ave. Saratoga Springs, NY 12866
Uncontested	Alice A. Smith	8 Woodland Ct. Saratoga Springs, NY 12866
Uncontested	Otis A. Maxwell	158 Lake Ave. Saratoga Springs, NY 12866
Uncontested	Robert L. Stromberg	13 Troy Ave. Round Lake, NY 12151
Uncontested	Christopher N. Luhn	11 Old State Rd. Mechanicville, NY 12118
Uncontested	Margaret J. Farrell	19 Bush St. Glen Falls, NY 12801
Uncontested	James Nolan	20 Sloan Dr. Greenwich, NY 12834-2927

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**Office: Alternate Judicial Delegate****District: 4****District2: 113****Counties: Part of Saratoga, Part of Warren & Part of Washington****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jeffrey A. Hurt	6 Manchester Court Saratoga Springs, NY 12866
Uncontested	Tristan A. Ramsdill	4280 Route 50 Saratoga Spings, NY 12866

**Office: Alternate Judicial Delegate****District: 4****District2: 114****Counties: Part of Essex, Part of Fulton, Part of Saratoga, Part of Warren &  
Part of Washington****Party: Democratic****Vote For: Eight**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jean A. Lapper	20 Fairway Ct. Queensbury, NY 12804
Uncontested	Michael Parwana	137 West Mountain Road Queensbury, NY 12804
Uncontested	Charles H. Yudkoff	221 Allen Rd. Porters Corner, NY 12859
Uncontested	Mary McGowan	3 Woodruff Ln. Elizabethtown, NY 12932
Uncontested	Mary Silitch	10272 Rt. 22 Granville, NY 12854
Uncontested	Robin Lyle	179 Holmes Rd. Argyle, NY 12809
Uncontested	Sandra Smith	179 Holmes Rd. Argyle, NY 12809
Uncontested	Christian Bruce	52 Jenni Jill Dr. Warrensburg, NY 12885

**Office: Alternate Judicial Delegate****District: 4****District2: 114****Counties: Part of Essex, Part of Fulton, Part of Saratoga, Part of Warren &  
Part of Washington****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Steven Edwards	3980 Main St. Warrensburg, NY 12885

**Office: Alternate Judicial Delegate****District: 4****District2: 115****Counties: All of Clinton, Part of Essex & All of Franklin****Party: Democratic****Vote For: Nine**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Mark Schneider	274 Murtagh Hill Road West Chazy, NY 12992
Uncontested	Stephen A. Vanier	399 Badore Road Malone, NY 12953
Uncontested	Margaret E. LaFevre	2195 State Rt. 3 Cadyville, NY 12918
Uncontested	Michael S. Cashman	60 Ashston Dr. Morrisonville, NY 12962

Office: Alternate Judicial Delegate  
 District: 4  
 District2: 115  
 Counties: All of Clinton, Part of Essex & All of Franklin  
 Party: Conservative  
 Vote For: One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Zachery W. Sirk	23 Barcomb Avenue Morrisonville, NY 12962

Office: Alternate Judicial Delegate  
 District: 4  
 District2: 118  
 Counties: Part of Fulton, All of Hamilton & Part of Montgomery  
 Party: Democratic  
 Vote For: Four

Ballot Order	Candidate Name	Candidate Address
Uncontested	Gregory D. Young	29 6th Ave. Gloversville, NY 12078
Uncontested	Robin Wentworth	3 Orange Street Gloversville, NY 12078

Office: Alternate Judicial Delegate  
 District: 4  
 District2: 118  
 Counties: Part of Fulton, All of Hamilton & Part of Montgomery  
 Party: Conservative  
 Vote For: One

Ballot Order	Candidate Name	Candidate Address
1	Cheryl A. Reese	499 Oldick Rd. Fort Plain, NY 13339
2	Matthew A. Baird	668 State Highway 309 Gloversville, NY 12078

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**Office:** Alternate Judicial Delegate  
**District:** 5  
**District2:** 117  
**Counties:** Part of Jefferson, All of Lewis & Part of Oneida  
**Party:** Democratic  
**Vote For:** Four

Ballot Order	Candidate Name	Candidate Address
Uncontested	Karen R. Norton	12432 Meekerville Rd. Forestport, NY 13338
Uncontested	William A. Fiacco II	6294 Pillmore Dr., Apt. 5 Rome, NY 13440
Uncontested	Joseph A. Mastrangelo	6351 Pillmore Dr. Rome, NY 13440
Uncontested	Rebecca A. Miner	8774 Woodgate Dr. Boonville, NY 13309

**Office:** Alternate Judicial Delegate  
**District:** 5  
**District2:** 117  
**Counties:** Part of Jefferson, All of Lewis & Part of Oneida  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Todd D. Collins	2485 Skinner Settlement Road Camden, NY 13316

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**Office:** Alternate Judicial Delegate  
**District:** 5  
**District2:** 118  
**Counties:** Part of Herkimer & Part of Oneida  
**Party:** Democratic  
**Vote For:** Four

Ballot Order	Candidate Name	Candidate Address
Uncontested	Susan E. Gehrig	9626 Whittaker Rd. Holland Patent, NY 13354
Uncontested	Matthew R. Pilatzke	6802 Quaker Hill Rd. Ava, NY 13303
Uncontested	Claudette M. Johnson	206 Church St. Prospect, NY 13435
Uncontested	James H. Bintz	7458 Fox Rd. Holland Patent, NY 13354

**Office:** Alternate Judicial Delegate  
**District:** 5  
**District2:** 118  
**Counties:** Part of Herkimer & Part of Oneida  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Gregory L. Williams	106 South Main St. Dolgeville, NY 13329

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**Office:** Alternate Judicial Delegate  
**District:** 5  
**District2:** 120  
**Counties:** Part of Jefferson & All of Oswego  
**Party:** Democratic  
**Vote For:** Six

Ballot Order	Candidate Name	Candidate Address
Uncontested	Connie A. Douglas	304 County Rt. 43 Mexico, NY 13114
Uncontested	Emily Hartnett	5760 Scenic Ave. Mexico, NY 13114
Uncontested	Judy T. Prosser	8493 State Route 104 Hannibal, NY 13074
Uncontested	Dennis Merlino	53 S. 10th St. Fulton, NY 13069
Uncontested	Darlene Baker	42 Willard Drive Bernhards Bay, NY 13028
Uncontested	Elizabeth R. Passer	10 Liberty Street Mexico, NY 13114

**Office:** Alternate Judicial Delegate  
**District:** 5  
**District2:** 120  
**Counties:** Part of Jefferson & All of Oswego  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	H. Leonard Schick	17 E. Edgewater Dr. Fulton, NY 13069

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**Office:** Alternate Judicial Delegate  
**District:** 5  
**District2:** 122  
**Counties:** Part of Herkimer & Part of Oneida  
**Party:** Democratic  
**Vote For:** Five

Ballot Order	Candidate Name	Candidate Address
Uncontested	Shirley D. Knop	3811 Griffin Rd. Clinton, NY 13323
Uncontested	Sarah F. Bormann	68 Seneca Ave. Oneida Castle, NY 13421
Uncontested	Denise M. Timpano	6 Woodbourne Rd. New Hartford, NY 13413
Uncontested	Katherine A. Collett	3261 Post Street Clinton, NY 13323
Uncontested	Brigitte M. Garrison	10 Thornwood Rd. New Hartford, NY 13413

**Office:** Alternate Judicial Delegate  
**District:** 5  
**District2:** 122  
**Counties:** Part of Herkimer & Part of Oneida  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Tammie J. Knight	5596 Eastwood Drive Verona, NY 13478

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**Office: Alternate Judicial Delegate****District: 6****District2: 121****Counties: Part of Broome, Part of Chenango, Part of Delaware, Part of Madison  
& Part of Otsego****Party: Democratic****Vote For: Eight**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Bonnie Seegmiller	946 Bull Run Rd. Downsville, NY 13755
Uncontested	Nathan Jamieson	208 Old Prospect Ave Walton, NY 13856
Uncontested	Phillip D. Metzger	120 Thompson Creek Rd Norwich, NY 13815
Uncontested	Martha Moore	2570 Lyon Rd. Cazenovia, NY 13035
Uncontested	Teresa Winchester	465 Chicken Farm Road Otego, NY 13825

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**Office:** Alternate Judicial Delegate  
**District:** 6  
**District2:** 124  
**Counties:** Part of Broome, Part of Chemung & All of Tioga  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joyce Hyatt	36 Meadow Dr. Big Flats, NY 14814
Uncontested	Jerome Kane	901 W. Second St. Elmira, NY 14905
Uncontested	Mary M. Collins	608 Maple Ave. Elmira, NY 14904
Uncontested	Nykole Parks	361 Maxwell Pl. Elmira, NY 14901
Uncontested	Frank J. Bocek	75 Glann Rd. Apalachin, NY 13732
Uncontested	JoEllen L. Rose	24 Ruth St. Owego, NY 13827
Uncontested	Kathleen A. Ballester	312 Whitmarsh Hollow Rd. Candor, NY 13743
Uncontested	Clyde F. Tackley	453 East Maine Road Johnson City, NY 13790

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RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 6  
**District2:** 125  
**Counties:** Part of Cortland & All of Tompkins  
**Party:** Democratic  
**Vote For:** Twelve

Ballot Order	Candidate Name	Candidate Address
Uncontested	Linda Hoffmann	17 John St. Ithaca, NY 14850
Uncontested	Edward Swayze	309 McGraw House Ithaca, NY 14850
Uncontested	Timothy Murray	2262 Slaterville Rd. Ithaca, NY 14850
Uncontested	Renate Ferro	2262 Slaterville Rd. Ithaca, NY 14850
Uncontested	Michael Pitzrick	207 Irish Settlement Rd., Apt 1 Freeville, NY 13068
Uncontested	Stephen M. DeWitt	215 Speed Hill Road, PO Box 83 Brooktondale, NY 14817
Uncontested	Katharine Nicholson	113 Utica St. Ithaca, NY 14850
Uncontested	Cynthia Mannino	124 Tamarack Ln. Trumansburg, NY 14886
Uncontested	Claudia Wheatley	60 Hickory Cir. Ithaca, NY 14850
Uncontested	Danielle Wimbush	11 Pomeroy St. Cortland, NY 13045
Uncontested	Iva Markicevic	196 Village Ter. Cortland, NY 13045
Uncontested	Beau A. Harbin	25 West Court St. Cortland, NY 13045

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**Office:** Alternate Judicial Delegate  
**District:** 7  
**District2:** 130  
**Counties:** Part of Monroe & All of Wayne  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Ronald J. Pattison	949 Bay Rd. Webster, NY 14580
Uncontested	Scott J. Steele	1177 Hidden Valley Trl. Webster, NY 14580

**Office:** Alternate Judicial Delegate  
**District:** 7  
**District2:** 133  
**Counties:** All of Livingston, Part of Monroe, Part of Ontario & Part of Steuben  
**Party:** Conservative  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	Maryann Wise	16 Wyvil Ave. Scottsville, NY 14546
Uncontested	Sharon M. Waterman	7 Genesee St. Scottsville, NY 14546

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**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 139  
**Counties:** Part of Erie, All of Genesee & All of Orleans  
**Party:** Democratic  
**Vote For:** Five

Ballot Order	Candidate Name	Candidate Address
Uncontested	Sarah A. Rooney	14 Bloomingdale Ave. Akron, NY 14001
Uncontested	Erica B. O'Donnell	3 Pearl St. Batavia, NY 14020
Uncontested	James R. Renfrew	17065 Howard Rd. Holle, NY 14470
Uncontested	Aaron C. Blake	8488 Indian Falls Rd. Corfu, NY 14036
Uncontested	Helen A. Trowbridge Hanes	2219 Beckwith Rd Batavia, NY 14020

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**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 139  
**Counties:** Part of Erie, All of Genesee & All of Orleans  
**Party:** Conservative  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	David G. Thom	3378 Midway Road Albion, NY 14411
Uncontested	Tanya L. Lords Quinn	11953 Buckwheat Road Alden, NY 14004

**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 140  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Democratic  
**Vote For:** Eleven

Ballot Order	Candidate Name	Candidate Address
Uncontested	Timothy C. Callan	73 Kenton Rd. Kenmore, NY 14217
Uncontested	Gail A. Riley	299 Green Acres Rd. Tonawanda, NY 14150
Uncontested	Carl E. Szarek	281 Edgewood Ave. Buffalo, NY 14223
Uncontested	Katherine J. Bestine	889 Colvin Ave. Kenmore, NY 14217
Uncontested	Denis J. Umanski	95 Columbia Blvd. Kenmore, NY 14217
Uncontested	Dawn M. Kammerdeiner	17 Hillcrest Rd. Tonawanda, NY 14150
Uncontested	James P. Louis	257 Forbes Ave. Tonawanda, NY 14150
Uncontested	Tiffany A. Zier	125 Elmood Pk. W. Tonawanda, NY 14150
Uncontested	Sean M. Rautenstrauch	133 Elmwood Pk. W Tonawanda, NY 14150
Uncontested	Jeanette A. Harmon	171 Elmwood Park W Tonawanda, NY 14150
Uncontested	Brian K. Mayo	827 Woodstock Ave. Tonawanda, NY 14150

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**Office: Alternate Judicial Delegate****District: 8****District2: 140****Part of Erie & Part of Niagara****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	John J. Hall	129 Clinton St. Tonawanda, NY 14150
Uncontested	Kathleen T. Mullen	468 Delaware Road Buffalo, NY 14223

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**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 144  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	John G. Bauer	6417 Cloverleaf Cir. East Amherst, NY 14051
Uncontested	Patricia E. Daniel	28 Stone Hedge Dr. Lancaster, NY 14086
Uncontested	Diane M. Tuohey	790 Walnut St. Lockport, NY 14094
Uncontested	Janet M. Hoffman	2363 Riverview Dr. Wilson, NY 14172
Uncontested	Sara L. Beilein Capen	5448 W. Lake Rd. Burt, NY 14028
Uncontested	William C. Rutland	5798 Locust St. Ext., Apt 1 Lockport, NY 14094
Uncontested	Walter E. Moxham Jr.	129 Ontario St. Wilson, NY 14172
Uncontested	Zachary F. Parker	114 Niagara St. Lockport, NY 14094

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**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 144  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Conservative  
**Vote For:** Three

Ballot Order	Candidate Name	Candidate Address
Uncontested	Andrew J. Norris	7210 Woodhaven Drive Lockport, NY 14094
Uncontested	Kathryn J. Greene	9435 Tonawanda Creek Road Clarence Center, NY 14032
Uncontested	Kelli C. Hickey	4485 Darcy Lane Williamsville, NY 14221

**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 145  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Democratic  
**Vote For:** Nine

Ballot Order	Candidate Name	Candidate Address
Uncontested	Celia N. Spacone	2571 W. River Rd. Grand Island, NY 14072
Uncontested	Paul R. Kudela	4853 Terrace Dr. Niagara Falls, NY 14035
Uncontested	Danielle N. De Palma	4122 Lewiston Rd. Niagara Falls, NY 14305
Uncontested	Ezra P. Scott Jr.	1735 Caravelle Dr., A5 Niagara Falls, NY 14304
Uncontested	Sylvia Virtuoso	8009 Crestview Dr. Niagara Falls, NY 14304
Uncontested	David J. Trane	762 The Circle Dr. Lewiston, NY 14092
Uncontested	Shirley J. Joy	7188 Ward Rd. North Tonawanda, NY 14120
Uncontested	Colin G. Ligammari	4210 Washington St. Niagara Falls, NY 14305

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**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 145  
**Counties:** Part of Erie & Part of Niagara  
**Party:** Conservative  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	Paul A. Lamanna	104 Fairview Court Grand Island, NY 14072
Uncontested	Daniel L. Weiss	919 Maple Avenue Niagara Falls, NY 14305

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**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 147  
**Counties:** Part of Erie & Part of Wyoming  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Kara M. Kane	10720 Pratham Rd. Glenwood, NY 14069
Uncontested	Luke E. Wochensky	115 S. Grove St. East Aurora, NY 14052
Uncontested	Jonica B. DiMartino	31 Franklin Dr. Angola, NY 14006
Uncontested	Robert F. Gaylord	180 Buffalo St. Gowanda, NY 14070
Uncontested	Suzanne M. Coogan	4879 Buffalo Road Warsaw, NY 14569
Uncontested	Peter J. Robinson	28 Empire St Warsaw, NY 14569
Uncontested	Karen A. Erickson	8991 Iroquois St. Angola, NY 14006
Uncontested	Sandra Chelnov	11352 Blanchard Rd. Holland, NY 14080

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 52

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 147  
**Counties:** Part of Erie & Part of Wyoming  
**Party:** Conservative  
**Vote For:** Three

Ballot Order	Candidate Name	Candidate Address
Uncontested	William J. Reuman	2764 Eastwood Road East Aurora, NY 14052
Uncontested	Leonard J. Janiga	11121 Jamison Road East Aurora, NY 14052
Uncontested	Joseph T. Macaluso	3239 W Blood Rd. East Aurora, NY 14052

**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 147  
**Counties:** Part of Erie & Part of Wyoming  
**Party:** Working Families  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	Sarah Buckley	172 Cleveland Ave. Buffalo, NY 14222

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

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NYSCEF DOC. NO. 52

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 148  
**Counties:** All of Allegany, All of Cattaraugus & Part of Erie  
**Party:** Democratic  
**Vote For:** Five

Ballot Order	Candidate Name	Candidate Address
Uncontested	David M. Koch	124 Academy St. Salamanca, NY 14779
Uncontested	Gilbert Witte	635 Main St. Olean, NY 14760
Uncontested	Susan Labuhn	430 Broad St. Salamanca, NY 14779
Uncontested	Laura Howard	15 Cricks Place Salamanca, NY 14779
Uncontested	W. Ross Scott	1759 Hawkes Rd. Andover, NY 14806

**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 148  
**Counties:** All of Allegany, All of Cattaraugus & Part of Erie  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Alan P. Nephew	28 Aldrich Street Gowanda, NY 14070

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

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NYSCEF DOC. NO. 52

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 150  
**Counties:** All of Chautauqua & Part of Erie  
**Party:** Democratic  
**Vote For:** Seven

Ballot Order	Candidate Name	Candidate Address
Uncontested	John I. LaMancuso	4 Ridgley Ter. Jamestown, NY 14701
Uncontested	Michael K. Bobseine	82 Newton Street Fredonia, NY 14063
Uncontested	Jim T. Walton	422 Crossman St. Jamestown, NY 14701
Uncontested	Luz E. Torres	707 Deer. St Dunkirk, NY 14048
Uncontested	Elliot S. Raimondo	115 Liberty St. Jamestown, NY 14701
Uncontested	Deanna M. Borrello	26 Babcock Ave. Silver Creek, NY 14136
Uncontested	Loren Kent	413 Route 62 Conewango Valley, NY 14726

**Office:** Alternate Judicial Delegate  
**District:** 8  
**District2:** 150  
**Counties:** All of Chautauqua & Part of Erie  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Aaron M. Wilcox	3105 Cable Road Fredonia, NY 14063

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

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NYSCEF DOC. NO. 52

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 94  
**Counties:** Part of Putnam & Part of Westchester  
**Party:** Democratic  
**Vote For:** Ten

Ballot Order	Candidate Name	Candidate Address
Uncontested	Teresa Clifford	642 Heritage Hills , C Somers, NY 10589
Uncontested	Jack Mattes	642 Heritage Hills , C Somers, NY 10589
Uncontested	Thomas A. Newman, Jr.	19 Adams Farm Road Somers, NY 10589
Uncontested	James J. Martorano	39 Yorkshire Lane Yorktown Heights, NY 10598
Uncontested	Jamie Collins	2289 Brookside Avenue Yorktown Heights, NY 10598
Uncontested	Stuart L. Friedman	2917 Weatherby St. Yorktown Heights, NY 10598
Uncontested	Andrea Basli	3404 Morgan Dr. Carmel, NY 10512
Uncontested	Kei Reing	125 McLaughlin Drive Mahopac, NY 10541
Uncontested	Susan B. Melchiori	1 Queensbury Road Brewster, NY 10509
Uncontested	James R. Shearwood	156 Hortontown Road Carmel, NY 10512

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 52

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 94  
**Counties:** Part of Putnam & Part of Westchester  
**Party:** Conservative  
**Vote For:** Three

Ballot Order	Candidate Name	Candidate Address
Uncontested	Henry G. Lopez	8 Brookfalls Road Putnam Valley, NY 10579
Uncontested	Audra R. Maccariello	12 Keyrel Lane Somers, NY 10541
Uncontested	Dawn L. D'Imperio	63 Fairfield Dr. Patterson, NY 12563

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 95  
**Counties:** Part of Putnam & Part of Westchester  
**Party:** Democratic  
**Vote For:** Twelve

Ballot Order	Candidate Name	Candidate Address
Uncontested	Marcel Florestal	525 Scarborough Road Briarcliff Manor, NY 10510
Uncontested	Hasani L. Lilley	28 State Street Ossining, NY 10562
Uncontested	Ryan P. LoFaro	11 Terrace Avenue Ossining, NY 10562
Uncontested	Marta L. Brooks	154 Overlook Avenue, 2Q Peekskill, NY 10566
Uncontested	Marina Ciotti-Hodges	13 Spring Meadow Ln. Peekskill, NY 10566
Uncontested	Dean McBeth	3 Ellen Court Croton-on-Hudson, NY 10520
Uncontested	Michael Eisenkraft	30 Finney Farm Croton on Hudson, NY 10520
Uncontested	Richard Masur	1329 Albany Post Rd. Croton on Hudson, NY 10520
Uncontested	Brian M. Higbie	202 Barnes Street Ossining, NY 10562
Uncontested	Linda Tafapolsky	36 Manitou Woods Garrison, NY 10524
Uncontested	Mary G. Kennedy	832 Route 9D Garrison, NY 10524
Uncontested	Julia Famularo	59 Esselborne Road Cold Spring, NY 10516

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 52

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 95  
**Counties:** Part of Putnam & Part of Westchester  
**Party:** Conservative  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	Nicholas J. Caputo	80 Ferris Place Ossining, NY 10562
Uncontested	Michael T. Mimnaugh	27 First Avenue Ossining, NY 10562

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

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NYSCEF DOC. NO. 52

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 98  
**Counties:** Part of Orange & Part of Rockland  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Jerome Vandemark	680 Prospect Hill Rd. Huguenot, NY 12746
Uncontested	David Lawrence	8 Canal Drive Godeffroy, NY 12729
Uncontested	Lauren Vitkorsky	5 Woodside Dr. Warwick, NY 10990
Uncontested	Jennifer Echevarria	30 The Rise Warwick, NY 10990
Uncontested	Patrick J. Withers	11 Foxwood Ave. Suffern, NY 10901
Uncontested	Seth Goldman	8 Canal Drive Godeffroy, NY 12729
Uncontested	Gregory Galluccio	108 Distillery Rd. Warwick, NY 10990
Uncontested	Manolin Tirado	76 Murray Rd. Greenwood Lake, NY 10925

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 52

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 98  
**Counties:** Part of Orange & Part of Rockland  
**Party:** Conservative  
**Vote For:** Three

Ballot Order	Candidate Name	Candidate Address
Uncontested	Steven Nunziato	248 St. Rte. 94 S. Warwick, NY 10990
Uncontested	John Durkin, Jr.	8 Ballard Ave. Sloatsburgh, NY 10974
Uncontested	Robert D. Stritmater	11 Libert Rock Rd. Sloatsburgh, NY 10974

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

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NYSCEF DOC. NO. 52

RECEIVED NYSCEF: 05/22/2022

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 99  
**Counties:** Part of Orange & Part of Rockland  
**Party:** Democratic  
**Vote For:** Seven

Ballot Order	Candidate Name	Candidate Address
Uncontested	Bette Anne Yarus	744 Blooming Grove Tpke. New Windsor, NY 12553
Uncontested	Virginia Scott	36 Willow Ave Cornwall, NY 12518
Uncontested	Miriam Weiss	4 Kerestier Ct., Unit 406 Monroe, NY 10950
Uncontested	Anita Moyano Cintron	22 Ridgetop Dr. Tompkins Cove, NY 10986
Uncontested	Kelly Allegra	2819 Cherry Tree Way New Windsor, NY 12553
Uncontested	Joseph Cocchiara	31 Ona Lane New Windsor, NY 12553
Uncontested	Daniel Burke	11 Rye Hill Rd Monroe, NY 10950

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 99  
**Counties:** Part of Orange & Part of Rockland  
**Party:** Conservative  
**Vote For:** Two

Ballot Order	Candidate Name	Candidate Address
Uncontested	Ruth Martin	711 State Rt. 32 Highland Mills, NY 10930
Uncontested	Thomas Dunn	65 Cinder Rd. Stony Point, NY 10980

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 104  
**Counties:** Part of Dutchess & Part of Orange  
**Party:** Democratic  
**Vote For:** Eight

Ballot Order	Candidate Name	Candidate Address
Uncontested	Ernesto Tirado	89 Lakeside Road Newburgh, NY 12550
Uncontested	Pamela Wetherbee	66 Mead Ave. Beacon, NY 12508
Uncontested	Evan Menist	12 Eastman Terrace Poughkeepsie, NY 12601
Uncontested	Anissa A. Williams	279 Fullerton Avenue Newburgh, NY 12550
Uncontested	Amber Grant	18 Robinson St. Beacon, NY 12508
Uncontested	Deborah Danzy	375 Lake Dr. Newburgh, NY 12550
Uncontested	Charline K. Boyle	400 Grand St. Newburgh, NY 12550
Uncontested	Barrington Atkins	87 Garden Street Poughkeepsie, NY 12601

**Office:** Alternate Judicial Delegate  
**District:** 9  
**District2:** 104  
**Counties:** Part of Dutchess, Part of Orange & Part of Ulster  
**Party:** Conservative  
**Vote For:** One

Ballot Order	Candidate Name	Candidate Address
Uncontested	Karyn T. Hudgens-Gorman	248 Carter Ave. Newburgh, NY 12550

**Office:** Alternate Judicial Delegate  
**District:** 10  
**District2:** 9  
**Counties:** Part of Nassau & Part of Suffolk  
**Party:** Democratic  
**Vote For:** Nine

Ballot Order	Candidate Name	Candidate Address
Uncontested	David A.S. Bishop	4441 Oak Beach Assn. Oak Beach, NY 11702
Uncontested	Carolyn S. Bivona	58 Veronica Ln. N Babylon, NY 11703
Uncontested	Brendan J. Cunningham	388 Old Farmingdale Rd W Babylon, NY 11704
Uncontested	Nancy R. Delaney	278 15th St. W Babylon, NY 11704
Uncontested	Peter J. DeNigris	124 Paumanake Avenue Babylon, NY 11702
Uncontested	Michael Murray	23 Flanders Pl. W Babylon, NY 11704
Uncontested	Deborah A. Payton-Jones	176 Park Ave. Babylon, NY 11702
Uncontested	Jeffrey W. Szabo	42 Little East Neck Rd S. Babylon, NY 11702
Uncontested	Jason E. Zove	41 Fordham Rd. W Babylon, NY 11704

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 52

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RECEIVED NYSCEF: 05/22/2022

**Office: Alternate Judicial Delegate****District: 10****District2: 9****Counties: Part of Nassau & Part of Suffolk****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joseph Hess	333 Broadway Massapequa Park, NY 11762
Uncontested	Martin W. Blessinger	111 Whitewood Dr. Massapequa Park, NY 11762

**Office:** Alternate Judicial Delegate  
**District:** 10  
**District2:** 10  
**Counties:** Part of Nassau & Part of Suffolk  
**Party:** Democratic  
**Vote For:** Twelve

Ballot Order	Candidate Name	Candidate Address
Uncontested	Marietta J. Costa	5 Winter Ln. Dix Hills, NY 11746
Uncontested	Robin C. Davidson	71 Buttonwood Dr. Dix Hills, NY 11746
Uncontested	Daniele D. DeVoe-Pagliarello	331 Concord Court Dix Hills, NY 11746
Uncontested	Jolaine T. Farris	6 Parkwood Ln. Dix Hills, NY 11746
Uncontested	Deborah T. Harris	15 Bayard Drive Dix Hills, NY 11746
Uncontested	Daniel R. Harris	15 Bayard Dr. Dix Hills, NY 11746
Uncontested	Ronald A. Kaufman	6 Regina Ave. Dix Hills, NY 11746
Uncontested	Gary A. Pagliarello	331 Concord Ct. Dix Hills, NY 11746
Uncontested	Neida Perez	40 North Lane Huntington, NY 11743
Uncontested	Maryjo A. Ruckel	7 Vidoni Pl. Huntington, NY 11743
Uncontested	Thomas A. Ruckel	7 Vidoni Pl. Huntington, NY 11743
Uncontested	Karen Schackner	9 Brycewood Dr. Dix Hills, NY 11746

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 52

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RECEIVED NYSCEF: 05/22/2022

**Office: Alternate Judicial Delegate****District: 10****District2: 10****Counties: Part of Nassau & Part of Suffolk****Party: Conservative****Vote For: Two**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Brendan F. Black	92 Grandview St. Huntington, NY 11743
Uncontested	Patrick A. Tinari	63 Oakland St. Huntington, NY 11743

**Office:** Alternate Judicial Delegate  
**District:** 10  
**District2:** 11  
**Counties:** Part of Nassau & Part of Suffolk  
**Party:** Democratic  
**Vote For:** Eleven

Ballot Order	Candidate Name	Candidate Address
Uncontested	Mark R. Garabrant	33 Cedar St. Amityville, NY 11701
Uncontested	Angela I. Handy	408 Wellington Park Villas Dr., P.O. Box 196 Amityville, NY 11701
Uncontested	Denise M. Kretz	92 Cedar St. Amityville, NY 11701
Uncontested	Stephen W. Kretz	92 Cedar St. Amityville, NY 11701
Uncontested	Lasheca Lewis	296 Parkway Blvd. Wyandanch, NY 11798
Uncontested	Katherine Lynch	720 S. Walnut St. Lindenhurst, NY 11757
Uncontested	Paulette M. LaBorne	182 Oldfield Ave. Amityville, NY 11701
Uncontested	Jackson L. Moses	182 Oldfield Ave. Amityville, NY 11701
Uncontested	Dorinda A. Webb	63 Court St. W. Babylon, NY 11704
Uncontested	Lamont C. Wilson, Jr.	428 Skidmore Rd. Deer Park, NY 11729
Uncontested	Eddie S. Wynn	10 Sunshine Ln. Amityville, NY 11701

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 52

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RECEIVED NYSCEF: 05/22/2022

**Office: Alternate Judicial Delegate****District: 10****District2: 11****Counties: Part of Nassau & Part of Suffolk****Party: Conservative****Vote For: One**

Ballot Order	Candidate Name	Candidate Address
Uncontested	Joseph R. Cardinale	233 E. Alhambra Ave. Lindenhurst, NY 11757

**Party Colors, Emblems and Ballot Order**

Party Name (Party Abbreviation)	Party Color	Party Emblem
Democratic (DEM)	Green	
Republican (REP)	Cherry	
Conservative (CON)	Granite	
Working Families (WOR)	Tan	

**Exhibit V to Salcedo Affirmation-  
Petitioners' Verified Petition, in Nichols v. Boecher, et  
al., dated May 2, 2022, with Proposed Order, dated May 11, 2022  
[pp. 724 - 731]**

**FILED: NEW YORK COUNTY CLERK 05064220202041090PMPM**

INDEXED 015903422022

NYSCEF DOC. NO. 53

RECEIVED NYSCEF: 05/04/2022

SUPREME COURT OF THE STATE OF NEW YORK  
ALBANY COUNTY

-----X

PAUL NICHOLS, DAVID ENGLERT

Petitioners

-against-

LYNNE C. BOECHER, JOSEPH COE, TODD  
M. KERNER, AND MATTHEW MALIN

Respondent(s)-Objectors(s)

-and-

NEW YORK STATE BOARD OF  
ELECTIONS

Respondent

VERIFIED PETITION

Index No.:

Date Purchased

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Petitioners, representing himself respectfully alleges:

1. At all times hereinafter mentioned, Petitioners-Candidate Paul Nichols and David Englert ("Petitioners") is a candidate within the meaning of Section 16-102 of the Election Law, having duly filed a Designating Petition with Respondent New York State Board of Elections ("Board of Elections") naming Petitioners and David Englert as a candidates of the Democratic Party for the public office of Governor of the State of New York and Lieutenant Governor of the State of New York for the Primary Election to be held on the day of June 28, 2022, ("Designating Petition").
2. Respondent Board of Elections is charged with the responsibility of the supervision of the conduct of official elections held in the State of New York, including the duties of receiving and filing designating petitions for public office and party position in political subdivisions located

entirely within the State of New York, the review and determination of Objections and Specifications of Objections to such designating petitions, notification of a determination of non-compliance, maintaining the permanent personal voter registration poll records of voters and official maps for all election districts located within the State of New York, and the preparation of official Primary Election ballots for use in the State of New York.

3. Upon information and belief, on or about April 11, 2022, the Designating Petition was filed with Respondent Board of Elections naming Petitioners and David Englert as candidates of the Democratic Party for the public office of Governor and Lieutenant Governor of the State of New York in the Primary Election to be held on the day of June 28, 2022.

4. Petitioners and David Englert are, in all respects, duly qualified for the said designations.

5. The Designating Petition was and still is in due and proper form as prescribed by law, and contains more than the minimum number of signatures of duly enrolled voters of the Democratic Party in the State of New York for which said designation was made, and the Designating Petition is otherwise valid, proper, sufficient and legally effective.

6. Upon information and belief, after the filing of the Designating Petition, written Objections to the Designating Petition were filed with Respondent Board of Elections by the following persons referred to herein as the Respondent-Objectors, each of whose purported residence was indicated on said written Objections, and Petitioners is therefore aggrieved:

NAME OF OBJECTORS	ADDRESS OF OBJECTORS SET FORTH ON OBJECTIONS
LYNNE C. BOECHER	9 OAKWOOD DRIVE QUEENSBURY, NY 12804
JOSEPH COE	4 VILLAGE MILL HAVERSTRAW, NY 10927
TODD M. KERNER	49 SPRUCE STREET CLIFTON PARK, NY 12065

MATTHEW MALIN

3640 WOODBRIDGE LANE N.  
WANTAGH, NY 11793

7. Upon information and belief, Specifications of Objections in support of the aforesaid written Objections to the Designating Petition were filed with the Respondent Board of Elections.

8. (a) Upon information and belief, the aforesaid Objections and Specifications of Objections are insufficient, deficient as a matter of law and do not comply with the Rules of Respondent Board of Elections, and many of the allegations contained therein are without merit in law or in fact;

9. Upon information and belief, Respondent Board of Elections has made a determination with regard to the aforesaid Objections and Specifications of Objections.

10. Upon information and belief, the aforesaid Specifications of Objections came on for a preliminary hearing before Respondent Board of Elections on April 28, 2022, and sustained on a public hearing May 2, 2022 and many of the allegations in the Specifications of Objections will, of necessity, have to come before this Court for determination.

11. Petitioners believe that Respondent Board of Elections made an erroneous determination of the several questions of law and fact raised by the aforesaid Objections and Specifications of Objections, which determinations would, according to law and the principles of equity, be subject to review by this Court and, that Respondent Board of Elections determinations sustaining the aforesaid Objections and Specifications of Objections, Petitioners were aggrieved by such a determination.

12. Petitioners respectfully request this Order to Show Cause be granted so that proceeding may be commenced in a timely fashion due to Respondent Board of Elections' determination adverse to Petitioners, and so that Petitioners may resuscitate signatures that were erroneously sustained by the Board of Elections.

1 13. Some of the matters raised in the said preliminary hearing on April 28, 2022 and

2 Specifications of Objections are exclusively within the jurisdiction of this Court and should be  
3 heard and determined by this Court.

4 14. Respondent Board of Elections has rendered a determination adverse to Petitioners, and said  
5 determination is arbitrary, capricious, and in violation of the provisions of the Election Law so as  
6 to be reviewable pursuant to Election Law Section 16-102.

7 15. Petitioners intend to prove to this Court that the decision rendered by Respondent Board of  
8 Elections in favor of the Respondent-Objector(s) on particular Specifications of Objections filed  
9 with Respondent Board of Elections are erroneous and the Respondent Board of Elections lacked  
10 jurisdiction to review the Specifications of Objections.  
11

12 16. In accordance with prior decisions of this and other Courts, whose decisions are controlling,  
13 Petitioners retains the right to submit proof establishing the Respondent Board was without  
14 jurisdiction to consider the Specifications of Objections filed with Respondent Board, and to  
15 establish the validity of individual signatures and sheets on the Designating Petition, and of the  
16 Designating Petition itself, for reasons not heretofore specified, and Petitioners intends to  
17 exercise such right.  
18

19 17. Petitioners request leave and reserve the right to submit upon the argument and hearing of  
20 this application, evidence by way of affidavits, testimony, and documentary proof to substantiate  
21 and support this application.  
22

23 18. Petitioners request that Respondent Board of Elections produce upon request by the trial  
24 judge upon the argument and hearing of this application the aforesaid Designating Petition, with  
25 cover sheet and any amended cover sheet(s), identification number application form and any  
26 other documents designating and/or nominating Petitioners-Candidates Paul Nichols and David  
27  
28

Englert; together with the Objections and Specifications of Objections relating to the aforesaid Designating Petition; any written notification of a determination of non-compliance together with proof of service upon Petitioners and/or contact person designated therein; any writing purporting to cure or correct said determination of non-compliance; the permanent personal voter registration poll records of voters, computer generated registration lists for the last four (4) years and official maps for the State of New York; the report of the Clerk(s) of Respondent Board of Elections made on such Objections and Specifications of Objections; the minutes and proceedings of any meeting of Respondent Board of Elections made for the purpose of ruling upon Objections and/or Specifications of Objections filed by any person herein to the aforesaid Designating Petition of Petitioners-Candidates; such other records of Respondent Board of Elections as may relate to this matter for examination by this Court; and the records provided for in the annexed Order to Show Cause.

19. Petitioners has no adequate remedy at law.

20. No previous application has been made for the relief sought herein or for the Order to Show Cause hereto annexed, or for any similar relief.

WHEREFORE, Petitioners respectfully prays that the annexed Order to Show Cause be granted, for a final Order and Judgment granting the relief prayed for in the Order to Show Cause, and for such other and further relief as this Court deems just and proper.

Dated: Albany, New York  
May 2, 2022

Pro Se Litigant/Attorney for Petitioner *Englert*

By: 

Paul Nichols  
111-08 133<sup>rd</sup> St. So. Ozone Pk. NY  
516-903-8790

FILED: NEWARK COUNTY CLERK 050642202020410907PM

INDEXED NO 15403422022

NYSCEF DOC. NO. 53

RECEIVED NYSCEF: 05/02/2022

VERIFICATION

STATE OF NEW YORK )

) ss:

COUNTY OF Albany )

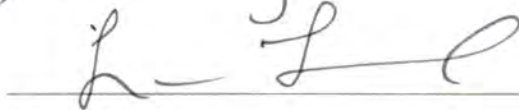
Paul Nichols

\_\_\_\_\_, being duly sworn, says as follows:  
 I am the Petitioner and also represent Petitioner David Englert in the within proceeding, have read the foregoing Petition and know the content thereof; the same is true to my own knowledge, except as to matters stated to be alleged upon information and belief, and as to those matters, I believe it to be true.



Sworn to before me this

4<sup>th</sup> day of May, 2022.

Notary Public

LATOYA LATISHA LEGRAND  
 Notary Public, State of New York  
 Reg. No. 01LE63643099  
 Qualified in Queens County  
 Commission Expires September 11, 2025

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

---

PAUL NICHOLS, DAVID ENGLERT,

Petitioners,

**PROPOSED ORDER**

-against-

Index No. 903427-22

LYNNE C. BOECHER, JOSEPH COE,  
TODD KERNER, AND MATTHEW MALIN

Respondent-Objectors,

-and-

NEW YORK STATE BOARD OF ELECTIONS,

Respondent.

---

**Richard J. McNally, Jr.**

PRESENT: \_\_\_\_\_,  
Supreme Court Justice

**NOW**, therefore, upon consideration of all papers and proceedings heretofore had herein, including oral argument held on the record May 10, 2022 in this proceeding commenced pursuant to Election Law § 16-102 (2) to validate the designating petition filed by petitioners, and after due deliberations it is

**ORDERED** that the respondent-objector Todd Kerner's motion to dismiss the instant validating petition is granted as service was made by mail only on the last day of the limitations period pursuant to Election Law § 16-102 (2), which is jurisdictionally defective;

**ORDERED** that the respondent State Board of Elections' motion to dismiss the instant validating petition is granted as service was not made on the New York State Board of Elections by delivery of the Order to Show Cause dated May 5, 2022 to the offices of the New York State Board of Elections at 40 North Pearl Street, Albany, New York as required by said Order to Show Cause;

**ORDERED** that the petitioners' motion to validate their designating petitions is accordingly denied, and it is further

**ORDERED** that the instant validating petition is denied and dismissed by reason of the foregoing.

This constituted the decision, judgment and final order of the court.

**FILED: NEW YORK COUNTY CLERK 050522202221360PM**

INDEXED MONO1501322022

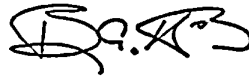
NYSCEF DOC. NO. 26

RECEIVED NYSCEF: 05/22/2022

ENTER

Dated: May 11, 2022

Hon. \_\_\_\_\_, J.S.C.

**Richard J. McNally, Jr.**

05/12/2022

**Exhibit W to Salcedo Affirmation-  
Affidavit of Todd D. Valentine, in Harkenrider I., sworn  
to May 9, 2022  
[pp. 732 - 741]**

**FILED: NEWBENKCOONNYCCERRK08309220022011107PEM**

INDEXNO.E20221012002

NYSCEF DOC. NO. 440

RECEIVED NYSCEF: 05/09/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF STEUBEN

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 VOLANTE,

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.

**AFFIDAVIT OF  
TODD D. VALENTINE**

Index No.  
E2022-0116CV

Hon. Patrick F. McAllister

STATE OF NEW YORK     )  
                                  ) SS:  
COUNTY OF ALBANY     )

TODD D. VALENTINE, being duly sworn, deposes and says:

1. I serve as Co-Executive Director for the New York State Board of  
Elections ("Board"). I have held this position since 2008. From 1997 to 2008 I was Special  
Counsel to the Board. Accordingly, I am familiar with county board of elections practices and  
capabilities. I make this affidavit based on my personal knowledge.

2. I respectfully submit this affidavit in opposition to Gavin Wax's and Gary Greenberg's motions to intervene. The positions expressed in this affidavit represent a consensus opinion of the New York State Board of Elections.

### **Background**

3. On February 3, 2022, the Legislature enacted two laws that, collectively, established New York's legislative-district maps for Congress, the State Senate, and the State Assembly.

4. On April 27, 2022, the Court of Appeals invalidated the congressional and State Senate maps. It left the Assembly map in place as it not challenged by anyone in any court as of that date.

5. Two days later, this Court ordered that (1) Special Master Dr. Jonathan Cervas will release his proposed remedial congressional and State Senate maps by May 16, 2022; (2) after considering any comments submitted in opposition to his proposed maps, Special Master Cervas will finalize the maps by May 24, 2022; (3) congressional and State Senate primary elections, which had been scheduled by law for June 28, 2022, will occur on August 23, 2022; and (4) the deadline for local boards of elections to mail military and overseas ballots for the August 23 primaries is July 8, 2022 (Doc. Nos. 296, 301).

6. Initially, this Court had set a deadline of May 24, 2022 to finalize the congressional map (Doc. No. 258). The Board then asked this Court to "consider expediting the approval process . . . in any manner possible" (Doc. No. 290). Later that day, this Court moved the deadline from May 24 to May 20 (Doc. No. 291).

7. Non-parties Gavin Wax and Gary Greenberg moved to intervene in this lawsuit on May 1 and 3, respectively (Doc. Nos. 316, 346). They ask this Court to strike down the Assembly map, which Petitioners did not challenge, and to enjoin use of that map for the 2022 primary and general elections. If this Court grants their request, the Assembly primaries would likely be moved from June 28 to August 23.

8. The motions should be denied. The Board, and local boards of elections, are already under unprecedented strain preparing for the August congressional and State Senate primaries ordered by this Court. They have been aware of this change for some time now and have been preparing for those offices to be contested at an August primary. Moving a third election—i.e., the Assembly primary—would place additional, potentially unbearable burdens on the State's election system. In particular because the June 28 primary has already been certified by state and local boards of elections, ballots have been or are being prepared across the state based on that certification and ballots are to be sent for the June primary, including those primaries being held within the 150 Assembly Districts across the state before Friday, May 13, 2022 as that is the deadline under state law to send military and overseas ballots for the June 28 election as provided for by Election Law 10-108.

#### **Danger to the June Primaries**

9. Replacing the Assembly map at this even later date would endanger all other elections scheduled for June 28 primaries.

10. On May 4, 2022, the Board certified Assembly candidates for the June 28 primaries. In response, local boards of elections finalized their primary ballots. The primary ballot for each party is a unified ballot that would include candidates for any Assembly primary,

Governor, Lieutenant Governor, and other elected offices (except for Congress and State Senate, which this Court moved to August 23).

11. The statutory deadline to mail these primary ballots to military and overseas voters is Friday, May 13, 2022. Elec. Law §§ 10-108(1), 11-204(4). To prepare for mailing, local boards of elections are printing ballots now. Local boards are also programming their voting systems and extensively testing those ballots for compatibility with vote-counting machinery.

12. If the Assembly primaries are moved from June to August, then these ballots would have to be thrown away. New primary ballots (without Assembly candidates) would need to be created, printed, tested, addressed, and mailed by the May 13 deadline. That would almost certainly be impossible, and I do not make that averment lightly. Further, boards of elections have reported unprecedented supply-chain issues resulting in paper and envelope shortages, so the printing of replacement ballots would prove challenging.

#### **Judicial-Nominating Conventions and Party Committees**

13. Far more so than congressional and State Senate districts, Assembly districts affect several other aspects of New York's election infrastructure. Accordingly, replacing the Assembly map would create even more burdens than replacing the congressional and State Senate maps.

14. For example, Supreme Court elections depend on Assembly districts.

15. Parties' candidates for the Supreme Court are not chosen through primary elections. Instead, delegates choose them at party conventions. Those judicial delegates, in turn,

are elected by voters in the primaries—and much like candidates for other offices, they must collect designating-petition signatures to appear on primary ballots.

16. The judicial delegates who win the primaries attend a nominating convention of their party, which by law must occur between August 4 and 10, 2022. Elec. Law § 6-158(5). At the conventions, delegates decide who will appear for their party on the general-election ballot as candidates for the Supreme Court.

17. Critically, judicial delegates are elected from Assembly districts. Elec. Law § 6-124. So, if the Assembly map is replaced, judicial-delegate elections (like Assembly primaries) would have to be moved to August 23, and judicial-nominating conventions could not occur between August 4 and 10 as presently required by law. Instead, judicial-nominating conventions probably could not be held until September, after the results of judicial-delegate elections are certified. This would imperil the ability of New York's election machinery to complete the party nominating processes in time to meet the critical and unalterable requirement to transmit military and overseas ballots prior to 46 days before the general election on November 8, 2022.

18. Specifically, general-election ballots must be mailed to military and overseas voters by September 23, 2022. Elec. Law §§ 10-108(1), 11-204(4). If Supreme Court candidates are chosen at conventions in September, it would be extremely difficult to finalize, print, program voting machines, test, address, and mail general-election ballots (which include Supreme Court candidates) by the September 23 deadline.

19. Additionally, members of the Democratic Party's state committee, are elected from Assembly districts this year. Elec. Law §§ 2-102(1), 2-104(1). Therefore, if the Assembly map is replaced, elections for these positions cannot occur on June 28 as scheduled.

These elections would also have to be moved to August 23, creating an additional burden in the already-challenging process of preparing for the unexpected August primaries. Similarly, current law permits that a member of a county committee need not reside in the election district he or she represents, but rather the member of county committee may represent any election district in the Assembly District in which the member of county committee resides. If the Assembly districts are changed at this late date it would likely be necessary to redo petitioning for members of county committees as well given this residency requirement.

### **Election Districts**

20. Finally, if the Assembly map is replaced as Mr. Wax and Mr. Greenberg propose, many more election districts will also have to change.

21. Election districts are the foundational unit of New York's political geography. Local boards of elections must sort New York's approximately 13 million active voters into 15,587 election districts before a primary or general election can occur. This sorting is necessary because voters' election districts determine what ballot they receive and where they vote.

22. Every voter in a given election district receives the same ballot, with the same candidates for the same races. As a result, election districts cannot be bisected by Assembly districts, State Senate districts, congressional districts, county boundaries, or municipal boundaries. Stated differently, everyone in a given election district must reside in the same Assembly district, State Senate district, congressional district, county, and municipality. If any of those boundaries change, election districts must change.

23. This year, after the redistricting that occurred on February 3, local boards of elections spent virtually all their time for about one month, working with their voter registration vendors, to sort voters into their correct election districts.

24. If the Assembly map is replaced, election districts will have to be re-drawn, and voters will have to be re-sorted. This process could take weeks, given that boards of elections would have to simultaneously complete the other steps necessary to prepare for primaries in June and August.

#### **Statewide Primaries on June 28**

26. Presently, all statewide primaries are proceeding at the June 28, 2022 primary. This should not be disturbed, as this Court's prior order on April 29, 2022 articulated. All necessary steps for ballot access for statewide primaries have been completed, and nothing in the current litigation touches on the validity of those processes. Significantly, under state law the deadline to challenge primary designations passed on April 21, 2022 as provided by Election Law 16-102. And the courts have uniformly held that this deadline applies even to challenges of a Constitutional dimension. *See Scaringe v Ackerman*, 119 AD 2d 327 (3<sup>rd</sup> Dept 1986) (holding petitioners' claims that candidate was barred by the constitutional residency requirement from seeking office was subject to limitations period of the Election Law: "[i]rrespective of the label given to the proceeding or the words used to describe the issue, the late relief sought by petitioners seeks judicial intervention in the election process to remove a candidate from the ballot...they cannot avoid the time requirement of the statute by initiating a new and different proceeding...". Accordingly, it is simply too late for new claims related to the invalidity of the Assembly and statewide elections to be entertained.

**Conclusion**

27. Replacing the Assembly map and moving the statewide primaries would create logistical hurdles for the Board and for local boards of elections for which we have no reasonably actionable solutions. For this reason, the motions to intervene should be denied.

Dated: Albany, New York  
May 9, 2022

  
TODD D. VALENTINE

Sworn to before me this  
9 day of May, 2022

  
Notary Public

BRIAN L. QUAIL  
Notary Public, State of New York  
Reg. No. 02QU6395806  
Qualified in Schenectady County  
Commission Expires 08/05/2023

STATE OF NEW YORK  
SUPREME COURT : 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 VOLANTE,

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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**AFFIDAVIT OF  
KRISTEN ZEBROWSKI  
STAVISKY**

Index No.  
E2022-0116CV

Hon. Patrick F. McAllister

STATE OF NEW YORK     )  
                                      ) SS:  
COUNTY OF ALBANY     )

KRISTEN ZEBROWSKI STAVISKY, being duly sworn, deposes and says:

1. I serve as Co-Executive Director for the New York State Board of Elections ("Board"). I have held this position since 2021. I previously served as Commissioner of Elections at the Rockland County Board of Elections. I am familiar with the practices and capabilities of boards of elections and make this affidavit based on my personal knowledge.

2. I respectfully submit this affidavit in opposition to Gavin Wax's and Gary Greenberg's motions to intervene.

3. I have read the affidavit of Todd D. Valentine in this matter dated May 9, 2022, and I agree with its contents. The positions expressed in that affidavit represent a bipartisan consensus opinion of the New York State Board of Elections.

**Conclusion**

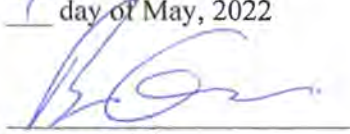
4. Replacing the Assembly map and moving the Assembly and statewide primaries to August would create logistical hurdles for the Board and for local boards of elections for which we have no reasonably actionable solutions. For this reason, the motions to intervene should be denied.

Dated: Albany, New York  
May 9, 2022



KRISTEN ZEBROWSKI STAVISKY

Sworn to before me this  
day of May, 2022



Notary Public

BRIAN L. QUAIL  
Notary Public, State of New York  
Reg. No. 02QU6395806  
Qualified in Schenectady County  
Commission Expires 08/05/2023

**Exhibit X to Salcedo Affirmation-  
Rules of the Democratic Party of the State of New York  
[pp. 742 - 768]**

**FILED: NEWBENKCOONNYCCERRK06302220022011007PM**

INDEXNO.E26221012022

NYSCEF DOC. NO. 465

RECEIVED NYSCEF: 05/02/2022

**RULES OF THE  
DEMOCRATIC PARTY OF THE STATE OF NEW YORK**

The Democratic State Committee of the State of New York hereby adopts the following rules for the government of the Democratic Party of the State of New York:

**Preamble**

The purpose of these rules is to inspire and encourage the greatest number of Democrats to participate in the affairs of the Democratic Party of the State of New York, to insure the continuing success of the Democratic Party, and to provide the best possible responsible government for the people of the State of New York.

## ARTICLE I

## GENERAL

## PROVISIONS

**Section 1: Party Membership**

(a) The membership of the Democratic party of the State of New York shall consist of the duly enrolled Democrats within the State.

(b) No test for membership in, nor any oath of loyalty to, the Democratic Party of New York shall be required or used that has the effect of requiring prospective or current members of the Democratic Party to acquiesce in, condone, or support discrimination on the grounds of race, sex, age, color, creed, national origin, religion, ethnic identity, sexual orientation, disability, or economic status.

**Section 2: Public Notice and Meetings**

(a) All public meetings at all levels of the Democratic Party of New York are open to all members of the Democratic Party of New York regardless of race, sex, age, color, creed, national origin, religion, ethnic identity, sexual orientation, disability, economic status or philosophical persuasion.

(b) The time and place for all public meetings of the Democratic Party of New York on all levels shall be publicized fully and in such manner as to assure timely notice to all interested persons. Such meetings shall be held in places accessible to all Party members and large enough to accommodate all interested persons.

(c) The Democratic Party on all levels, shall support the broadest possible registration without discrimination on grounds of race, sex, age, color, creed, national origin, religion, ethnic identity, sexual orientation, disability or economic status.

(d) The Democratic Party of New York shall publicize fully and in such manner as to assure notice to all interested parties a full description of the legal and practical procedure for selection of the Party's officers and representatives on all levels. Publication of these procedures shall be made in such fashion that all prospective and current members of the Party in the State of New York will be fully and adequately informed of the pertinent procedures in time to participate in each selection procedure at all levels of the Party's organization.

(e) The responsible officers of the Democratic Party of New York shall publicize fully and in such manner as to assure notice to all interested parties a complete description of the legal and practical qualifications for all officers and representatives of the Democratic Party of the State of New York. Such publication shall be effected in timely fashion so that all prospective candidates or applicants for any elected or appointed position within the Party will have full and adequate opportunity to compete for office.

(f) Any place in these Bylaws where written notice of a meeting is required, providing notice via electronic means is sufficient to satisfy the notice requirement. If anyone would prefer to receive such notice via the U.S. mail, they may contact the state party offices to request it, and such notice will be provided as a courtesy.

## ARTICLE II

### PARTY ORGANIZATION

#### Section 1: State Committee

(a) The State Committee shall be the official organization of the Democratic Party of the State of New York, and shall possess such powers and perform such duties as may be fixed by statute or prescribed by these rules.

(b) The Unit of representation of the State Committee shall be the Assembly District, from which the members of the State Committee shall be elected. Except upon the vote for the designation of candidates for any office to be filled by the voters of the entire state, each Assembly District shall be entitled to two votes.

(c) Members of the State Committee shall be elected as follows:

- i. In each Assembly District which comprises a whole county or is entirely within a county, there shall be elected two members of the State Committee, each of whom shall have one vote.
- ii. In each Assembly District which comprises two or more whole counties, two members shall be elected from each whole county, and each member so elected to cast a proportionate part of the two votes to which the Assembly District is entitled.
- iii. In each Assembly District which comprises one or more whole counties and one or more parts of counties, each whole county shall be entitled to elect two members and each part of the county shall be entitled to elect two members and the members so elected shall be entitled to cast a proportionated share of the vote to which the Assembly District is entitled.
  - a. In all cases in which provision is made in this Section for the election of two members, one shall be a male and the other a female.
  - b. The vote of each member elected under the foregoing provisions of this Section 1 shall be that portion of the two votes to which the Assembly District is entitled which is represented by a fraction, to the nearest tenth, of which the

numerator is the total vote cast for the Democratic candidate for Governor at the last election for that office in that portion of the Assembly District from which the member was elected and the denominator of which shall be the total vote cast at such election for the office of Governor in the entire Assembly District. If a portion of an Assembly District from which the member was elected is represented by two members, then each member shall be entitled to cast one-half of the vote to which such portion of the Assembly District is entitled.

(d) All votes carried out in State Committee Meetings except for those prescribed in Article II Section 4, 5, and 6 in Article VI of the Party Rules will adhere to the following rules and procedures.

- i. At the registration for the meeting, each State Committee member will receive a colored voting credential and each State Committee member holding a proxy from an AD will receive a colored proxy credential for each proxy he or she holds. The proxy credential will have a different color than the voting credential.
- ii. The voting process will commence with the presiding officer asking for yeas and nays. The presiding officer will announce the outcome, but before proceeding to the next agenda item, will allow sufficient time for a member of the body to request a division. If a division is requested, the name of the person(s) requesting it will be recorded in the minutes and the presiding office will immediately carry out the division. No motion will be in order until the division is completed.
- iii. The presiding officer will call for a show of yeas and nays of members present by displaying their voting credential and then call for a show of ayes and nays by displaying their proxy credentials. Two State Committee officers will enumerate the yeas and nays of members present and by proxy separately and report them to the Secretary, who will immediately report the results to the body. The numbers for the yeas and nays of members present and by proxy separately will be reported in the minutes.

## Section 2: County Committee

The County Committees in each county shall be constituted by the election in each Election District within such county of at least two members and such additional members not in excess of two (2) as the rules of the County Committee within the county or the statements filed pursuant to section 2-104 of the Election Law may provide for such district, proportional to the party vote in the district for Governor at the past preceding gubernatorial election, pursuant to statute.

**Section 3: Other Party Committees**

(a) District or party committees in and for each of the other political subdivisions of the State other than towns, villages and school districts shall be comprised as follows:

- i. If a political subdivision is coterminous with or less than the limits of, but wholly within, one county, then the members of the County Committee from such political subdivision shall constitute the committee in and for such political subdivision.
- ii. If a political subdivision consists of more than one county, then the district or party committee for such subdivision shall be composed of the Chair of the County Committees of the various counties, or parts of counties, situated within the political subdivisions.

(b) For purposes of the New York State Election Law, including without limit section 6-120 thereof, the committees identified in this Article II shall constitute the party committee in their respective political subdivisions.

(c) In addition to the committees to which this section refers, the committees identified in Article III as well as the following shall be recognized as party committees for all purposes under the Election Law, including, but not limited to, the purposes of sections 2-100 and 14-100 thereof: (i) Democratic National Committee; (ii) DNC Non-Federal Programs/New York Committee; (iii) DNC Non-Federal Individual Account No. 1.; (iv) Democratic Senate Campaign Committee/New York; and (v) Democratic Congressional Campaign Committee/New York.

**Section 4: National Delegates and Alternates.**

Delegates and alternates to the National Convention shall be selected in accord with the plan and rules which the State Committee shall adopt from time to time, which plan and rules shall be separately available at the office of the State Committee and, upon adoption, incorporated into this Section by reference.

**Section 5: State and Judicial District Convention Delegates.**

Delegates and Alternate Delegates to a State Convention and to the Judicial District Convention for the nomination of Party Candidates for the office of Justice of the State Supreme Court shall be chosen by the election of such Delegates and Alternate Delegates from each Assembly District in the State as follows: One Delegate and one Alternate Delegate from each Assembly District in the State, and one additional Delegate and one additional Alternate Delegate from each Assembly District in the State for each two thousand five hundred votes or fraction of two thousand five hundred votes cast on the Democratic line in such Assembly District for the Party candidate for Governor at the last preceding general State Election.

**Section 6: Election of Members of the Democratic National Committee**

(a) In a year in which a presidential election is held, the State Committee shall elect the total number of members of the Democratic National Committee that shall have been apportioned to New York State pursuant to Article Two, Section 2(b) of the By-Laws of the Democratic National Committee.

(b) The meeting of the State Committee that is held to elect members of the Democratic National Committee shall be open and shall take place within the calendar year of the Democratic National Convention, after notice thereof.

(c) When the number of members of the Democratic National Committee apportioned to New York State pursuant to Article Two, Section 2(b) of the By-Laws is an even number, there shall be an equal division of members between men and women. In such cases where the number is odd, the variance between men and women shall not be greater than one.

(d) All members of the Democratic National Committee elected pursuant to this section shall be chosen according to the standards of non-discrimination and affirmative action incorporated into the Charter of the Democratic Party of the United States, and such members shall be elected so as to reflect representation of the various regions of New York State and of the various groups and constituents within the New York State Democratic Party.

**ARTICLE III****ORGANIZATION OF THE STATE COMMITTEE****Section 1: Election of Officers.**

(a) The members of the State Committee shall meet within fifteen (15) days after their election, and shall organize at such meeting by the election of the following persons: State Chair, Executive Committee Chair, First Vice Chair, such number of Vice Chairs as determined by the Executive Committee, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary, and Sergeant-at-Arms, none of whom need be members of the State Committee. The positions of State Chair and Executive Committee Chair may, but need not, be occupied by one person. In the event that different persons occupy the positions, then such persons shall be considered the two highest ranking officers of the State Committee. In the event that the same person occupies the positions, then the State Chair and the First Vice Chair shall be considered the two highest ranking officers of the State Committee.

(b) In electing officers in accord with Section 1(a) of this Article, the State Committee shall assure that the two highest-ranking officers of the State Committee are of the opposite gender; that the Vice Chairs are equally divided by gender; that the

Assistant Secretary and Assistant Treasurer are of the opposite gender from the Secretary and Treasurer, respectively; and that the officers, as a whole, reflect the diversity of the Democratic Party of New York State.

## **Section 2: Standing Committees.**

(a) There shall be the following standing committees of the State Committee: Executive Committee, Finance Committee, Law Committee, Campaign Committee, Committee on Resolutions, and Policy Committee. At least two (2) members of the State Committee shall be a member of each standing committee.

(b) Except as otherwise herein provided, the State Chair shall appoint the chair and members of all standing committees.

(c) To the extent feasible, each standing committee shall have equal representation from both genders.

## **Section 3: Executive Committee**

(a) The Executive Committee shall consist of the State Chair, the Executive Committee Chair, the First Vice Chair, the Vice-Chairs, the Executive Director, the Secretary, the Treasurer, the Chair of the Law Committee, the Chair of the Finance Committee, the Assistant Secretary, the Assistant Treasurer, the Sergeant-at-Arms, a Labor Representative appointed by the State Chair, the Co-Chairs of the Policy Committee, the President of the New York State Young Democrats, two (2) members from each of the thirteen (13) Judicial Districts in the State, one male and one female, to be elected at the organizational meeting by the State Committee members from each of such Judicial Districts, and eight (8) at-large members, four male and four female, to be elected by the entire membership of the State Committee upon nomination by the State Chair. For purposes of this provision:

- i. The representatives of the Judicial Districts shall be members of the State Committee, or Chairs, or Co-Chairs or Vice-Chairs of county Committees, or County Executive Committees, or officials of County Committees who occupy positions having similar duties and responsibilities.
- ii. Except in a Judicial District consisting of only one county, no more than one of the Judicial District representatives shall be from the same county. If one county has more than a majority of the members of the State Committee from a Judicial District, then the State Committee members from such county shall elect one (1) of the Executive Committee members, and the State Committee members from other counties of such Judicial District shall elect the other member of the Executive Committee.

(b) The Executive Committee Chair and Secretary of the State Committee shall be the Chair and the Secretary of the Executive Committee, respectively. Regular meetings of the Executive Committee shall be held at least twice each year on such days at such hours and places as the State Chair or Executive Committee Chair shall designate.

(c) Special meetings of the Executive Committee shall be held at the call of the Executive Committee Chair or upon written request of ten of the members of the Executive Committee addressed to the Executive Committee Chair or Secretary.

(d) The Secretary shall give written notice of regular meetings of the Executive Committee to each member of the Committee not less than seven (7) days prior to the date of each meeting. Special meetings of the Executive Committee held upon the call of the Executive Committee Chair shall be upon such written notice as the Chair may direct. Special meetings of the Executive Committee held upon the written request of ten (10) of the members shall take place within twenty (20) days after such request and upon at least seven (7) days prior written notice. For purposes of this Rule 3(e), the Executive Committee Chair shall accept facsimile signatures for any such written request.

(e) A member of the Executive Committee may authorize as his proxy only another member of the Executive Committee, but in no event shall a member of the Executive Committee hold more than one proxy.

(f) Fifteen (15) members of the Executive Committee present in person, shall constitute a quorum for the transaction of business. Less than a quorum may adjourn the meeting and notice of adjournment shall be given in the same manner as notice of meeting. Any meeting of the Executive Committee to which this section refers may be held by teleconferencing call, and a quorum may be satisfied by the presence of the requisite number of members on such a call.

(g) Except in matters which require the action of the State Committee under the provisions of the Election Law, or in matters otherwise specifically provided for in these Rules, the Executive Committee shall have power to act for the State Committee between meetings of the State Committee and any action of the Executive Committee may be overruled by the State Committee.

#### **Section 4: Finance Committee**

There shall be a Finance Committee which shall have the responsibility for raising funds for the State Committee.

#### **Section 5: Law Committee**

There shall be a Law Committee, chaired by the General Counsel of the State Committee, the members of which may include one representative from each Judicial District appointed by the State Chair.

**Section 6: Campaign Committees**

(a) There shall be a General Campaign Committee which shall have responsibility on a (year round) day-to-day basis for the planning, organization, and conduct of Statewide election campaigns and shall assist local and County Committees in their election campaigns. The chair of such committee shall be the State Chair of the New York State Committee and such chair shall appoint the treasurer and, other members of the committee.

(b) There shall be a Democratic Senate Campaign Committee which shall have responsibility on a day-to-day basis for the planning, organization, financing and conduct of election campaigns for the office of State Senator. The chair of such committee shall be the Democratic leader of the State Senate and such leader shall appoint the treasurer and other members of the committee.

(c) There shall be a Democratic Assembly Campaign Committee which shall have responsibility on a day-to-day basis for the planning, organization, financing and conduct of election campaigns for the office of Member of Assembly. The Chair of such committee shall be the Democratic leader of the State Assembly and such Leader shall appoint the treasurer and other members of the committee.

**Section 7: Policy Committee.**

There shall be a Policy Committee, the members of which shall be appointed jointly by the Co-Chairs of the Policy Committee and the State Chair.

**Section 8: Committee on Resolutions.**

There shall be a Committee on Resolutions which shall prepare, consider and report on all resolutions.

**Section 9: Special Committees.**

The State Chair shall have power to appoint from time to time such Special Committees as may be necessary or appropriate, including, but not limited to, on Civil Rights, Platforms and Education.

**Section 10: Executive Director.**

There shall be an Executive Director appointed by the State Chair, and such staff members as shall be appropriate on a full-time, year-round basis, for the administration of the State Committee and its affairs.

**Section 11: Term of Office.**

All officers elected under these Rules and members of the Executive Committee shall hold office during the term of the State Committee which elected them until their successors are elected. Officers may be removed by a vote of a majority of the members of the State Committee at any meeting where notice under Article IV of such business has been given.

**Section 12: Filling of Vacancies.**

(a) In case of the death, declination, disqualification, resignation, removal from district or removal from office of a member of the State Committee, or failure to elect a member, as by reason of a tie vote, the vacancy of such State Committee member caused thereby shall be filled by the remaining members of such State Committee by the selection of an enrolled voter of the Democratic Party qualified for election from the unit of representation as to which such vacancy shall have occurred.

(b) In the event of death, declination, disqualification, resignation, or removal from office of officer, such vacancy shall be filled by a vote of the members of the State Committee at the meeting where such vacancy shall occur or be reported, or at a subsequent meeting.

(c) If the office of Executive Committee Chair, First Vice-Chair, Vice-Chair, Treasurer, Assistant Treasurer, Secretary, Assistant Secretary or Sergeant-at-Arms, becomes vacant, for any reason, then the State Chair may fill such vacancy by appointment, and the person so appointed shall hold office until the vacancy shall be filled as provided in Section 12(b) of this Article. If the office of State Chair becomes vacant, for any reason, then the Executive Committee Chair shall become State Chair for all purposes under these Rules and under statute until the vacancy shall be filled as provided in Section 12(b) of this Article. If pursuant to Section 1(a) of this Article the State Chair and Executive Committee Chair are the same person, or if for any other reason the Executive Committee Chair is unable to become State Chair, then the First Vice Chair shall become State Chair for all purposes under these Rules and under statute until the vacancy shall be filled as provided in Section 12(b) of this Article.

**Section 13: Holdover.**

Until the meeting of the State Committee for organization, the officers of the outgoing Committees shall continue in office until the election of their respective successors.

**ARTICLE IV.**

**MEETINGS OF THE STATE**

**COMMITTEE**

**Section 1: Regular Meetings.**

At least two (2) regular meetings of the State Committee shall be held each year, one (1) in the spring and one (1) in the fall, at such times and places as the State Chair may fix, but in the alternative locations downstate and upstate. At least 25 days prior to a regular meeting, the Secretary shall announce the date and location of such meeting via posting on the State Party website and an email or written announcement sent to each State Committee member. A written Notice of Meeting shall be given at 10 days prior to the date of such meeting and shall include the itemized meeting agenda.

**Section 2: Special Meetings.**

Special meetings of the State Committee may be called by the State Chair at any time on ten (10) days prior written notice. Special meetings shall also be called by the State Chair upon the written request of at least one-sixth of the State Committee members, which request shall state the purposes thereof. Meetings shall be held on the date designated in the request, provided such date is not less than ten (10) days following receipt of the request. The State Chair shall call the meeting and give at least ten (10) days prior written notice thereof.

**Section 3: Quorum.**

(a) Except as provided in Article II, Section 4 of these Rules, one hundred (100) members of the State Committee present in person or by proxy in conformity with these rules shall constitute a quorum for the transaction of business.

(b) Less than a quorum may adjourn the meeting and notice of adjournment shall be given in the same manner as notice of meeting.

**Section 4: Proxies.**

The use of proxies at meetings of the State Committee shall be limited as follows:

- (a) A proxy holder must be a resident of the same Judicial District as the State Committee members giving the proxy;
- (b) No individual may hold more than five (5) proxies at any meeting;
- and
- (c) Proxies shall be non-transferable.

### **Section 5: Order of Business**

At all meetings of the State Committee, the following shall be the order of business unless the State Chair otherwise directs:

- Calling of the roll;
- Filling of vacancies;
- Reading and approval of minutes;
- Election of officers (at the organizational meeting or if otherwise necessary);
- Unfinished business;
- Reports of officers;
- Reports of committees; and
- New business

### **Section 6: Agenda**

(a) There shall be included on the agenda of any meeting of the State Committee any item or resolution that shall have been requested in writing of the State Chair or the Secretary signed by ten (10) or more members of the State Committee at least fifteen (15) days prior to the date of such meeting. Any such resolution shall be sent with the Notice of Meeting required by Section 1 hereof. For purposes of this Rule 6(a), the State Committee shall accept facsimile signatures on any written request to place an item or resolution on the agenda.

(b) Other than matters involving amendments to these By-Laws and removal of officers, special provisions for which are herein otherwise provided, all other business may be brought to the floor at each duly constituted meeting of the State Committee upon motion duly seconded by two (2) members of the State Committee. A proposed resolution a written copy of which has not accompanied the Notice of Meeting may not be adopted by a vote of less than two-thirds (2/3) of the members attending in person or by proxy.

### **Section 7: Voting**

The following method shall be used when there is voting by roll call:

(a) The roll shall be called by Assembly District starting with the 1<sup>st</sup> Assembly District and continuing in order to the 150<sup>th</sup> Assembly District.

(b) The member present or the proxy shall cast the vote allocated, at the time the district is called, or shall be recorded as "passed."

(c) Upon completion of the roll, the State Chair shall order the roll to be called once again in order of Assembly Districts for just those members or proxies who are recorded as passed or who were not present during the first call.

(d) Upon the conclusion of the Roll Call in "c" above, the balloting is closed for that Roll Call.

## ARTICLE V.

### DUTIES OF OFFICERS AND STATE COMMITTEE MEMBERS

#### 1: General Duties.

(a) The State Chair, Executive Committee Chair, Secretary, Treasurer and other officers provided for in these rules shall perform the duties usually incident to their respective offices or as may be assigned to them.

(b) In addition to the duties, powers and functions prescribed by the Election Law and these Rules, it shall be the responsibility of members of the State Committee to disseminate, within their respective Assembly Districts, information with respect to State Committee policies and programs; for the purpose of effectuating such policies and programs.

#### Section 2: Duties of the State Chair

In addition to the duties usually incident to the office, the State Chair is empowered:

(a) to convene binding arbitration panels for consideration of intra-party disputes submitted by contending parties within the Party which are not capable of being settled in Primaries;

(b) to act, and be recognized as the top leader of the Democratic Party in New York State, and to serve as formal Chair of all state-wide election campaigns; and

(c) to challenge or expose the errors or inadequacies of any Republican officials of the State.

**Section 3: Duties of the Vice-Chairs.**

The Vice-Chairs shall have such duties and responsibilities as may be determined by the State Committee or the State Chair.

**Section 4: Duties of the Treasurer**

(a) The Treasurer shall cause to be conducted an annual written audited financial report, which report shall be filed in the office of the State Committee and shall be available for inspection at any time by any member thereof.

(b) Expenditures shall be made by order of and upon voucher signed by the State Chair or the Treasurer, or such persons as the State Chair or the Treasurer may designate in writing.

(c) The State Chair and the Treasurer may prepare an annual administrative budget to be submitted to the Executive Committee.

**ARTICLE VI.****NOMINATIONS FOR PUBLIC OFFICE****Section 1: Nominations by the State Committee**

At a meeting of the State Committee for the designation of candidates for any office to be filled by the voters of the entire state, in voting for the designation of such candidates the State Committee members, in each Assembly District, shall cast in the aggregate a number of votes equal to the number of votes cast for the Party candidate for Governor on the Democratic line or column at the last preceding General State Election ("the last gubernatorial vote") in such Assembly District; and the vote to which each State Committee member in such Assembly District is entitled shall be as follows:

(a) In each Assembly District which comprises a whole county or is entirely within a county each State Committee member elected therefrom shall cast a number of votes equal to one-half of the last gubernatorial vote cast in such Assembly District.

(b) In each Assembly District which comprises two or more whole counties each of the State Committee members elected from such a county shall cast a number of votes equal to one-half of the last gubernatorial vote cast in such Assembly District.

(c) In each Assembly District which comprises one or more whole counties and one or more parts of counties, each of the State Committee members elected from such a whole county shall cast a number of votes equal to one-half of the last gubernatorial vote cast in such county and each of the State Committee members elected from such part of a

county shall cast a number of votes equal to one-half of the last gubernatorial vote cast in such part of the county.

(d) In each Assembly District which comprises only parts of two or more counties and no whole county or counties, each State Committee member elected from such a part of a county shall cast a number of votes equal to one-half of the last Democratic gubernatorial vote cast in such part of a county.

## **Section 2: Other Nominations**

(a) Nominations for an office to be filled at a special election, nominations for election to fill a vacancy, or nominations to fill a vacancy in a nomination, shall be made:

- i. if for an office to be filled by the voters of the entire state, then by the State Committee;
- ii. if for a county office, then by the County Committee or, if the rules of the County Committee otherwise provide, then in such manner as the rules of the County Committee provide; and
- iii. if for an office in any other political subdivision of the State,
- iv. then by the district or party committee thereof, or if wholly within a county, then in such other manner as the rules of the County Committee shall provide.

(b) Unless the law or rules of the applicable committee otherwise provides, all voting for nominations shall be by weighted vote.

## **ARTICLE VII.**

### **ETHICS CODE**

#### **Section 1: Statement of Principles**

Public trust in party leadership is essential if the Democratic Party in New York State is to achieve continued success and deserve it. Rules of ethical guidance for the conduct of party leaders can help earn that public trust.

It is essential that party leadership not be used for private gain. It is also essential that the Democratic Party attract those citizens best qualified to serve, and not impede unreasonably or unnecessarily their recruitment and retention or unfairly deny to them the economic rights and opportunities available to all other citizens.

It is the intent of this Code of Ethics to implement these objectives of promoting both the integrity of the Democratic Party and the recruitment and retention of qualified

party leadership by prescribing restrictions against abuses of political position for private financial gain without creating unnecessary barriers to party service.

## Section 2: Definitions.

*"Code of Ethics "*—The Democratic Party Code of Ethics, as set forth in this Article V and as may be amended from time to time.

*"Committee "*—The New York State Democratic Committee.

*"Committee Ethics "*—The State Committee Ethics Commission, as created pursuant to this Code of Ethics.

*"Compensation"*—Any money, thing of value or financial benefit conferred in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, Compensation shall mean net revenues, as applied in accordance with generally accepted accounting principles as applied by the State Ethics Commission.

*"Legislative Body "*—The New York State Assembly or Senate, any county or municipal legislative body or any board of estimate.

*"Licensing"*—Any State Agency or Local Agency activity, other than before the Division of Corporations and State Records in the Department of State, respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a Regulatory Agency, which in the absence of such license, permit or other form of permission would be prohibited.

*"Local Agency "*—Any county, city, town, village, school district or district corporation, or any agency, department, division, board, commission or bureau thereof; and any public benefit corporation or public authority not included in the definition of State Agency.

*"Ministerial Matter "*An administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

*"Party Leader"*—(i) Each Chair or acting Chair of the Committee, (ii) each officer serving the Committee in a full-time capacity and (iii) each managerial employee and professional employee performing duties of a policy-making nature and serving the Committee in a full-time capacity.

*"Regulatory Agency "*—The Banking Department, Insurance Department, State Liquor Authority, Department of Agriculture and Markets, Department of Education, Department of Environmental Conservation, Department of Health, Division of Housing and Community Renewal, Department of State (other than the Division of Corporations

and State Records), Department of Public Service, the Industrial Board of Appeals in the Department of Labor and the Department of Law.

*"Representative"*—The representation of the interests of a client or other person pursuant to an agreement, express or implied, for Compensation for services.

*"State Agency"*—Any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the Governor, or the State University of New York or the City University of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the State. "State Ethics The Ethics Commission of the State Commission" of New York established pursuant to Section 94 of the Executive Law.

### **Section 3: State Committee Ethics Commission.**

#### **(a) Structure**

- i. The Committee Ethics Commission shall consist of five enrolled Democrats, residing within the State of New York, serving terms of four years each (except that the first terms of two of the initial members shall be six years each) with no more than three terms expiring during the same year. No Party Leader, no more than one member of the Executive Committee of the Committee and no more than one officer of the Committee shall serve as a member of the Committee Ethics Commission. Committee Ethics Commission members shall be nominated by the State Chair and appointed with the approval of the Committee or its Executive Committee. The State Chair shall designate a Commission chair from among the Committee Ethics Commission members and act promptly to nominate persons to fill vacancies on the Committee Ethics Commission as they arise. The members of the Committee Ethics Commission may be removed by the State Chair for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this Code of Ethics, after written notice and opportunity for a reply. The Committee Ethics Commission may appoint a counsel to serve at its discretion and may employ other employees or consultants within the budget set by the Committee.
- ii. The Committee Ethics Commission shall be bound by this Code of Ethics in the administration of hearings and the rendering of decisions and shall maintain for public inspection all disclosures filed under Section 4 of this Code. The Committee Ethics Commission may establish rules for the Commission governing standing, jurisdiction and the right of appeal.

#### **(b) Complaints**

- i. Any enrolled Democrat (the "Complainant") may submit to the Committee Ethics Commission (privately and without any public release or announcement with respect thereto) a written complaint (a "Complaint") alleging a specific violation of the Code of Ethics by a Party Leader (the "Respondent").
  - ii. The Committee Ethics Commission may independently initiate a Complaint alleging a specific violation of the Code of Ethics by a Party Leader (the "Respondent").
- (c) Hearings
  - i. Upon receipt or initiation of a Complaint, the Committee Ethics Commission shall promptly give the Respondent a copy thereof.
  - ii. Within 15 days of receipt of the copy of such Complaint, the Respondent may submit a written response to the Committee Ethics Commission. Promptly thereafter (and in no case later than 30 days after the conclusion of such 15-day period), the Committee Ethics Commission may, in its discretion, dismiss the Complaint, issue a reprimand or admonition to the Respondent or schedule a hearing on the merits of the Complaint, except that if the Respondent, in his or her response, requests that a hearing be held, then the Committee Ethics Commission shall schedule such a hearing. The Committee Ethics Commission shall dismiss and take action to discourage unfounded or frivolous Complaints.
  - iii. If a hearing is to be held, then, at least 15 days prior to the date scheduled by the Committee Ethics Commission, the Complainant, if any, and Respondent shall each be notified of the time, date and place of such hearing.
  - iv. Hearings shall be private, unless the Respondent requests otherwise, but all reprimands, admonitions, penalties and other determinations adverse to the Respondent shall be made public by the Committee Ethics Commission.
  - v. In conducting a hearing, the Committee Ethics Commission may request written or oral testimony. The Respondent may present written or oral testimony on his or her behalf and will be entitled to have counsel present at such hearing.
  - vi. A quorum of at least four members of the Committee Ethics Commission shall be present at any hearing.
  - vii. A majority vote of all the members of the Committee Ethics Commission shall be required to make any determination with respect to a Respondent, including determinations made as a result of a hearing.
  - viii. If the Committee Ethics Commission has made an adverse determination with respect to a Respondent, and the vote for such determination was not unanimous, the Respondent may, within 30 days of such

determination, appeal such determination to the Committee or, at the Respondent's election, to its Executive Committee.

(d) Advisory Opinions

- i. The Committee Ethics Commission may, in its discretion, issue public or private advisory opinions with respect to questions of ethical conduct, conflicts of interest and other matters arising under this Code of Ethics. Records of all public advisory opinions shall be kept by the Committee Ethics Commission for consultation, as appropriate, by enrolled Democrats.
- ii. Any Party Leader may request in writing a public or private advisory opinion regarding conduct relating to his or her public or party responsibilities. Private advisory opinions shall be treated as confidential by the Committee Ethics Commission.

**Section 4: Conflict of Interest.**

(a) No Party Leader, no firm or association in which such Party Leader is a member and no corporation, ten percent or more of the stock of which is owned or controlled directly or indirectly by such Party Leader, during the Party Leader's tenure in office and for two years thereafter, shall:

- i. Receive, directly or indirectly, or enter into any agreement express or implied for, any Compensation, in whatever form, for the appearance or rendition of services (whether by such Party Leader, firm, association, corporation or another) (x) in relation to any resolution, bill or other matter before any Legislative Body or (y) in relation to any case, proceeding, application or other matter before any State Agency or Local Agency where such appearance or rendition of services before such State Agency or Local Agency is in connection with:
  - a. the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such Agency;
  - b. any proceeding relating to rate-making;
  - c. the adoption or repeal of any rule or regulation having the force and effect of law;
  - d. the obtaining of grants of money or loans;
  - e. Licensing; or
  - f. any proceeding relating to a franchise provided- for in the Public Service Law; *provided, however*, that:
    - (i) nothing contained in this Subsection 4(a)i. shall prohibit a Party Leader, firm, corporation or association from

appearing before a State Agency or a Local Agency in a Representative Capacity if such appearance in a Representative Capacity is in connection with a Ministerial Matter;

- (ii) a Party Leader who is a member, associate, retired
- (iii) member, of counsel to, or shareholder of any firm, association or corporation shall not be deemed to have made an appearance under the provisions of this Subsection 4(a)(i) solely by the submission to a State Agency or Local Agency of any printed material or document bearing his or her name, but unsigned by him or her, such as by limited illustrations the name of the firm, association or corporation or the letterhead of any stationery, which pro forma serves only as an indication that lie or she is a member, associate, retired member, of counsel to or shareholder;

- ii. Sell any goods or services having a value in excess of \$25 to any State Agency or Local Agency or contract for or provide such services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a State Agency or Local Agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This Subsection 4(a)(ii) shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law; or accept, directly or indirectly, for such Party Leader's personal gain, anything of value, whether in the form of a service, loan, gift, promise, or contribution to his or her campaign for party office in excess of \$100, from any person, firm, association, corporation or other entity which to his or her knowledge has a financial interest in the outcome of any pending Committee decision, contract, policy or appointment; *provided, however,* that nothing contained in this Section 4(a) shall be construed or applied to prohibit any such firm, association or corporation from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, any State Agency, Local Agency or Legislative Body, where such Party Leader does not share in the net revenues (as defined in accordance with generally accepted accounting principles as defined by the State Ethics Commission) resulting therefrom, or, acting in good faith, reasonably believed that lie or she would not share in the net revenues as so defined.

- (b) Notwithstanding and in addition to the foregoing provisions of Section 4(a):

- i. no Party Leader who is a member, associate, retired member, of counsel to or shareholder of any firm, association or corporation which is appearing or rendering services in connection with any case, proceeding, application or other matter listed in Subsection (4)(i) shall orally communicate, with or without Compensation, as to the merits of such cause with an officer or an employee of the Agency concerned with the matter; and
- ii. no Party Leader shall use or attempt to use his or her party position as a means of undue or improper influence to secure from any State Agency or Local Agency for him or herself or others with whom he or she has a family, employment or business or financial relationship any benefits, privileges or exemptions not generally available to members of the public.

### Section 5: Dual Office-Holding

No Party Leader (and, with regard to subsection .5(d) only, no other officer or member of the Committee and no member of the Democratic National Committee elected by the Committee), during his or her tenure in such office, shall simultaneously:

- (a) hold any appointive office of a policy-making nature in the executive branch of either the federal or state government; or
- (b) hold or seek any state-wide elective public office; or
- (c) hold or seek any of the following offices: County Executive (or the equivalent chief executive office, by whatever title designated) of any county with population greater than 300,000 or of Albany County; Comptroller of any such county, if elective public office; or mayor or supervisor of any city or town with population greater than **300,000**; or
- (d) serve as a judge of any court of record, attorney general or deputy or assistant attorney general or solicitor general, district attorney or assistant district attorney.

### Section 6: Financial Disclosure

Each Party Leader covered by Section 73—a of the Public Officers Law with respect to financial disclosure shall comply with the provisions thereof.

### Section 7: Certification of Party Leaders

- (a) Promptly after a Party Leader's election or appointment to party office, the Committee Ethics Commission shall provide such Party Leader with a copy of this Code of Ethics together with such other material as the Committee Ethics

**FILED: NEWBENKCOUNTYCERK0530222022031007PM**

INDEXNO.E2642101260Y

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Commission may prepare related thereto. Within 10 days of receipt of the Code of Ethics, a Party Leader shall file with the Committee Ethics Commission a certificate in the form set forth 'below acknowledging receipt of the Code of Ethics and any other materials prepared by the Committee Ethics Commission related thereto, and that he or she has read the same and undertakes to conform to the provisions, purposes and intent thereof and to the nouns of conduct for leaders of the Democratic Party:

## DEMOCRATIC PARTY OF THE STATE OF NEW YORK

## Certificate of Party Leader

COUNTY OF  
STATE OF NEW YORK

, having been duly sworn, hereby certify that I am currently an enrolled member of the Democratic Party; that I am qualified under the Constitution and laws of the State of New York and the Rules of the New York State Democratic Party to hold the party office to which I have been elected; that I acknowledge receipt of a copy of the Code of Ethics of the State Committee of the Democratic Party of the State of New York; that I have read the same and undertake to conform to the provisions, purposes and intent thereof and to the norms of conduct for leaders of the Democratic Party.

Sworn to and subscribed to  
before me this       day  
of       ,  
2016 at  
County, New  
York.

\_\_\_\_\_  
Signature of  
Notary Public

**Section 8: Penalties**

(a) The Committee Ethics Commission, within two weeks of its being notified or otherwise learning of the issuance, filing or serving of a complaint, information, indictment or other instrument charging a Party Leader with any criminal offense, shall, after notice to the Party Leader, hold a hearing as to whether such offense is of the type that, upon conviction thereof and pursuant to Section 8(b), the party office of such Party Leader would automatically become vacant, and, upon a determination that such crime or offense is of such type, such Party Leader shall automatically and immediately be suspended from party office pending final adjudication of his or her case.

(b) The party office of any Party Leader convicted in any state or federal court of a criminal offense that constitutes (or, had such offense occurred in New York, would have constituted) a felony under the laws of the State of New York shall automatically become vacant immediately upon such conviction.

(c) Pursuant to the procedures set forth in Section 3 above, a Party Leader may, in the Committee Ethics Commission's discretion, be reprimanded, admonished or suspended or removed from party office by a determination by the Committee Ethics Commission of a violation by such Party Leader of the Code of Ethics.

(d) A Party Leader who, pursuant to this Section 8, is removed from office for a violation of the Code of Ethics, or for conviction of a crime included in Section 8(b), may not hold party office for five years from the date of removal, or, if later and if such Party Leader was convicted of such a crime and sentenced to imprisonment, from the date of expiration of his or her maximum sentence of imprisonment or discharge from parole.

**Section 9: Revision and Amendment.**

The Committee Ethics Commission shall review the provisions of the Code of Ethics from time to time and recommend to the Committee such changes or additions as it may consider appropriate or desirable.

**Section 10: Effective Date**

The provisions of this Code of Ethics shall apply to a Party Leader effective January 1, 1989; *provided, however*, that (1) the provisions of Subsection 4(a)(i) shall not apply to the appearance or rendition of services before a State Agency or Local Agency where the Party Leader, firm, association or corporation subject to such provisions was substantially and actively involved in the case, proceeding, application or other matter, or transaction of business as of January 1, 1988 and substitution of new counsel would impose substantial hardship on the client and (2) nothing contained in Subsection 5(c) shall be applied to prohibit a Party Leader from simultaneously holding any of the public offices specified therein if such Party Leader holds such party office

and public office as of the date on which this Code of Ethics is adopted and continued to hold each such office for consecutive successive Lewis thereafter.

## ARTICLE VIII

### AMENDMENTS

These Rules may be amended from time to time by a majority of the members of the Committee present in person, or by proxy, at a meeting at which there is a quorum, provided a copy of the proposed amendment shall be sent with the notice of the meeting at which such amendment is to be proposed.

## ARTICLE IX

### MISCELLANEOUS

#### Section 1: Rules of Procedure

In all cases not provided for by law or by the Rules, the authority for parliamentary procedure for the State Committee and the Executive Committee shall be the latest edition of "Robert's Rules of Order," insofar as such rules of order may be appropriately applied.

#### Section 2: Minutes

Minutes of the meeting of the State Committee and the Executive Committee shall be recorded and sent to all members of these committees.

#### Section 3: Copy of Rules

A copy of these Rules shall be on file in the office of the State Committee and shall be made available on request to arty duly enrolled Democrat.

#### Section 4: Salary

The State Committee or the Executive Committee in its place may fix a . salary for the State Chair and other officers and employees of the State Committee in an amount as may be determined from time to time.

## Section 5: Funds and Borrowing

(a) The funds of the State Committee shall be deposited from time to time in such financial institutions authorized to do business in the State of New York as may be determined by resolution of the State Committee or the Executive Committee, or by the certificate of the State Chair and the Treasurer of the State Committee and all withdrawals from any such bank accounts shall be by check or draft signed by the State Chair, the Treasurer, the Assistant Treasurer, or such other person as the State Chair may designate in writing.

(b) The State Chair and the Treasurer, jointly, are authorized and empowered to borrow from any financial institution authorized to do business in the State of New York, or from any partnership or individual, from time to time, as in their judgment may be deemed appropriate or necessary to the business and affairs of the State Committee, such sum or sums of money, upon such terms and for such periods of time as they may deem appropriate, for proper expenses in connection with the conduct of an election campaign (but not a primary campaign) or for the expenses of maintaining and carrying on the business of the State Committee between election campaigns; provided, however, that such authorization and power to borrow funds shall be subject to such restrictions as the State Committee or Executive Committee may from time to time determine. Any such borrowing shall be evidenced by the promissory note or notes or written evidence of indebtedness and obligation of the State Committee, signed by the State Chair and Treasurer. Money so borrowed by the State Chair and Treasurer, jointly, shall be deposited in the name of the State Committee. In the absence or unavailability of the Treasurer or Assistant Treasurer, the Secretary may perform any of the duties or functions hereinabove provided for in this subdivision (b) of Section 5 of Article VI.

## Section 6: Indemnity

To the extent not prohibited by law, the Committee shall indemnify any person who is, was, or is threatened to be made a party in any proceeding, or is otherwise made subject to legal process or in need of legal representation, by reason of the fact that such person (or a person, of whom such person is a legal representative) is or was an officer or employee of the Committee, or arising out of any action or nonaction of such person in connection with the activities of the Committee, against all sums, fees, and expenses of any kind (including, but not limited to, judgments, amounts paid in settlement, and attorneys' fees and costs), except that such person shall not be indemnified if a final adjudication establishes either (1) that such person's actions were committed in bad faith or were the result of active and deliberate dishonesty, or (2) that such person gained a personal financial profit to which such person was not legally entitled. To the extent not prohibited by law, the Committee shall advance or reimburse any funds to any person entitled to an indemnity for the payment of such sums, fees, and expenses of any kind (including, but not limited to, judgments, amounts paid in settlement, and attorneys' fees and costs), and shall have the power to purchase and maintain insurance to indemnify itself for any obligation incurred as a result of this indemnification and to indemnify any officer or employee of the Committee in instances when such a person is entitled to an indemnification.

**Section 7: Obligation of Candidates seeking or Holding Party or Public Office**

All of those persons seeking or holding party or public office under the Democratic Party label or Democratic Party name, thereby undertake, while so serving or seeking to serve, not to oppose publicly the election of any Democratic nominee for the office in New York State.

**Section 8: Historical Archives**

The Rare Book & Manuscript Library of Columbia University in the City of New York is hereby designated as the repository for "The New York State Democratic Committee" which shall consist of documents, materials, correspondence, and other papers of interest to social and political scientists, including, but not limited to, the Committee's by-laws, lists of officers, executive and State Committee members, official minutes of meetings and proceedings of state conventions, county chairs, and other items which the State Chair shall from time to time, determine to be important original resources regarding the work of the Committee and the county chairs throughout the State of New York. After each state Committee meeting and/or convention, the Secretary is hereby directed to file the official minutes with the Library. At least once each year, the State Chair shall report to the State Committee what documents have been delivered to the Library.

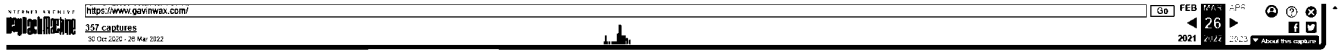
**Exhibit Y to Salcedo Affirmation-  
Screenshots of the website [www.gavinwax.com](http://www.gavinwax.com)  
[pp. 769 - 770]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 56

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RECEIVED NYSCEF: 05/22/2022



## Gavin Wax

Hi, I'm Gavin Wax. I am a New York-based conservative political commentator and columnist.

I am the 76th President of the New York Young Republican Club, Chairman of the New York Republican Liberty Caucus, Chairman of the Association of Young Republican Clubs, Digital Director of the Young Republican National Federation, Corresponding Secretary of the Association of New York State Young Republican Clubs, National Spokesman of Republicans for National Renewal, Ambassador for Turning Point USA, Associate Fellow at the London Center for Policy Research, and a Writing Fellow for America's Future Foundation.

I have appeared on Fox News, One America News, Bold TV, Newsmax, America Voice News, The First TV, and Compound Media.

← → ↺ ⌂ gavinwax.com  
Apps

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Gavin Wax

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## Gavin Wax

Gavin Mario Wax is a New York-based conservative political activist, commentator, and columnist.

Gavin serves as the 76th President of the New York Young Republican Club, the oldest and largest Young Republican club in the country. He was elected unanimously in April of 2019 and re-elected unanimously to a second term in December of 2020.

Gavin is also a Turning Point USA Ambassador, a Newsmax Insider, and the Corresponding Secretary of the Association of New York State Young Republican Clubs.

In 2020, Gavin was awarded the Republican Youth of the Year Award by the Queens Village Republican Club, the oldest Republican club in the country. In 2021, Gavin was recognized as a Rising Star by the Association of New York State Young Republican Clubs.

**Exhibit Z to Salcedo Affirmation-  
Affidavit of Assemblyman Andrew Goodell, in Harkenrider I., sworn  
to May 5, 2022  
[pp. 771 - 773]**

**FILED: NEWBENKCOONNYCCERRK08302220022011287PM**

INDEXNO.E2622101260Y

NYSCEF DOC. NO. 495

RECEIVED NYSCEF: 05/02/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF STEUBEN

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  
VOLANTE,

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.

**AFFIDAVIT OF  
ASSEMBLYMAN  
ANDREW GOODELL**

Index No.  
E2022-0116CV

Assigned Justice:  
Hon. Patrick F.  
McAllister, A.J.S.C.

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

ANDREW GOODELL, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 150th Assembly District. My District includes all of Chautauqua County.

2. I was first elected to the Assembly in November 2010 and have served as a member of the Assembly ever since.

3. I am currently a member of several Assembly standing committees including Governmental Operations Committee.

4. I currently serve as Assembly Minority Leader Pro Tempore.

5. I make this affidavit based on my personal knowledge.

#### **Bipartisan Enactment of the Assembly Map**

6. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

7. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

8. The Bill passed in the Assembly by a vote of 118 to 29.

9. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Giglio, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

10. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

**FILED: NEWBENKCOUNTYCERRK053022022031257PM**

INDEXNO. E2842101260Y

NYSCEF DOC. NO. 495

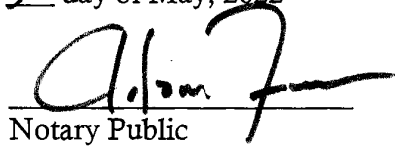
RECEIVED NYSCEF: 05/02/2022

11. When I voted for the Bill, I recognized the possibility that this lawsuit would be filed. I was and remain unaware of any intention for the lawsuit to challenge the Assembly map.

Dated: Albany, New York  
May 5, 2022

  
Andrew Goodell

Sworn to before me this  
5 day of May, 2022

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-20 23

**Exhibit AA to Salcedo Affirmation-  
Affidavit of Gavin Wax, in Harkenrider I.,  
sworn to July 15, 2022  
[pp. 774 - 775]**

**FILED: NEW YORK COUNTY CLERK 05/20/2022 03:13 PM**

INDEXED NO. E2022-016CV

NYSCEF DOC. NO. 583

RECEIVED NYSCEF: 05/20/2022

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF STEUBEN**

-----X  
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 VOLANTE,

Petitioners,

v.

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.  
-----X

Index No.: E2022-016CV

**AFFIDAVIT OF  
GAVIN WAX**

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

I, Gavin Wax, being duly sworn, depose and state the following:

1. I am a citizen of the State of New York, residing at 1229 First Avenue, Apt. 11, New York, NY 10065 in New York County. I am registered to vote in the State of New York.
2. I am the President of the New York Young Republican Club. In addition to my political advocacy on behalf of Republican-related causes, I am a supporter of the ability of so-called "third parties" to organize in the State of New York and for candidates to seek third-party

ballot lines in general elections. Our polarized, tribal political culture is broken, and I firmly believe that more voices deserve to be heard.

3. I am a supporter of the Parent Party of New York (the "Parent Party"). I understand that two of the core issues promoted by the Parent Party of New York are school choice and supporting local law enforcement. I have always supported parents' right to choose where their children go to school. In addition, I oppose so-called "Defund the Police" efforts. Accordingly, I strongly support several of the core principles of the Parent Party.

4. The entire redistricting process and the ongoing litigation has interfered with the Parent Party's ability to circulate petitions which would (a) allow Parent Party candidates to get on the ballot and (b) enable the Parent Party to become a ballot access party in the State of New York. This dilutes the power of my vote based on my political beliefs and diminishes the effect of my political advocacy work.

5. I seek to intervene in this action so that my rights will be protected. I previously intervened in this action seeking the State Assembly map to be invalidated, but now, my current request for relief focuses only on the independent nominating petitioning process based on the Court's May 11, 2022 Ballot Access Order.

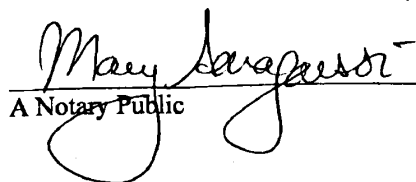


Gavin Wax

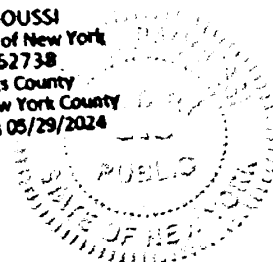
STATE OF NEW YORK  
COUNTY OF NEW YORK

Sworn to and subscribed before me

this 15<sup>TH</sup> day of MAY 2022.

  
A Notary Public

MARY SARAGOUSSI  
Notary Public, State of New York  
NO. 01SA6262738  
Qualified in Kings County  
Certificate filed in New York County  
Commission Expires 05/29/2024



**Affidavit of Assemblyman Joseph Angelino in Support of Motion  
to Dismiss, sworn to May 20, 2022**

[pp. 776 - 778]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 59

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

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PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
JOSEPH ANGELINO**

Index No.  
154213/2022

Respondents.

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STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

JOSEPH ANGELINO, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 122nd Assembly District. My District includes parts of Delaware, Broome,  
Chenango, and Otsego Counties.

2. I was first elected to the Assembly in November 2020 and am currently  
running for my second term.

3. I am currently the Ranking Minority Member on the Committee on Oversight, Analysis and Investigation and serve as member of several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Barclay, Brabenec, Fitzpatrick, Giglio, Goodell, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Joseph Angelino

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
**NOTARY PUBLIC**, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
**MCE 5-26-2023**

**Affidavit of Assemblyman William A. Barclay in Support of Motion  
to Dismiss, sworn to May 19, 2022  
[pp. 779 - 781]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 60

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

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PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
WILLIAM A.  
BARCLAY**

Index No.  
154213/2022

Respondents.

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STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

WILLIAM A. BARCLAY, being duly sworn, deposes and says:

1. I am a Republican member of the New York State Assembly,  
representing the 120th Assembly District. My District includes parts of Oswego, Onondaga,  
and Jefferson Counties.

2. I was first elected to the Assembly in November 2002 and have served  
as Assemblyman ever since.

3. In January 2020, I was elected unanimously by my colleagues as the Leader of the Assembly Minority Conference, a position I still hold today.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Brabenec, Fitzpatrick, Giglio, Goodell, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, Norris, Palmesano, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly map is fair. I do not believe it was drawn with the purpose of favoring or disfavoring incumbents or other particular candidates or political parties, or to discourage competition.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to Dismiss

Dated: Albany, New York  
May 19, 2022

William A. Barclay  
William A. Barclay

Sworn to before me this  
19<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

Adam Fusco  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Karl Brabenec in Support of Motion to  
Dismiss, sworn to May 20, 2022  
[pp. 782 - 784]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 61

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

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PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
KARL BRABENEC**

Index No.  
154213/2022

Respondents.

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STATE OF NEW YORK    )  
                                  ) ss:  
COUNTY OF ALBANY    )

KARL BRABENEC, being duly sworn, deposes and says:

1.     I am a Minority member of the New York State Assembly,  
representing the 98th Assembly District. My District includes parts of Orange and  
Rockland counties.

2.     I was first elected to the Assembly in 2014 and have served as a  
member of the Assembly ever since.

3. I currently serve as the Ranking Minority member on the Labor Committee and as a member of several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Fitzpatrick, Goodell, Giglio, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM

INDEX NO. 154213/2022

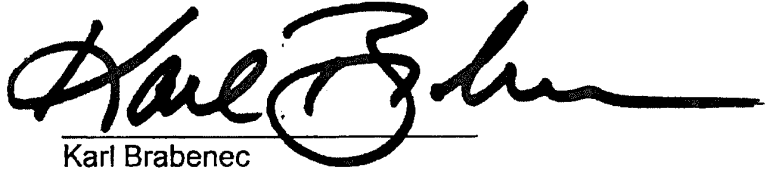
NYSCEF DOC. NO. 61

RECEIVED NYSCEF: 05/22/2022

11. I make this affidavit in support of the respondents' Motion to

Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Karl Brabenec

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Eric "Ari" Brown in Support of Motion  
to Dismiss, sworn to May 19, 2022**

[pp. 785 - 786]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

NYSCEF DOC. NO. 62

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK

SUPREME COURT IN COUNTY OF NEW YORK

PAUL NICHOLS, GAVIN WAX, AND GARY GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF**

**ASSEMBLYMAN**  
**ERIC "ARI" BROWN**

Index No.  
154213/2022

Respondents.

STATE OF NEW YORK )

COUNTY OF ALBANY )

ERIC "ARI" BROWN, being duly sworn, deposes and

says:

1. I am a Minority member of the New York State Assembly, representing the 20th Assembly District. My District includes part of Nassau County, including the incorporated Village of Cedarhurst.

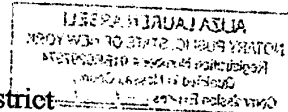
2. I was first elected to the Assembly in a special election in April 2022 and have served as a member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the People with Disabilities Committee and serve as member of several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting



Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. When the Bill came up for a vote I was not yet a member of the Assembly.

9. Had I been a member of the Assembly I would have supported the Assembly district maps.

10. In any event, I believe the Assembly district maps contained in the Bill are fair.

11. Once elected to the Assembly, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge an Assembly map.

12. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York

May 19, 2022

ALIZA LAUREN ARBELI  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration Number # 01BR6297974  
Qualified in Nassau County  
Commission Expires 04/13/2026

Eric "Ari" Brown

Sworn to before me this

19th day of May, 2022

**Affidavit of Assemblyman Kevin B. Byrne in Support of Motion  
to Dismiss, sworn to May 20, 2022  
[pp. 787 - 789]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 63

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

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PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
KEVIN M. BYRNE**

Index No.  
154213/2022

Respondents.

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STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

KEVIN M. BYRNE, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 94th Assembly District. My District includes portions of Putnam and  
Westchester counties.

2. I was first elected to the Assembly in November 2016 and have served  
as a member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the Health Committee and serve as a member on several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. I voted against the Bill, as did 28 of my Republican colleagues. While I voted against the bill; I did so due to concerns regarding the redistricting process.

9. Nonetheless, I believe the Assembly district maps contained therein to be fair.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to  
Dismiss.

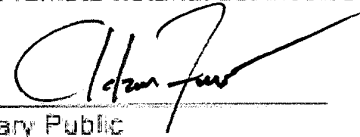
Dated Albany, New York  
May 20, 2022



Kevin M. Byrne

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology



Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Michael J. Fitzpatrick in Support of  
Motion to Dismiss, sworn to May 20, 2022  
[pp. 790 - 792]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 64

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

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PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
MICHAEL J.  
FITZPATRICK**

Index No.  
154213/2022

Respondents.

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STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

MICHAEL J. FITZPATRICK, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 8th Assembly District. My District includes parts of Suffolk County.
2. I was first elected to the Assembly in November 2002 and have been a  
member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the Housing Committee and serve as member of several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

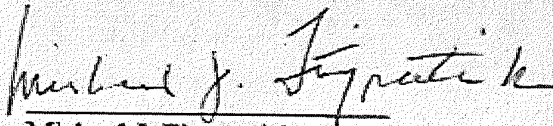
8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Giglio, Goodell, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

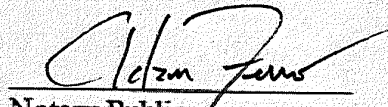
11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Michael J. Fitzpatrick

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Jarett Gandolfo in Support of Motion  
to Dismiss, sworn to May 20, 2022**

[pp. 793 - 794]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

NYSCEF DOC. NO. 65

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

PAUL NICHOLS, GAVIN WAX, AND GARY GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
JARETT GANDOLFO**

Index No.  
154213/2022

Respondents.

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF ALBANY     )

JARETT GANDOLFO, being duly sworn, deposes  
and says:

1. I am a Minority member of the New York State  
Assembly, representing the 7th Assembly District. My District  
includes portions of Suffolk County.

2. I was first elected to the Assembly in November  
2020 and have served as a member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the  
Mental Health Committee and serve as a member on several  
other Assembly standing committees.

4. I make this affidavit based on my personal  
knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting  
Commission announced it would not submit a second set of  
proposed legislative-district maps, despite its constitutional

obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

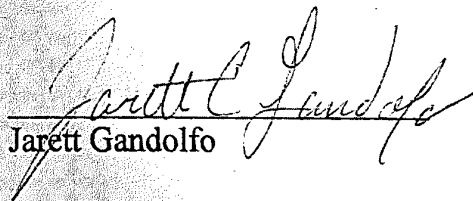
8. I voted against the Bill, as did 28 of my Republican colleagues. While I voted against the bill; I did so due to concerns regarding the redistricting process.

9. Nonetheless, I believe the Assembly district maps contained therein to be fair.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

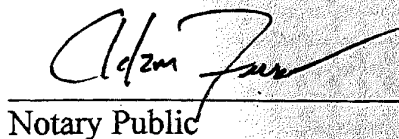
11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Jarett Gandolfo

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Joseph M. Giglio in Support of Motion  
to Dismiss, sworn to May 20, 2022**

[pp. 795 - 796]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 66

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

PAUL NICHOLS, GAVIN WAX, AND GARY GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
JOSEPH M. GIGLIO**

Index No.  
154213/2022

Respondents.

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF ALBANY     )

JOSEPH M. GIGLIO, being duly sworn, deposes and  
says:

1. I am a Minority member of the New York State Assembly, representing the 148th Assembly District. My District includes all of Cattaraugus and Allegany counties, and parts of Steuben County.
2. I was first elected to the Assembly in 2013 and have served as a member of the Assembly ever since.
3. I currently serve as the Ranking Minority member on the Corrections Committee and as a member of several Assembly standing committees.
4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.
6. In response, on February 3, 2022, the Assembly

FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM

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NYSCEF DOC. NO. 66

RECEIVED NYSCEF: 05/22/2022

passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

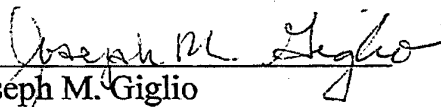
8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Goodell, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.


11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Joseph M. Giglio

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Stephen Hawley in Support of Motion  
to Dismiss, sworn to May 20, 2022**

[pp. 797 - 799]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 67

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
STEPHEN HAWLEY**

Index No.  
154213/2022

Respondents.

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STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

STEPHEN HAWLEY, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 139th Assembly District. My District includes all of Genesee and parts of  
Monroe and Orleans counties.

2. I was first elected to the Assembly in February 2006 and have served  
as a member of the Assembly ever since.

3. I currently serve as member of several Assembly standing committees including the Ways and Means Committee.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Giglio, Goodell, Jensen, Lalor, Lemondes, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

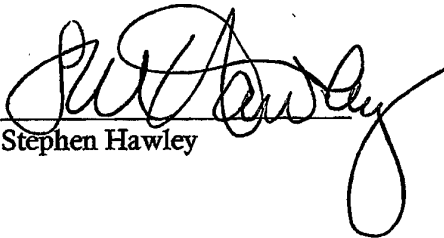
INDEX NO. 154213/2022

NYSCEF DOC. NO. 67

RECEIVED NYSCEF: 05/22/2022


11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Stephen Hawley

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Joshua Jensen in Support of Motion to  
Dismiss, sworn to May 20, 2022  
[pp. 800 - 802]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 68

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

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PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
JOSHUA JENSEN**

Index No.  
154213/2022

Respondents.

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STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

JOSHUA JENSEN, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 134th Assembly District. My District includes parts of Monroe County.
2. I was first elected to the Assembly in 2020 and have served as a  
member of the Assembly ever since.

3. I currently serve as the Ranking Minority member on the Libraries and Education Technology Committee and as a member of several Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Goodell, Giglio, Hawley, Lalor, Lemondes, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

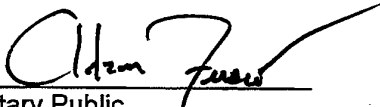
11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Joshua Jensen

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman John Lemondes in Support of Motion to  
Dismiss, sworn to May 22, 2022  
[pp. 803 - 805]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 69

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
JOHN LEMONDES**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
                                  ) ss:  
COUNTY OF ALBANY )

JOHN LEMONDES, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 126th Assembly District. My District includes parts of Cayuga, Chenango,  
Cortland, and Onondaga counties.

2. I was first elected to the Assembly in 2020 and have served as a  
member of the Assembly ever since.

3. I currently serve as the Ranking Minority member on the Corporations Committee and as a member of several Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.


8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Goodell, Giglio, Hawley, Jensen, Lalor, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to  
Dismiss.

Dated: Albany, New York  
May 22, 2022

  
John Lemondes

Sworn to before me this  
22<sup>nd</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Brian Manktelow in Support of Motion  
to Dismiss, sworn to May 20, 2022**

[pp. 806 - 808]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 70

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
BRIAN MANKTELOW**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

BRIAN MANKTELOW, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 130th Assembly District. My District includes all of Wayne County and  
parts of Oswego County and Cayuga County.

2. I was first elected to the Assembly in November 2018 and have served  
as a member of the Assembly ever since.

3. I am currently serving as a member on several Assembly standing committees including the Local Governments and Small Business Committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

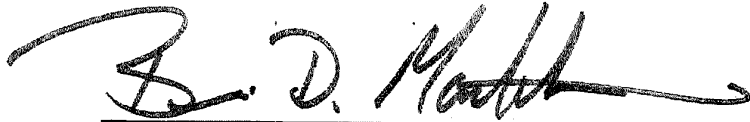
8. I voted against the Bill, as did 28 of my Republican colleagues. While I voted against the bill; I did so due to concerns regarding the redistricting process.

9. Nonetheless, I believe the Assembly district maps contained therein to be fair.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to Dismiss.

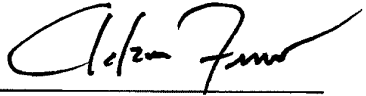
Dated: Albany, New York  
May 20, 2022



Brian Manktelow

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology



Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman John K. Mikulin in Support of Motion  
to Dismiss, sworn to May 20, 2022  
[pp. 809 - 811]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 71

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
JOHN K. MIKULIN**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

JOHN K. MIKULIN, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 17th Assembly District. My District includes parts of Nassau County.
2. I was first elected to the Assembly in November 2018 and have served  
as a member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the Consumer Affairs Committee and a member on several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

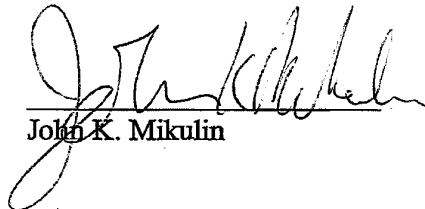
8. I voted against the Bill, as did 28 of my Republican colleagues. While I voted against the bill; I did so due to concerns regarding the redistricting process.

9. Nonetheless, I believe the Assembly district maps contained therein to be fair.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022



John K. Mikulin

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology



Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Brian D. Miller in Support of Motion  
to Dismiss, sworn to May 20, 2022**

[pp. 812 - 814]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

NYSCEF DOC. NO. 72

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
BRIAN D. MILLER**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

BRIAN D. MILLER, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 101st Assembly District. My District includes parts of Oneida, Herkimer,  
Otsego, Delaware, Ulster, Sullivan, and Orange counties.

2. I was first elected to the Assembly in 2016 and have served as a  
member of the Assembly ever since.

3. I currently serve as the Ranking Minority member on the Real Property Tax Committee and as a member of several Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.


8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Goodell, Giglio, Hawley, Jensen, Lalor, Lemondes, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

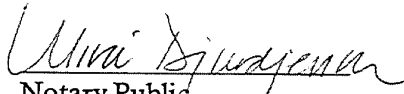
10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to Dismiss

Dated: Albany, New York  
May 20, 2022

  
Brian D. Miller

Sworn to before me this  
20<sup>th</sup> day of May, 2022

  
Notary Public

MIRA DJURDEVICH  
Notary Public, State of New York  
Otsego County Reg. No. 01DJ5000618  
Commission Expires Aug. 17, 2022

**Affidavit of Assemblyman Angelo J. Morinello in Support of Motion  
to Dismiss, sworn to May 20, 2022  
[pp. 815 - 817]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 73

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
ANGELO J.  
MORINELLO**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

ANGELO J. MORINELLO, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 145th Assembly District. My District includes parts of Niagara and Erie  
counties.
2. I was first elected to the Assembly in November 2016 and re-elected in  
2018 and again in 2020.

3. I am currently the Ranking Minority Member Codes Committee and serve as member of several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Giglio, Goodell, Hawley, Jensen, Lalor, Lemondes, Miller, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM

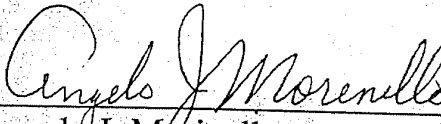
INDEX NO. 154213/2022

NYSCEF DOC NO. 73

RECEIVED NYSCEF: 05/22/2022

I make this affidavit in support of the respondents.  
Motion to Dismiss.

Dated: Albany, New York  
May 20<sup>th</sup>, 2022

  
Angelo J. Morinello

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication  
technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Michael J. Norris in Support of Motion  
to Dismiss, sworn to May 20, 2022  
[pp. 818 - 820]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 74

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
MICHAEL J. NORRIS**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

MICHAEL J. NORRIS, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 144th Assembly District. My District includes parts of Niagara, Erie, and  
Orleans counties.

2. I was first elected to the Assembly in November 2016 and re-elected in  
2018 and again in 2020.

3. I am currently the Chairman of the Minority Conference and the Ranking Minority Member on the Election Law Committee and serve as member of several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

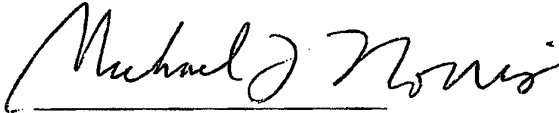
8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Giglio, Goodell, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Michael Norris

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-20 **23**

**Affidavit of Assemblyman Philip A. Palmesano in Support of Motion  
to Dismiss, sworn to May 19, 2022  
[pp. 821 - 823]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 75

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
PHILIP A.  
PALMESANO**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

PHILIP A. PALMESANO, being duly sworn, deposes and says:

1. I am a Republican member of the New York State Assembly,  
representing the 132nd Assembly District. My District includes parts of Steuben, Chemung,  
and Seneca Counties, as well as all of Schuyler and Yates Counties.

2. I was first elected to the Assembly in November 2010 and was re-  
elected to my sixth term in 2020.

3. In 2020, I was appointed Assistant Minority Leader, and I currently  
serve on multiple committees.

4. I am also a member of the New York State Legislative Task Force on Demographic Research and Reapportionment ("LATFOR"). LATFOR, which consists of six members, aids the Legislature by providing technical plans for meeting the requirements of legislative timetables for the reapportionment of Senate, Assembly, and congressional districts.

5. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

6. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

7. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

8. The Bill passed in the Assembly by a vote of 118 to 29.

9. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Giglio, Goodell, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, Norris, and Tague. Thus, the Bill was enacted with bipartisan support in the Assembly.

10. I voted in favor of the Bill because I believe the Assembly map is fair. I do not believe it was drawn with the purpose of favoring or disfavoring incumbents or other particular candidates or political parties, or to discourage competition.

11. I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

12. I make this affidavit in support of the respondents' Motion to Dismiss.

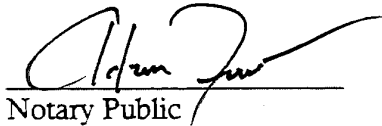
Dated: Albany, New York  
May 19, 2022



Philip A. Palmesano

Sworn to before me this  
19<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-20 **23**

## Affidavit of Edward P. RA, sworn to May 20, 2022

[pp. 824 - 825]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 76

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

PAUL NICHOLS, GAVIN WAX, AND GARY GREENBERG

Petitioners.

-against-

GOVERNOR KATHY HOCHUL, 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.

AFFIDAVIT OF  
ASSEMBLYMAN  
EDWARD P. RA

Index No.  
154213/2022

Respondents.

STATE OF NEW YORK     )  
                                  ) ss:  
COUNTY OF ALBANY     )

EDWARD P. RA, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly, representing the 19th Assembly District. My District includes parts of Nassau County.

2. I was first elected to the Assembly in November 2010 and have served as a member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the Ways and Means Committee and a member on several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of

proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

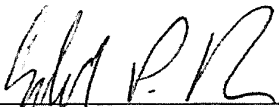
8. I voted against the Bill, as did 28 of my Republican colleagues. While I voted against the bill; I did so due to concerns regarding the redistricting process.

9. Nonetheless, I believe the Assembly district maps contained therein to be fair.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
\_\_\_\_\_  
Edward P. Ra

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
\_\_\_\_\_  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 77

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
DOUG SMITH**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

DOUG SMITH, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 5th Assembly District. My District spans the townships of Brookhaven, Islip,  
and includes Holbrook, Holtsville, Ronkonkoma, Lake Ronkonkoma, Lake Grove, Centereach,  
Selden, and Farmingville, Islandia, North Patchogue, and Stony Brook.

2. I was first elected to the Assembly in April 2018 and have served as a  
member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the Education Committee and serve as a member on several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

8. I voted against the Bill, as did 28 of my Republican colleagues. While I voted against the bill; I did so due to concerns regarding the redistricting process.

9. Nonetheless, I believe the Assembly district maps contained therein to be fair.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

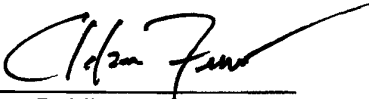
11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Doug Smith

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

## Affidavit of Assemblyman Robert Smullen, sworn to May 20, 2022

[pp. 829 - 831]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

NYSCEF DOC. NO. 78

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
ROBERT SMULLEN**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
                                  ) ss:  
COUNTY OF ALBANY )

ROBERT SMULLEN, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 118th Assembly District. My District includes all of Fulton and Hamilton  
counties and parts of Herkimer, Oneida, and St. Lawrence counties.

2. I was first elected to the Assembly in November 2018 and have served  
as a member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the Environmental Conservation Committee and a member on several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

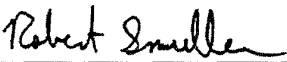
8. I voted against the Bill, as did 28 of my Republican colleagues. While I voted against the bill; I did so due to concerns regarding the redistricting process.

9. Nonetheless, I believe the Assembly district maps contained therein to be fair.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

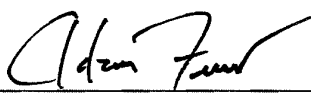
11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Robert Smullen

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-20**23**

**Affidavit of Assemblyman Christopher Tague, sworn to May 20,  
2022**

[pp. 832 - 834]

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

NYSCEF DOC. NO. 79

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
CHRISTOPHER  
TAGUE**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
                                  ) ss:  
COUNTY OF ALBANY )

CHRISTOPHER TAGUE, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 102nd Assembly District. My District includes Greene and Schoharie  
counties and parts of Delaware, Columbia, Albany, Otsego, and Ulster counties.

2. I was first elected to the Assembly in April 2018 and re-elected to a full  
term in November 2018 and have served as a member of the Assembly ever since.

3. I am currently the Ranking Minority Member on the Agriculture Committee and serve as member of several other Assembly standing committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

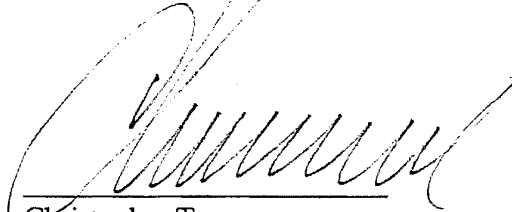
8. I voted in favor of the Bill, as did 14 of my Republican colleagues: Representatives Angelino, Barclay, Brabenec, Fitzpatrick, Giglio, Goodell, Hawley, Jensen, Lalor, Lemondes, Miller, Morinello, and Norris. Thus, the Bill was enacted with bipartisan support in the Assembly.

9. I voted in favor of the Bill because I believe the Assembly district maps contained therein to be fair.

10. When I voted for the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

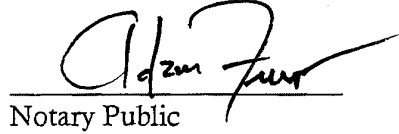
11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Christopher Tague

Sworn to before me this  
20 day of May, 2022

This remote notarial act involved the use of communication technology

  
Notary Public

Adam Fusco, Esq.  
NOTARY PUBLIC, State of New York  
Qualified in Fulton County  
No. 02FU6325525  
MCE 5-26-2023

**Affidavit of Assemblyman Mary Beth Walsh,<  
sworn to May 20, 2022**

**[pp. 835 - 837]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

NYSCEF DOC. NO. 80

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

---

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG

Petitioners,

-against-

GOVERNOR KATHY HOCHUL, 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,

**AFFIDAVIT OF  
ASSEMBLYMAN  
MARY BETH WALSH**

Index No.  
154213/2022

Respondents.

---

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF ALBANY )

MARY BETH WALSH, being duly sworn, deposes and says:

1. I am a Minority member of the New York State Assembly,  
representing the 112th Assembly District. My District includes parts of Saratoga and  
Schenectady counties.

2. I was first elected to the Assembly in November 2016 and have served  
as a member of the Assembly ever since.

3. I currently serve as a member on several Assembly standing committees including the Education and Judiciary Committees.

4. I make this affidavit based on my personal knowledge.

**Bipartisan Enactment of the Assembly Map**

5. On January 24, 2022, the Independent Redistricting Commission announced it would not submit a second set of proposed legislative-district maps, despite its constitutional obligation to do so.

6. In response, on February 3, 2022, the Assembly passed Bill Number A09040A (the "Bill"), which established the Assembly and State Senate district maps for the 2022 and subsequent elections.

7. The Bill passed in the Assembly by a vote of 118 to 29.

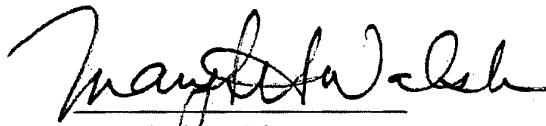
8. I voted against the Bill, as did 28 of my Republican colleagues. While I voted against the bill; I did so due to concerns regarding the redistricting process.

9. Nonetheless, I believe the Assembly district maps contained therein to be fair.

10. When I voted on the Bill, I recognized the possibility that a lawsuit would be filed challenging the Senate and Congressional maps. I was unaware of any intention for a lawsuit to challenge the Assembly map.

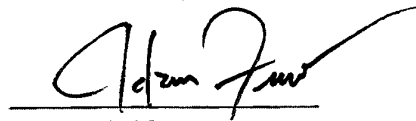
11. I make this affidavit in support of the respondents' Motion to Dismiss.

Dated: Albany, New York  
May 20, 2022

  
Mary Beth Walsh

Sworn to before me this  
20<sup>th</sup> day of May, 2022

This remote notarial act involved the use of communication technology

  
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MCE 5-26-2023

**Respondent Speaker of the Assembly Carl Heastie's Memorandum  
of Law in Support of Motion to Dismiss, dated May 22, 2022**

**[pp. 838 - 866]**

**FILED: NEW YORK COUNTY CLERK 05/22/2022 11:07 PM**

INDEX NO. 154213/2022

NYSCEF DOC. NO. 81

RECEIVED NYSCEF: 05/22/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

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PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG,

Petitioners,

v.

GOVERNOR KATHY HOCHUL, 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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Index No. 154213/2022

Assigned Justice:  
Hon. Laurence L. Love

**MEMORANDUM OF LAW IN SUPPORT OF SPEAKER HEASTIE'S  
MOTION TO DISMISS**

Respectfully submitted,

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Respondent Carl Heastie, Speaker of the New York State Assembly (the “Speaker”), respectfully submits this memorandum of law in support of his motion to dismiss the Petition (Dkt. No. 1).<sup>1</sup>

### **PRELIMINARY STATEMENT**

This is Petitioners’ second attempt to invalidate the Assembly district map enacted by the Legislature in February 2022. The first time, a few weeks ago, they tried to intervene in the nearly concluded lawsuit that challenged the Congressional and State Senate maps. Steuben County Supreme Court denied that motion as untimely, correctly recognizing two undeniable facts: Petitioners should have brought their challenge in February, not May; and to grant the relief Petitioners seek would throw the 2022 elections into “total confusion.”

Rather than appeal that decision, Petitioners decided to try again in a different venue. They ask this Court to do what Steuben County Supreme Court refused to do: sustain an egregiously late challenge to the Assembly map; invalidate thousands of candidacies (or, at a minimum, require candidates to run in districts other than those where they originally planned to run, and to face new primary challenges); erase candidates’ and Boards of Elections’ months of preparation for the June primaries; push those primaries to August (or even September); and force the State’s election infrastructure to start from scratch on an impossibly compressed timeline. This Court should decline the invitation.

Petitioners insist election integrity compels a ruling in their favor. But if they truly cared about election integrity, rather than personal gain and media attention, they

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<sup>1</sup> “Dkt. No.” and any associated page citations refer to the document and page numbers assigned by NYSCEF in this proceeding.

would have challenged the Assembly map shortly after its enactment. Instead, while the election cycle continued as required by law, Petitioners watched and waited. Now, at the eleventh hour, they bring a purely procedural challenge to a map that no one has accused of substantive unfairness, and that the Legislature enacted with bipartisan support. In fact, 23 Assembly Republicans — including eight who voted *against* the Assembly map for procedural reasons — have submitted affidavits attesting that the map is fair.

Election integrity compels a ruling for Respondents, not Petitioners. The only way to ensure orderly, secure elections for 2022 is to leave the Assembly map in place, to leave the election calendar undisturbed, and to dismiss this proceeding.

### **STATEMENT OF FACTS**

**A. The *Harkenrider* Lawsuit begins on February 3, 2022, the Court of Appeals renders its decision in April, and Special Master Cervas draws remedial maps for Congress and the State Senate**

On February 3, 2022, the New York State Legislature enacted redistricting maps for the State Assembly, the State Senate, and Congress. L.2022, c. 13 & 14. Later that day, Tim Harkenrider and others commenced *Matter of Harkenrider v. Hochul* (Index No. E2022-0116CV), a special proceeding in Steuben County Supreme Court (the “*Harkenrider* Petitioners” and the “*Harkenrider* Lawsuit”), with Hon. Patrick F. McAllister presiding. Their original petition challenged only the Congressional map (Salcedo Aff. Ex. B).<sup>2</sup> Then, on February 8, the *Harkenrider* Petitioners filed an amended petition adding a challenge to the State Senate map (Salcedo Aff. Ex. D). The amended petition affirmatively disavowed any challenge to the Assembly map (*id.* ¶ 10 nn. 6-7).

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<sup>2</sup> “Salcedo Aff.” refers to the affirmation of Steven B. Salcedo, Esq., dated May 22, 2022.

The *Harkenrider* Petitioners challenged the Congressional and State Senate maps on two grounds. Substantively, they argued the maps violated the State Constitution's ban on partisan gerrymandering (Salcedo Aff. Ex. D ¶¶ 121-212). Procedurally, they argued that because the State's Independent Redistricting Commission had deadlocked and failed to submit a second set of proposed maps to the Legislature, the Legislature lacked authority to enact maps of its own (*id.* ¶¶ 234-245).

Proceedings continued before Justice McAllister in Steuben County for nearly two months. On March 31, 2022, Justice McAllister invalidated the State Senate map on procedural grounds only, and the Congressional map on both procedural and substantive grounds (Salcedo Aff. Ex. E at 18). *Sua sponte*, he also invalidated the Assembly map on procedural grounds only (*id.*).

About three weeks later, the Fourth Department affirmed in part and reversed in part. *Matter of Harkenrider v. Hochul*, Index. No. CAE 22-00506, 2022 WL 1193180 (4th Dep't Apr. 21, 2022). Beforehand, various Congressional members, candidates for office, and voters moved before the Fourth Department to intervene. In opposition, the *Harkenrider* Petitioners argued the motion was "patently untimely" (Salcedo Aff. Ex. F ¶ 6). The Fourth Department denied the motion (Salcedo Aff. Ex. G).

The Court of Appeals rendered its decision on April 27, about one week after the Fourth Department's decision on the merits. *Matter of Harkenrider v. Hochul*, \_\_ N.Y.3d \_\_, 2022 WL 1236822 (April 27, 2022). Like Justice McAllister, the Court of Appeals invalidated the State Senate map on procedural grounds only, and it invalidated the Congressional map on both procedural and substantive grounds. *Id.* at \*1. The Court expressly declined, however, to invalidate the Assembly map, which no one had challenged.

*Id.* at \*11 n.15. It ordered Justice McAllister, with the assistance of Special Master Jonathan Cervas, to draw remedial Congressional and State Senate maps for the 2022 elections, and to “swiftly develop a schedule to facilitate an August primary election” for Congress and the State Senate. *Id.* at \*12.

Justice McAllister originally set a deadline of May 24 for this remedial map-drawing process (Salcedo Aff. Ex. H at 3). The State Board of Elections then urged him to “consider expediting the approval process for both Congressional and State Senate lines in any manner possible” (Salcedo Aff. Ex. I). The Board, emphasizing the logistical difficulties of holding an election under the circumstances, also asked that the deadline for finalized maps “not extend past ... May 24, 2022” (*id.*). In response, Justice McAllister accelerated the deadline from May 24 to May 20 (Salcedo Aff. Ex. J at 3).

Justice McAllister authorized parties and the public to submit comments and proposed remedial maps for Special Master Cervas’ consideration (Salcedo Aff. Ex. H at 3). Between April 22 and May 20, well over 100 such documents were filed on the Steuben County Supreme Court docket. Parties and members of the public also offered comments during a hearing in Steuben County on May 6. Special Master Cervas released proposed Congressional and State Senate maps on May 16 and 17; after receiving additional comments, he released the finalized maps shortly after midnight on May 21 (Salcedo Aff. Ex. K). Justice McAllister ordered the New York State Legislative Task Force on Demographic Research and Reapportionment (“LATFOR”) to do the following two things: (1) “LATFOR be and hereby is directed to review the maps for the purpose of determining compliance with the block-on-border and town-on-border rules and then to certify to the New York State Board of Elections the precincts, districts, etc. for each Congressional and

New York State Senate district”; and (2) “in the event LATFOR determines there to be some technical violation of one of these rules that LATFOR immediately notify the court of the violation so that appropriate corrective action can be taken by the court” (*id.* at 6).

**B. Gavin Wax’s and Gary Greenberg’s motions to intervene in the *Harkenrider* Lawsuit — filed on May 1 and 3, 2022 — are denied as untimely**

After the Court of Appeals issued its April 27 decision, and as the remedial map-drawing process was ongoing, Petitioner Gavin Wax moved on May 1 to intervene in the *Harkenrider* Lawsuit (Salcedo Aff. Ex. L). Mr. Wax is “a New York-based conservative political activist, commentator, and columnist,” president of the New York Young Republican Club, and a contributor to One America News and other media outlets.<sup>3</sup> From February 3 to March 31 — while proceedings were ongoing in Steuben County — Mr. Wax posted over a dozen messages on Twitter about the *Harkenrider* Lawsuit, New York’s redistricting, or both (Salcedo Aff. Ex. M). For example, in a February 3 Twitter post, he asked why “Republicans [are] so weak in New York” because “apparently 15 GOP members of the Assembly voted in favor of the Democrats [sic] gerrymandering proposal” (*id.* at 3). He tweeted a picture of Justice McAllister’s March 31 Order (which originally invalidated the enacted district maps) the day it was issued (*id.* at 6). He also asked his Twitter followers to “Please clap!” for his proposed “fair and just map” — which was solid red except for a blue handgun shooting bullets into a blue Albany (*id.* at 8). The May 1 motion to intervene was his first effort to challenge the Assembly map.

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<sup>3</sup> See Gavin Wax, <https://www.gavinwax.com/> (last accessed May 21, 2022). Mr. Wax’s self-description as an “activist” first appeared on his website shortly after he moved to intervene (*see* Salcedo Aff. Ex. Y).

On May 3, 2022 — two days after Mr. Wax’s motion — Petitioner Gary Greenberg also moved to intervene (Salcedo Aff. Ex. N). Mr. Greenberg is “a former New York state political candidate, who may in the future run again for office” (Dkt. No. 11 ¶ 1). Specifically, he attempted to run for State Senate in 2020 but failed to obtain sufficient signatures to qualify for the Democratic primary ballot (Salcedo Aff. Ex. O). He advocates for a public fund to benefit survivors of sexual abuse and, since late April 2022, has criticized the Assembly on Twitter for its expected enactment of the Adult Survivors Act, which Mr. Greenberg considers to be a “flawed ... hotch-potch” [sic] (Salcedo Aff. Ex. P at 2). Like Mr. Wax, Mr. Greenberg posted numerous Twitter messages about the *Harkenrider* Lawsuit and New York’s redistricting. On February 3, for instance, he retweeted an image of the petition in that lawsuit, which challenged only the Congressional map (Salcedo Aff. Ex. Q at 2). He tweeted or retweeted about redistricting, the *Harkenrider* Lawsuit, or both at least four additional times that day, eight additional times that month, and eight times in March — including a play-by-play of oral arguments that took place in Steuben County on March 3, 2022 (*id.* at 15-16). The May 3 motion to intervene was his first effort to challenge the Assembly map.

The motions filed by Mr. Wax and Mr. Greenberg requested essentially the same relief. They asked Justice McAllister to invalidate the Assembly map — which neither the *Harkenrider* Petitioners nor anyone else had challenged — and to enjoin use of the map for the 2022 primary and general elections (Salcedo Aff. Ex. L at 5-6; Salcedo Aff. Ex. N at 18-19). They also sought, in Justice McAllister’s words, to “invalidate all the [ballot-access] signatures previously gathered [by Assembly candidates], create new time periods

for gathering signatures after new maps are enacted, [and] change the signature requirements for both primary and independent petitions” (Salcedo Aff. Ex. R at 4).

Justice McAllister denied both motions as untimely. Among other things, he noted that: (1) “[i]t was clear from the Petition and Amended Petition [filed in early February] that the Assembly Districts were not being challenged”; (2) “both Greenberg and Wax were aware of this pending action shortly after it was commenced in February ... yet they chose to do nothing at that time”; and (3) because the 2022 election cycle was well underway, “[t]o permit intervention [at] this time would create total confusion” (*id.* at 3-5). Neither Mr. Wax nor Mr. Greenberg has appealed.

**C. Ballots for the June primaries are finalized and mailed by May 13, 2022**

While the *Harkenrider* Lawsuit was ongoing in February, March, April, and May, preparations for the 2022 elections continued. Beginning on February 3, 2022 — the day the congressional, State Senate, and State Assembly maps were enacted — New York’s county boards of elections began entering the new district boundaries into voter-registration systems “so that New York’s 12,982,819 registered voters would be assigned to their correct districts. This is necessary to create poll books for elections, allow voters to receive the correct absentee ballots and to provide data for candidates ....” (Salcedo Aff. Ex. S ¶ 16).

March 1, 2022 was the first day for aspiring candidates to collect ballot-access signatures (Salcedo Aff. Ex. C). Candidates must collect hundreds or thousands of these signatures, then submit them to the relevant board of elections, to qualify for a place on primary ballots (*id.*). Petitions were due for filing from April 4 through 7, 2022, and signatures are valid only if the signatory resides in the district where the candidate will run (*id.*). Signatures are subject to challenge, *see* N.Y. ELEC. LAW § 6-154, which typically

requires about a month to adjudicate (Salcedo Aff. Ex. S ¶ 9). The State Board of Elections was required to certify primary-ballot candidates by May 4 (Salcedo Aff. Ex. C).

The primary elections are scheduled by law for June 28, 2022, with early voting from June 18 through 26 (*id.*). The general election, in turn, is scheduled for November 8, with early voting from October 29 through November 6 (*id.*). Forty-five days before the June 28 and November 8 elections, federal law requires States to finalize and mail ballots to military and overseas voters. 52 U.S.C. § 20302(a)(8)(A). So primary ballots were required to be mailed by May 13, and general-election ballots must be mailed by September 23 (Salcedo Aff. Ex. C).

Since about 1974, New York State held primaries in September instead of June. As a result of the late primary, however, the State violated Federal law by failing to mail military and overseas ballots by the September 23 deadline. *See United States v. State of New York*, 2012 WL 254263, at \*1 (N.D.N.Y. Jan. 27, 2012). The Federal government sued the State, and the U.S. District Court for the Northern District of New York ordered the congressional primary moved to June, after rejecting a request to move the primary to August instead. *Id.* at \*2.

Because of the Court of Appeals' April 27 decision, which invalidated the congressional and State Senate maps, Justice McAllister moved those two primaries from June 28 to August 23, 2022 (Salcedo Aff. Ex. T). The U.S. District Court for the Northern District of New York approved the change for the congressional election. *United States v. State of New York*, 2022 WL 1473259, at \*3 (N.D.N.Y. May 10, 2022).

Deadlines and election dates for the remaining elections — including for the Assembly — remain unchanged. Accordingly, on the May 4 statutory deadline, the State

Board of Elections certified candidates for the Assembly primaries and for other primaries (Salcedo Aff. Ex. U). Ballots for the June 28 primaries were finalized, printed, and machine-tested, and they were mailed to military and overseas voters by the May 13 statutory deadline (Dkt. No. 14). Early voting for these primaries begins on June 18, less than one month from now (Salcedo Aff. Ex. C).

**D. Petitioners commence this special proceeding on May 15, 2022**

Petitioners — Mr. Wax, Mr. Greenberg, and Paul Nichols — commenced this special proceeding on May 15, a few days after Justice McAllister denied the untimely motions to intervene (Dkt. No. 1).

Mr. Nichols, who did not seek to intervene in the *Harkenrider* Lawsuit, claims to be “a candidate for Governor of the State of New York” (Dkt. No. 9 ¶ 2). He attempted to qualify for the Democratic gubernatorial primary, but “the Board of Elections removed [him] from the ballot after determining that [his] designating petition contained invalid signatures” (*id.*). Mr. Nichols challenged the Board’s determination, *pro se*, in Albany County Supreme Court (Salcedo Aff. Ex. V). The challenge failed, however, because Mr. Nichols did not properly serve the respondents in that proceeding (*id.*). The order dismissing Mr. Nichols’s challenge was entered on May 12, 2022 (*id.*) — three days before he and the other Petitioners commenced this special proceeding.

The Petition, which is not verified, requests a declaration that the Assembly map is procedurally unconstitutional (Dkt. No. 1 at 29), although it makes no allegation that the map is somehow substantively unfair or a partisan gerrymander. It also seeks to “adjourn” next month’s primaries for all “state and local elections” — not just the Assembly elections — to late August or mid-September (*id.* at 30). Further, the Petition seeks to

invalidate the candidacies of everyone who qualified for primary elections for “Statewide, Congressional, State Assembly, State Senate, and local offices” (*id.*). If Petitioners prevail, those thousands of candidates would need to “obtain new designating petition signatures or run independently” (*id.*). Additionally, potential candidates who did not originally qualify for primaries would receive another chance to gather sufficient signatures and “newly qualify” for the primary ballot (*id.*).

### **ARGUMENT**

This Court should dismiss the Petition under CPLR 404(a). Just like the unsuccessful motions to intervene in Steuben County, this special proceeding is patently untimely. In fact, tacitly acknowledging that the timeliness issue was already decided against them, Petitioners do not address it in their papers (Dkt. Nos. 1, 3, 23). Because of Petitioners’ untimeliness, along with the unprecedented prejudice that would result if they prevail, this proceeding is barred by the doctrine of laches. The Petition should also be dismissed because Petitioners failed to join necessary parties, they lack standing, the statute of limitations has expired, and the Petition is unverified.

### **POINT I**

#### **THE DOCTRINE OF LACHES BARS THIS PROCEEDING**

Laches is an equitable doctrine. It bars a claim if two elements are satisfied: delay in bringing the claim, and prejudice caused by the delay. *Saratoga County Chamber of Commerce v. Pataki*, 100 N.Y.2d 801, 816 (2003); *see also Matter of Schulz v. State of New York*,

81 N.Y.2d 336, 348 (1993) (delay of 11 months sufficient to establish laches); *accord*, *Matter of Cantrell v. Hayduk*, 45 N.Y.2d 925, 927 (1978) (*per curiam*) (delay of two months).<sup>4</sup>

In *Schulz*, for example, citizens challenged the constitutionality of a public-finance law. 81 N.Y.2d at 342. They initiated the lawsuit within a year after the law's enactment. *Id.* at 347. But in the interim, the State sold bonds, sold property, and completed other transactions under the law. *Id.* at 348. The Court of Appeals determined that invalidating the law would require nullifying those transactions, which would be akin to “putting genies back in their bottles.” *Id.* The plaintiffs' failure to bring their claim sooner, combined with the resulting prejudice to “society in general,” required dismissal of the claim under the laches doctrine — even though they challenged the constitutionality of a statute. *Id.* at 348, 350.

Similarly here, Petitioners' egregious delay threatens unprecedented prejudice to New York's elections, candidates, and voters, so the Petition should be dismissed.

**A. The Assembly map was enacted over three months ago, yet Petitioners waited until now to commence this proceeding**

Petitioners are unquestionably guilty of egregious delay. The Assembly map was enacted on February 3, 2022. The *Harkenrider* Lawsuit began that same day — and, as Justice McAllister correctly found, “[i]t was clear from the Petition and the Amended Petition that the Assembly Districts were not being challenged” (Salcedo Aff. Ex. R at 3). Indeed, the *Harkenrider* Lawsuit was well-publicized from Day One — in part by Mr. Wax and Mr. Greenberg themselves.

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<sup>4</sup> According to some courts, another element of laches is “lack of knowledge or notice on the part of the offending party that the complainant would assert his or her claim for relief.” *Kverel v. Silverman*, 172 A.D.3d 1345, 1348 (2d Dep't 2019). That element is satisfied here. Before the motions to intervene in Steuben County, Petitioners did not notify Respondents that they would challenge the Assembly map.

These Petitioners, in particular, cannot claim ignorance. As explained above, Mr. Wax is a “conservative political activist,” Mr. Greenberg recently ran for public office, and Mr. Nichols claims to be running for Governor. Mr. Wax and Mr. Greenberg even tweeted — prodigiously — about the *Harkenrider* Lawsuit and redistricting in February and March. None of these three individuals has offered a valid excuse for waiting more than three months to bring this special proceeding.

Further, their personal histories suggest they are acting not out of a sincere concern for how the Assembly map was enacted, but rather out of self-interest: Mr. Wax wants 15 minutes of fame; Mr. Greenberg wants to raise his political profile and coerce the Assembly into enacting the legislation he wants; and Mr. Nichols wants to resurrect his failed primary bid. If they truly cared so deeply about the Assembly map, they would have challenged the map months ago. Instead, they tweeted from the sidelines while Respondents and the *Harkenrider* Petitioners litigated in Steuben County, at the Fourth Department, and at the Court of Appeals.

**B. Because of Petitioners’ egregious delay, granting the relief they seek is virtually impossible and would jeopardize this State’s elections**

The other element of laches — prejudice — is satisfied here, as well. Because of Petitioners’ three-month delay, the State’s elections, candidates, and voters will all suffer unprecedented harm if the Petition is granted.

If the Assembly map is re-drawn and the 2022 election calendar is upended again, it is unclear how this State could conduct orderly, secure elections. Boards of Elections have already certified candidates; finalized, printed, and mailed ballots; and performed numerous other administrative tasks to prepare for the June primaries. In fact, on May 9, Board of Elections Co-Executive Director Todd Valentine affirmed that “[i]t is

simply too late for new claims related to the invalidity of the Assembly and statewide elections .... Replacing the Assembly map and moving the statewide primaries would create logistical hurdles for the Board and for local boards of elections for which we have no reasonably actionable solutions” (Salcedo Aff. Ex. W ¶¶ 26-27). And that was two weeks ago. The Board’s other Co-Executive Director, Kristen Zebrowski Stavisky, concurred with Mr. Valentine. She affirmed that the “positions expressed in [his] affidavit represent a bipartisan consensus opinion of the New York State Board of Elections” (*id.* ¶ 3). Justice McAllister, moreover, moved the deadline to finalize remedial maps from May 24 to May 20 — implicitly recognizing that a later deadline would leave Boards of Elections in an impossible position.

Additionally, because of Petitioners’ egregious delay, granting the relief they request would cause severe prejudice to candidates and voters. Candidates have built campaigns, raised and spent money, gathered signatures, qualified for primary ballots, courted voters, and invested countless hours running for office. If Petitioners prevail, these candidates will have to qualify again for the primaries. Their districts will change. Some of them may find themselves running against a powerful incumbent rather than for an empty or vulnerable seat. Many voters, furthermore, will suddenly live in a re-drawn district with different candidates seeking their support.

One subset of voters will suffer particular harm if Petitioners prevail: the men and women who defend our freedoms as members of the military. Under the federal Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), 52 U.S.C. § 20302(a)(8), New York must mail ballots to military and overseas voters at least 45 days before the primary and general elections. This timeframe ensures that those voters, some of

whom live on the other side of the world, will receive ballots in time to cast their vote and for those votes to be counted.

Recognizing UOCAVA's importance, the U.S. District Court for the Northern District of New York wrote, correctly, that "[i]t is unconscionable to send men and women overseas to preserve our democracy while simultaneously disenfranchising them while they are gone." *United States v. State of New York*, 2012 WL 254263, at \*1. But in their quest for personal gain, Petitioners carelessly endanger this critical voting right. They casually ask this Court to move every single primary to September 13 (Dkt. No. 3 at 6; Dkt. No. 23 at 4), which is only ten days before the deadline under UOCAVA to mail general-election ballots. To be clear, when New York held September primaries, it was unable to comply with UOCAVA, was sued by the Federal government, and was ordered to move its primaries to June. *United States v. State of New York*, 2012 WL 254263, at \*1-3. And under this year's circumstances — with three Court-ordered redistrictings, if Petitioners get their wish — military disenfranchisement would be a near certainty. That result would be "unconscionable." *Id.* at \*1.

In any event, this Court likely has no authority to move the Congressional and State Senate primaries to September. Such an order would conflict with Justice McAllister's order setting those primaries for August 23, and with the Northern District of New York's Court Order approving that date. It would also conflict with the Court of Appeals' instructions to hold August primaries for those two offices.

Petitioners also ask for all primaries to be moved to August, if this Court declines to move them to September (as it should) (Dkt. No. 1 at 30). Their request is a non-starter. To hold August primaries for Congress and the State Senate, Justice McAllister

determined that remedial maps needed to be in place by May 20, and that even May 24 would be too late. Developing those two maps — which contain 89 districts combined, compared to the Assembly’s 150 districts — took about one month. In fact, the process was not even complete by the May 20 deadline. Final maps were released early on May 21, and Justice McAllister then ordered LATFOR to review those maps for “technical violation[s]” and to certify “precincts, districts, etc.” for the Board of Elections (Salcedo Aff. Ex. K at 6). It is obviously impossible, then, to responsibly develop a new Assembly map by May 20 or 24, or even by early to mid-June. And if an Assembly map is not in place until June, there is no way to complete the ballot-access process, finalize primary ballots, and mail them to military and overseas voters by the July 8 deadline (Salcedo Aff. Ex. T at 3). Moving the June primaries to August is simply out of the question.

In short, because of Petitioners’ egregious delay, the relief they request is virtually impossible. Even if granting such relief were technically possible, doing so would cause unprecedented harm to the elections, to candidates, and to voters, including military voters. Consequently, the Petition should be dismissed under the laches doctrine.

## **POINT II**

### **PETITIONERS FAIL TO SATISFY VARIOUS OTHER REQUIREMENTS TO MAINTAIN THIS PROCEEDING**

#### **A. Petitioners did not join necessary parties**

Under CPLR 1001(a), “[p]ersons ... who might be inequitably affected by a judgment in the action shall be made plaintiffs or defendants.” Necessary parties must be joined through proper service, and “[n]onjoinder of a [necessary] party ... is a ground for dismissal of an action.” CPLR 1003; *accord, Am. Transit Ins. Co. v. Carillo*, 307 A.D.2d 220, 220 (1st Dep’t 2003).

This requirement applies with particular force in election cases. When a petitioner seeks to remove a candidate from a primary ballot, the candidate “might be inequitably affected by a judgment,” is a necessary party, and must be served. On point is *Clinton v. Board of Elections of City of New York*, 2021 WL 3891600 (Sup. Ct. N.Y. County Aug. 26, 2021), *aff’d*, 197 A.D.3d 1025 (1st Dep’t), *lv. denied*, 37 N.Y.3d 910 (2021). In that case, a voter sued to invalidate a certificate that filled certain delegate vacancies at the Republican judicial-nominating convention. *Id.* at \*1. But he failed to join all the judicial delegates named in the certificate. *Id.* at \*3. Supreme Court held that those delegates were necessary parties and, because of the non-joinder, dismissed the lawsuit. *Id.* The First Department affirmed, 197 A.D.3d 1025, and the Court of Appeals denied leave, 37 N.Y.3d 910. Other Courts throughout the State have reached analogous conclusions. *E.g.*, *Matter of Masich v. Ward*, 65 A.D.3d 817, 817 (4th Dep’t 2009); *Matter of Castracan v. Colavita*, 173 A.D.2d 924, 925 (3d Dep’t 1991) (*per curiam*); *Matter of Minew v. Levine*, 2021 WL 1775369, at \*3 (Sup. Ct. Onondaga County Apr. 30, 2021).

Replacing the Assembly map, as Petitioners seek to do, would create even more upheaval than replacing the Congressional and State Senate maps. The reason is that Assembly districts, unlike Congressional and State Senate districts, are the foundation of a variety of public offices and party positions in New York’s political infrastructure, for which designations were made and primary elections are scheduled to take place this year. In March and April, designating petitions were collected and filed with Boards of Elections throughout New York State on behalf of candidates for:

- each political party’s precinct-level county committee representatives, who need not live in the precinct they hope to represent, but “must reside in the assembly district

containing the election district in which the member is elected” (*Matter of Gordon v. Monahan*, 89 A.D.2d 1030, 1031 (3d Dep’t 1982) (citing N.Y. ELEC. LAW § 2-104(1));

- representatives to the New York State Democratic Committee, for which Assembly districts are the “[u]nit of representation,” such that aspiring members of the State Committee must reside in “the county in which the [Assembly district] ... is contained” (N.Y. ELEC. LAW §§ 2-102(1), (3); Salcedo Aff. Ex. X at Art. II § 1(b));
- each political party’s New York City district leaders, who seek office by Assembly district in each county that comprises the City (*id.* § 2-110(2)); and
- delegates and alternate delegates to State Supreme Court judicial-nominating conventions, who also are elected “from each Assembly district” (*id.* § 6-124; *accord*, *Johnson v. Lomenzo*, 20 N.Y.2d 783, 783 (1967)).

Hence, by applying to annul the Assembly district lines enacted in February 2022, Petitioners look to invalidate the otherwise valid and/or certified designations of thousands of candidates throughout New York State who seek public office or party positions for which their eligibility depends upon running and obtaining a sufficient number of signatures within a particular Assembly district. These include candidates for State Assembly, representatives to county party committees and the New York State Democratic Committee, party District Leaders in New York City, and delegates and alternate delegates to State Supreme Court judicial nominating conventions.

All these candidates are necessary parties to this proceeding, because a judgment invalidating the Assembly district lines under which they qualified for the ballot would also invalidate their designations, or at least require them to obtain a new round of

signatures on designating petitions or run in new districts, and thereby leave those candidates “inequitably affected[.]” CPLR 1001(a). The New York State Board of Elections and the 58 local Boards of Elections are also necessary parties, because they are the administrative agencies that accepted those candidates’ designating petitions for filing and would be responsible for invalidating the current primary ballot certifications upon any annulment of the Assembly district lines enacted in February 2022. *Matter of Flynn v. Orsini*, 286 A.D.2d 568, 568 (4th Dep’t 2001); *Gagliardo v. Colascione*, 153 A.D.2d 710, 710 (2d Dep’t 1989). Absent those necessary parties, Petitioners’ claim fails as a matter of law.

**B. Petitioners lack standing**

The Election Law delineates three categories of people who may challenge the “designation of any candidate for any public office”: a citizen who previously filed an objection with a Board of Elections; an aggrieved, rival candidate; or the chairperson of a party committee. N.Y. ELEC. LAW § 16-102(1). Petitioners are not rival candidates or the chairpersons of a party committee.<sup>5</sup> And they do not claim to have filed objections to any designating petitions, so they cannot bring their challenge as citizen-objectors. *See Matter of Korman v. N.Y. State Bd. of Elections*, 137 A.D.3d 1474, 1475-76 (3d Dep’t 2016) (holding that petitioners lacked standing as citizen-objectors due to their noncompliance with objection requirements). Therefore, Petitioners lack standing and this proceeding must be dismissed.

**C. The statute of limitations has expired**

The Election Law also provides that a “proceeding with respect to a petition shall be instituted within fourteen days after the last day to file the petition.” N.Y. ELEC.

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<sup>5</sup> Mr. Nichols supposedly is running for Governor, but that does not make him an aggrieved, rival candidate for purposes of the Assembly map. *See Matter of Cocco v. Moreira-Brown*, 230 A.D.2d 952 (3d Dep’t 1996) (holding that petitioner was not an “aggrieved candidate” for standing purposes because she was not “a candidate for the office in question”).

LAW § 16-102(2). The last day to file designating petitions for the primaries for State Assembly, county party committee, New York State Democratic Committee, party District Leader in New York City, and delegate and alternate delegate to State Supreme Court judicial nominating conventions was April 7, 2022 (Salcedo Aff. Ex. C) — well over 14 days before Petitioners commenced this special proceeding on May 15. Consequently, the Petition is time-barred.

Determining the limitations period “for a particular declaratory judgment action” requires “examin[ing] the substance of that action to identify the relationship out of which the claim arises and the relief sought.” *Solnick v. Whalen*, 49 N.Y.2d 224, 229 (1980). It is therefore irrelevant that Petitioners have not framed this special proceeding as a challenge to the candidates’ designating petitions. *See Matter of Ciotti v. Westchester County Bd. of Elections*, 109 A.D.3d 988, 989 (2d Dep’t 2013) (“[n]otwithstanding the characterization of this proceeding as one pursuant to CPLR Article 78 ... this proceeding is governed by the statute of limitations set forth in Election Law § 16-102(2)”; *Olma v. Dale*, 306 A.D.2d 905, 905-06 (4th Dep’t 2003) (holding that plaintiff could not evade the 14-day statute of limitations by framing his claim as a declaratory-judgment action seeking to remove a candidate’s name from the ballot); *Scaringe v. Ackerman*, 119 A.D.2d 327, 329-330 (3d Dep’t 1986) (granting a motion to dismiss when petitioners failed to properly bring a claim under § 16-102 within the statutory time limit).

Election Law § 16-102 limits the time in which proceedings regarding petitions can be brought, and that Petitioners bring constitutional claims is not enough, alone, to keep those claims alive—“[a] constitutional claim can become time-barred just as any other claim can.” *Block v. North Dakota ex rel. Bd. of Univ. & Sch. Lands*, 461 U.S. 273,

292 (1983); *see also County of Chemung v. Shah*, 28 N.Y.3d 244, 262-63 (2016). For example, in *Matter of ISCA Enterprises v. City of New York*, the petitioners challenged the constitutionality of the notice procedure in tax foreclosure proceedings. 77 N.Y.2d 688, 696 (1991). The foreclosure proceedings were subject to a two-year limitation period. *Id.* The petitioners were aware of the foreclosure proceedings with more than a year left to bring their claims, but they waited four years to sue. *Id.* The Court of Appeals disapproved of their delay, stating that “[h]aving itself delayed commencement of its action for nearly four years from notice, [petitioners] cannot be heard to complain of a constitutional infirmity.” *Id.* at 697. The Court did not even reach the question of the constitutionality of the foreclosure procedure, so important is the question of notice and adherence to the time limitations period. *Id.*

While couched as a challenge to the Assembly district lines enacted in February 2022, a judgment for Petitioners would invalidate or inequitably effect thousands of candidate designations throughout New York State. Hence, the requirements of New York Election Law § 16-102 apply (*accord, Matter of N.Y. State Cmte. of Independence Party v. N.Y. State Bd. of Elections*, 87 A.D.3d 806, 809-10 (3d Dep’t 2011)), and this special proceeding is time-barred because it began more than 14 days after the last day for filing designating petitions that were to be collected in Assembly districts in New York State.

#### **D. The Petition is not verified**

A special proceeding to invalidate ballot-access petitions “shall be heard upon a verified petition.” N.Y. ELEC. LAW § 16-116. “The Election Law requirement of a verified petition is a jurisdictional condition precedent to commencing a proceeding.” *Matter of Callahan v. Russo*, 123 A.D.2d 518, 518 (4th Dep’t 1986). *Matter of Goodman v.*

*Hayduk*, in which aspiring candidates brought a special proceeding to validate their ballot-access petition, is on point. 64 A.D.2d 937, 937 (2d Dep’t 1978). The petition that commenced the special proceeding was not verified, but Supreme Court allowed the aspiring candidates to correct the error by filing an amended (verified) petition. *Id.* The Second Department reversed and dismissed the proceeding, holding that the verification requirement “is jurisdictional in nature, and cannot be cured by amendment.” *Id.* at 938. The Court of Appeals affirmed, determining that “[t]o find an unverified petition ... acceptable to institute the special proceeding would not serve practical purposes or advance the policy behind [Election Law § 16-116].” 45 N.Y.2d 804, 806 (1978).

Here, Petitioners seek to invalidate the ballot-access petitions — indeed, to invalidate the certified candidacies — for every single elected office in this State (Dkt. No. 1 at 30). Yet they did not verify their Petition. This lack of verification is a jurisdictional defect, and the Petition therefore must be dismissed.

### **POINT III**

#### **THE ASSEMBLY MAP IS FAIR AND SHOULD NOT BE RE-DRAWN**

Behind Petitioners’ supposed newfound interest in election integrity, they neglect to mention a critical fact: the enacted Assembly map is a fair map that received bipartisan support. It passed the Assembly by an overwhelming vote of 118 to 29, including 14 Republican votes in favor, one of which was cast by the Assembly Minority Leader. All those 14 Republicans, approximating one third of the Assembly Republican conference,

have submitted affidavits affirming they believe the Assembly map is fair.<sup>6</sup> In fact, eight Republican members of the Assembly who voted *against* the Assembly map have also submitted affidavits affirming they believe the map is fair,<sup>7</sup> meaning that at least about half of the *minority* party's Assemblymembers believe the map is fair. No wonder, then, that the *Harkenrider* Petitioners did not challenge the enacted Assembly map. And the Petitioners' complaints here about the map are procedural only; they do not claim the map is substantively flawed. Neither Petitioners here, nor anyone else, has ever alleged that the Assembly map enacted by the Legislature in February 2022 has been unconstitutional as a matter of substance.

It would make no sense to further upend this year's elections by granting an untimely, flawed Petition and striking down a fair Assembly map. Whether or not this Court grants any aspect of the Petition (which it should not), it should decline to appoint any special master, and fix any procedural flaw by simply re-adopting the enacted Assembly map immediately and leaving the election calendar unchanged.

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<sup>6</sup> See accompanying affidavits of Assemblymembers William A. Barclay, Philip A. Palmesano, Joseph M. Giglio, Michael J. Norris, Michael J. Fitzpatrick, Angelo J. Morinello, Karl Brabenec, Stephen Hawley, Christopher Tague, Brian D. Miller, Joseph Angelino, John Lemondes, and Joshua Jensen, each of which were sworn to between May 19 and 22, 2022. Assemblymember Andrew Goodell submitted a similar affidavit in opposition to Mr. Wax's and Mr. Greenberg's motions to intervene in the *Harkenrider* Proceeding (Salcedo Aff. Ex. Z). Recently elected Republican Assemblymember Eric "Ari" Brown also offers his affidavit sworn to on May 19, 2022, in which he states he would have supported the Assembly district lines enacted in February 2022, had he been a member of the State Assembly at that time.

<sup>7</sup> See accompanying affidavits of Assemblymembers Edward Ra, Doug Smith, Jarett Gandolfo, Robert Smullen, John K. Mikulin, Kevin M. Burne, Brian Manktelow, and Mary Beth Walsh, each of which were sworn to on May 20, 2022.

**CONCLUSION**

This Court should decline Petitioners' selfish, last-minute invitation to upend the 2022 elections. The Petition should be dismissed, and this Court should ratify and adopt the Assembly district map enacted on February 3, 2022 (L.2022, c. 14, § 1).

Dated: New York, New York  
May 22, 2022

GRAUBARD MILLER

By: /s/ C. Daniel Chill  
C. Daniel Chill  
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Dated: Buffalo, New York  
May 22, 2022

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**CERTIFICATE OF COMPLIANCE WITH 22 N.Y.C.R.R. § 202.8-b**

This memorandum of law complies with 22 N.Y.C.R.R. § 202.8-b because it contains 6,542 words, excluding the caption, table of contents, table of authorities, and signature block. The word count was generated by the word-processing system used to prepare this document.

Dated: Buffalo, New York  
May 22, 2022

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Doc #10433886

**Affidavit of Todd D. Valentine in Opposition to Petitioners'  
Petition and Emergency Motion by Order to Show Cause for a Temporary  
Restraining Order, sworn to May 22, 2022  
[pp. 867 - 881]**

**FILED: NEW YORK COUNTY CLERK 05/23/2022 05:58 AM**

NYSCEF DOC. NO. 82

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/23/2022

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF NEW YORK

PAUL NICHOLS, GALVIN WAX, GARY GREENBERG

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,

**AFFIDAVIT OF  
TODD D. VALENTINE**

Index No.  
E154213/2922

Hon. Laurence Love

Respondents.

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF ALBANY )

TODD D. VALENTINE, being duly sworn, deposes and says:

1. I serve as Co-Executive Director for the New York State Board of Elections ("Board"). I have held this position since 2008. From 1997 to 2008 I was Special Counsel to the Board. Accordingly, I am familiar with county board of elections practices and capabilities. I make this affidavit based on my personal knowledge.

2. I respectfully submit this affidavit in opposition to Paul Nichols', Gavin Wax's and Gary Greenberg's petition herein. The positions expressed in this affidavit represent a consensus opinion of the New York State Board of Elections.

**Background**

3. On February 3, 2022, the Legislature enacted two laws that, collectively, established New York's legislative-district maps for Congress, the State Senate, and the State Assembly.

4. On April 27, 2022, the Court of Appeals invalidated the congressional and State Senate maps. It left the Assembly map in place as it had not been challenged by anyone in any court as of that date.

5. Two days later, the Court in *Harkenrider v Hochul et al* (NYSCEF E20222-0116cv, Steuben County Supreme Court) ordered that (1) Special Master Dr. Jonathan Cervas will release his proposed remedial congressional and State Senate maps by May 16, 2022; (2) after considering any comments submitted in opposition to his proposed maps, Special Master Cervas will finalize the maps by May 24, 2022; (3) congressional and State Senate primary elections, which had been scheduled by law for June 28, 2022, will occur on August 23, 2022; and (4) the deadline for local boards of elections to mail military and overseas ballots for the August 23 primaries is July 8, 2022 (*Harkenrider* Doc. Nos. 296, 301).

6. Initially, the *Harkenrider* Court had set a deadline of May 24, 2022 to finalize the congressional map (*Harkenrider* Doc. No. 258). The Board then asked the Court to "consider expediting the approval process . . . in any manner possible" owing to the short time to make an August primary feasible (*Harkenrider* Doc. No. 290). Later that day, the Court moved the deadline from May 24 to May 20 (*Harkenrider* Doc. No. 291).

7. On May 20, 2021 the *Harkenrider* Court did indeed promulgate new State Senate and Congressional lines.

8. Gavin Wax and Gary Greenberg moved to intervene in *Harkenrider* on May 1st and 3rd respectively (*Harkenrider* Doc. Nos. 316, 346). Their application to intervene to strike down the Assembly map and to enjoin use of that map for the 2022 primary and general elections was denied on May 11, 2022 (*Harkenrider*, Doc. No. 520). The court held, *inter alia*, with the ballot for June 28'th primary election already certified, intervention "would create total confusion." The same day the *Harkenrider* Court issued a political calendar for the August primary and independent nominations for Congress and State Senate.

9. By Order to Show Cause issued on May 19, 2022, this matter has now come before this Court.

10. The instant application should be denied. The Board, and local boards of elections, are already under unprecedented strain preparing for the August Congressional and State Senate primaries ordered in *Harkenrider*. They have been aware of this change for some time now and have been preparing for those offices to be contested at an August primary. Cancelling the June Primary election at this time and requiring a complete do-over of all of the election processes that have occurred to date would result in a massive upheaval for election officials and voters, and impose unbearable burdens on the State's election system. There is insufficient time to draw new Assembly district lines, provide a do-over of all ballot access processes and complete the

primaries and subsequent judicial nominating conventions in time for the General Election on November 8.

11. Because the June 28 primary has already been certified by state and local boards of elections, ballots have been prepared across the state based on that certification and ballots have been issued for the June primary, including statewide primaries and primaries being held within the 150 Assembly Districts across the state, and all manner of other election preparations are completed or are underway.

**June Primary Elections Are Underway**

12. As of the hearing date in this matter, the June 28, 2022 Primary (June Primary) will be thirty-six days away, with *early voting to begin in twenty-six days*. The June Primary presently includes all statewide contests for which there are primaries, as well as primaries for state assembly, various party positions and many local offices. Absentee voting has begun.

13. On May 4, 2022, as required by section 4-110 of the Election Law, the Board certified Assembly and statewide candidates for the June 28 primary. No court proceeding enjoined that certification. In response, local boards of elections finalized their primary ballots. The primary ballot for each party is a unified ballot that would include candidates for any Assembly primary, Governor, Lieutenant Governor, and other elected offices (except for Congress and State Senate, which the *Harkenrider* Court moved to August 23).

14. The statutory deadline to mail these primary ballots to military and overseas voters was Friday, May 13, 2022. Elec. Law §§ 10-108(1), 11-204(4).

Collectively thousands of such ballots were prepared and sent by that date by all of New York's local boards of elections.

15. Boards of elections thus began preparing their ballots and setting in place the highly integrated mechanics of holding an election, and much of this work is done.

16. Absentee ballots for more than 200,000 non-military voters as of the hearing date will have been printed and many have already been sent to voters.

17. Test ballots for pre-election testing voting machines have been printed for many, if not most counties, including New York City.

18. Early voting / election day primary election ballots are already printed for many counties. In all, upon information and belief, *at least* 700,000 ballots had been printed as of Friday of last week. And substantially more than that will have been printed by the hearing date of this matter, as printing occurs seven days a week in election season.

19. If the statewide candidates were to change now, the ability of boards of elections to timely test election machines for the remaining primaries would be imperiled (9 NYCRR 6210.2). New York requires every voting machine to be programmed then tested with paper ballots to ensure the machines are tabulating ballots correctly. This is a time consuming but crucial process to ensure election integrity. A

change to the ballot requires reprogramming voting machines, reprinting ballots and retesting machines.

20. Already, 356 early voting sites to host nine days of early voting (N.Y. Election Law 8-600 et seq) have been selected and engaged, as have approximately 5,000 thousand election day poll sites for June 28, 2022.

21. More than 50,000 poll workers have been hired and scheduled to work on the early voting days and/or primary day.

22. Temporary staff allocations and vehicle rentals and / or transport contracts to send voting equipment to poll sites have been already arranged.

23. Mail notification to New York's voters informing them of the primary date and location of the early voting sites and poll sites has occurred (N.Y. Election Law 4-117) or is in final production, as is the case for 4.7 million notifications to New York City voters. New York City and other boards have engaged media campaigns to inform voters about the multiple primaries and what contests will appear at which election. Undoing these communications will cause massive voter confusion.

24. If all primaries are moved from June to August, a vast inventory of printed ballots would have to be thrown away. In addition to the wasteful expense, boards of elections will have difficulty printing new ballots as they have reported unprecedented supply-chain issues resulting in paper and envelope shortages.

25. Cancelling the June primary, which is well underway, would be confusing to voters and give rise to chaos.

26. To be clear, as of now, late May, there is no time to reconfigure the August 23, 2022 primary to include all other primary contests, and a September 13 primary would not be compliant with federal law as there is no way to have a primary on September 13, hold a judicial nominating convention thereafter and send military ballots required by federal law to be sent no later than September 24, 2022.

27. Moreover, there is a standing Court Order from the United States District Court of the Northern District of New York specifically placing the Congressional Primary in New York on August 23, 2022 as an exception to the normal timeframe which is the fourth Tuesday in June. On May 10, 2022 that Court:

**ORDERED** that New York's federal primary for Members of the United States House of Representatives in 2022 shall be held on August 23, 2022 to accommodate New York's congressional redistricting process, and that such primary shall be conducted in a manner in which ballots for UOCAVA voters shall be duly transmitted for such primary and the subsequent general election in conformance with federal law

*United States v State of New York* (NDNY 1:10-cv-01214-GLS, ECF # 104, May 10, 2022) For the reasons stated in the preceding paragraph, it is inconceivable that the United States District Court for the Northern District of New York would permit that primary to be held on September 13, 2022, as sought by the petitioners herein. A unified September primary is a nonstarter.

28. Petitioners have cited my first affidavit in *Harkenrider* -- signed in March -- that said a separate Senate and Congressional primary was possible. The situation now is materially different, given the passage of time, as I have described herein.

29. As of now, there are no new Assembly maps. Deriving maps would take weeks before ballot access could *even begin*.

**Judicial-Nominating Conventions and Party Committees**

30. Far more so than Congressional and State Senate districts, Assembly districts affect several other aspects of New York's election infrastructure. Accordingly, replacing the Assembly map would create even more burdens than replacing the congressional and State Senate maps.

31. For example, Supreme Court elections depend on Assembly districts.

32. Parties' candidates for the Supreme Court are not chosen through primary elections. Instead, delegates choose them at party conventions. Those judicial delegates, in turn, are elected by voters in the primaries—and much like candidates for other offices, they must collect designating-petition signatures to appear on primary ballots.

33. The judicial delegates who win the primaries attend a nominating convention of their party, which by law must occur between August 4 and 10, 2022. Elec. Law § 6-158(5). At the conventions, delegates decide who will appear for their party on the general-election ballot as candidates for the Supreme Court.

34. Critically, judicial delegates are elected from Assembly districts. Elec. Law § 6-124. So, if the Assembly map is replaced, judicial-delegate elections (like Assembly primaries) would have to be moved to August 23, and judicial-nominating

conventions could not occur between August 4 and 10 as presently required by law. Instead, judicial-nominating conventions probably could not be held until September, after the results of judicial-delegate elections are certified. This would imperil the ability of New York's election machinery to complete the party nominating processes in time to meet the critical and unalterable requirement to transmit military and overseas ballots prior to 46 days before the general election on November 8, 2022.

35. Specifically, general-election ballots must be mailed to military and overseas voters by September 23, 2022. Elec. Law §§ 10-108(1), 11-204(4). If Supreme Court candidates are chosen at conventions in September, it would be extremely difficult to finalize, print, program voting machines, test, address, and mail general-election ballots (which include Supreme Court candidates) by the September 23 state law deadline.

36. Additionally, members of the Democratic Party's state committee, are elected from Assembly districts this year. Elec. Law §§ 2-102(1), 2-104(1). These elections would also have to be moved to August 23, creating an additional burden in the already-challenging process of preparing for the unexpected August primaries, given the huge volume of ballot access documents these office generate. Similarly, current law permits that a member of a county committee need not reside in the election district he or she represents, but rather the member of county committee may represent any election district in the Assembly District in which the member of county committee resides. If the Assembly districts are changed at this late date it will be necessary to redo petitioning for members of county committees as well given this residency requirement. And this

petitioning cannot happen until election districts—the most granular unit of representation—are reconfigured as described herein.

### **Election Districts**

37. Finally, if the Assembly map is replaced as petitioners propose, many more election districts will also have to change.

38. Election districts are the foundational unit of New York’s political geography. Local boards of elections must sort New York’s approximately 13 million active voters into 15,587 election districts before a primary or general election can occur. This sorting is necessary because voters’ election districts determine what ballot they receive and where they vote.

39. Every voter in a given election district receives the same ballot, with the same candidates for the same races. As a result, election districts cannot be bisected by Assembly districts, State Senate districts, congressional districts, county boundaries, or municipal boundaries. Stated differently, everyone in a given election district must reside in the same Assembly district, State Senate district, congressional district, county, and municipality. If any of those boundaries change, election districts must change.

40. This year, after the redistricting that occurred on February 3, local boards of elections spent virtually all their time for about one month, working with their voter registration vendors, to sort voters into their correct election districts.

41. If the Assembly map is replaced, election districts will have to be redrawn, and voters will have to be re-sorted. This process could take weeks, given that

boards of elections would have to simultaneously complete the other steps necessary to prepare for an August primary.

**Statewide and local Primaries on June 28**

42. Presently, all statewide primaries and all others except Congressional and State Senate primaries are proceeding at the June 28, 2022 primary. This should not be disturbed. All necessary steps for ballot access for statewide primaries have been completed, and nothing in the current litigation touches on the validity of those processes.

**Purpose of the Congressional District Distribution Requirement**

43. There are 26 Congressional Districts in New York. A statewide designating petition filer must demonstrate that they have collected at least 100 signatures from at least 13 Congressional Districts. This distribution requirement applies to *1,300 of the 15,000* required signatures. The purpose of the Congressional Distribution requirement is entirely straight forward. It requires some modest level of geographic distribution of a candidate's signature collection effort.

44. As of the beginning of the designating petition period for statewide candidates on March 1, New York had congressional districts in place. With a week to go before the end of the petitioning period, the congressional lines were struck down by court order, but the order was expressly stayed precisely so ballot access processes could

continue. On April 1, 2022, a stay was issued from New York’s Appellate Division Fourth Department as a decretal paragraph in an Order to Show Cause, providing “pending the hearing and determination of this motion, said judgment is STAYED in its entirety.” Thereafter on April 8, 2022 a decision was issued by Hon. Stephen K. Lindley of the Appellate Division, Fourth Department, permitting ballot access to continue, expressly providing the stay applied to “provisions of the order [below] that enjoin respondents and their agents, including officials from the various boards of elections, from ‘using, applying, administering, enforcing or implementing any of the recently enacted 2022 maps for this or any other election...”

45. After the Court of Appeals ruling on April 27, 2022, congressional lines clearly could not be used to elect representatives, but the lines in place during the statewide designating petition process were more than sufficient to ensure geographic distribution of statewide designating petitioning.

**No harm to candidates or voters**

46. Significantly, under state law the deadline to challenge primary designations passed on April 21, 2022 as provided by Election Law 16-102. And the courts have uniformly held that this deadline applies even to challenges of a Constitutional dimension. *See Scaringe v Ackerman*, 119 AD 2d 327 (3<sup>rd</sup> Dept 1986) (holding petitioners’ claims that candidate was barred by the constitutional residency requirement from seeking office was subject to limitations period of the Election Law: “[i]rrespective of the label given to the proceeding or the words used to describe the

issue, the late relief sought by petitioners seeks judicial intervention in the election process to remove a candidate from the ballot...they cannot avoid the time requirement of the statute by initiating a new and different proceeding...”. Accordingly, it is simply too late for new claims related to the invalidity of the Assembly and statewide elections to be entertained.

47. No candidate’s designating petition was disqualified in 2022 for not having an adequate congressional distribution of their signatures. No candidate suffered any injury thereby.

48. Throughout the petitioning process, the State Board advised all candidates to file their petitions on the statutory schedule. There is no actual averment by the plaintiffs that any candidate declined to file because of the *Harkenrider* decision.

**Petitioner Paul Nichols**

49. Petitioner Paul Nichols’s designating petition was found by the board on May 2, 2022 to be invalid because it contained only 11,767 valid signatures where 15,000 were required.

50. The invalidity of Mr. Nichols petition had nothing to do with the requirement that 1,300 signatures, in the aggregate, of the required 15,000 be derived of 100 signatures collected in each of at least half of New York’s congressional districts.

51. On May 4, 2022, Mr. Nichols brought a validating proceeding against the board of elections (since dismissed) which did not raise any of the theories now advanced (*Nichols v New York State Board of Elections*, E903472-2022, Albany

County Supreme Court) and his time to bring a validating proceeding has lapsed as of May 5, 2022 (Election Law 16-102).

52. Mr. Nichols opportunity to seek an independent nomination was in no way effected by the *Harkenrider* decision invalidating congressional and state senate district lines, as the period for such ballot access activity was not changed and in fact is still on-going, with independent nominating petitions due on May 31, 2022.

### **Independent Nominating Process**

53. The independent nominating signature collection period pursuant to the Election Law for 2022 spans from April 19 to May 31, with filings permitted between May 24 and May 31.

54. As a result of the invalidation of New York's congressional lines and state senate district lines on April 27, during the independent nominating period, and with new lines not to be promulgated until May 20, the *Harkenrider* court issued a new political calendar setting a full independent nominating period for congress and state senate to run from May 21, 2022 to July 5, 2022. (*Harkenrider*, Doc. No. 524).

55. The *Harkenrider* court expressly did not alter the political calendar for statewide or other independent candidates, observing at *Harkenrider*, Doc No. # 409 on May 5, 2022 that "this court does not intend to alter the time frame for gathering signatures for Independent Nominating Petitions for statewide elections. Election Law § 138 (4) sets a six-week time period for the gathering of signatures for Independent petitions .... Once the Congressional map has been established it will be up to the

candidate to make sure he/she has the appropriate number of signatures from the appropriate number of different districts.”

56. For statewide independent nominating petitions, the requirement is 45,000 signatures with 500 from each of 13 congressional districts. The congressional district distribution requirement thus applies to 6,500 of the total number of signatures required to be collected.

### Conclusion

57. Replacing the Assembly map and moving the statewide primaries would create logistical hurdles for the Board and for local boards of elections for which we have no reasonably actionable solutions. For this reason, the instant petition should be denied.

Dated: Albany, New York  
May 22, 2022

  
TODD D. VALENTINE

Sworn to before me this  
22 day of May, 2022

  
Notary Public

BRIAN L. QUAIL  
Notary Public, State of New York  
Reg. No. 02QU5395806  
Qualified in Schenectady County  
Commission Expires 08/05/2023

Letter from Brian Quail to the Honorable Laurence L. Love, dated  
May 23, 2022

Peter S. Kosinski  
Co-Chair

Anthony J. Casale  
Commissioner

Todd D. Valentine  
Co-Executive Director



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Douglas A. Kellner  
Co-Chair

Andrew J. Spano  
Commissioner

Kristen Zebrowski Stavisky  
Co-Executive Director

May 23, 2022

Hon. Laurence L. Love  
Justice of the Supreme Court  
80 Centre Street  
New York, New York 10007

***Re: Nichols et al v Hochul et al (154213/2022 New York County Supreme Court)***

Your Honor:

The New York State Board of Elections joins in the motion to dismiss brought by Speaker Heastie filed herein at NYSCEF Doc. No. 30 *et seq.*

Very Truly Yours,

s/Brian Quail

---

Brian L. Quail  
Co-Counsel  
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**Respondents Speaker of the Assembly Carl Heastie and Senate Majority  
Leader Andrea Stewart-Cousins' Notice of Motion to Dismiss,  
dated May 23, 2022  
[pp. 883 - 884]**

**FILED: NEW YORK COUNTY CLERK 05/23/2022 07:19 AM**

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NYSCEF DOC. NO. 84

RECEIVED NYSCEF: 05/23/2022

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF NEW YORK

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PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG,

Petitioners,

**NOTICE OF MOTION**

v.

Index No. 154213/2022

GOVERNOR KATHY HOCHUL, 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,

Assigned Justice:  
Hon. Laurence L. Love

Respondents.

---

Upon the papers filed by Respondent Speaker of the Assembly Carl Heastie, Respondent Senate Majority Leader Andrea Stewart-Cousins will move the Supreme Court of the State of New York, New York County, at 60 Centre Street, New York, New York 10007, in IAS Part 63, Room 355, on May 23, 2022 at 10:00 a.m., or as soon thereafter as counsel may be heard, for an Order under CPLR 404(a):

1. Dismissing the Petition in its entirety with prejudice; and
2. For such additional relief as this Court deems necessary and/or appropriate.

Dated: May 23, 2022  
New York, New York

CUTI HECKER WANG LLP

By: /s/ Eric Hecker  
Eric Hecker  
Alexander Goldenberg  
Alice G. Reiter

305 Broadway, Suite 607  
New York, New York 10007  
(212) 620-2600

*Attorneys for Respondent Senate Majority  
Leader Andrea Stewart-Cousins*

TO:

Jim Walden  
Walden Macht & Haran LLP  
250 Vesey Street, 27th Floor  
New York, NY 10281  
(212) 335-2030

*Attorneys for Petitioners*

**Affirmation of Eric Hecker for Respondent Senate Majority Leader  
Andrea Stewart-Cousins, in Support of Motion to Dismiss, dated  
May 23, 2022**

**FILED: NEW YORK COUNTY CLERK 05/23/2022 07:19 AM**

NYSCEF DOC. NO. 85

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/23/2022

STATE OF NEW YORK  
SUPREME COURT: COUNTY OF NEW YORK

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG,

Petitioners,

v.

GOVERNOR KATHY HOCHUL, 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.

**AFFIRMATION OF  
ERIC HECKER**

Index No. 154213/2022

Assigned Justice:  
Hon. Laurence L. Love

ERIC HECKER affirms the following under penalties of perjury pursuant to CPLR

2106(a):

1. I am admitted to practice law in the courts of New York State. I am a partner at  
Cuti Hecker Wang LLP, counsel for Respondent Senate Majority Leader Andrea Stewart-  
Cousins.

2. The Senate Majority Leader joins in all of the arguments made by Respondent  
Speaker of the Assembly Carl Heastie and hereby moves to dismiss the Petition on the same  
bases.

Dated: New York, New York  
May 23, 2022

By:



Eric Hecker

**FILED: NEW YORK COUNTY CLERK 05/23/2022 08:17 AM**

NYSCEF DOC. NO. 86

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/23/2022

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG,*Petitioners,*

-against-

GOVERNOR KATHY HOCHUL, 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.*

Index No. 154213/2022

**ANSWER OF GOVERNOR  
HOCHUL**

Respondent Governor Kathy Hochul ("Governor Hochul") by her attorney, LETITIA JAMES, Attorney General of the State of New York, as and for her answer to the Petition herein, responds to the allegations in the Petition as follows:

1. To the extent that the allegations of paragraph 1 set forth Petitioners' legal arguments and/or their characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

2. With respect to the allegations contained in paragraphs 2, 3 and 4, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

3. To the extent that the allegations of paragraphs 5, 6, 7 and 8 set forth Petitioners' legal arguments and/or their characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

4. Denies the allegations contained in paragraph 9.

5. To the extent that the allegations of paragraph 10 set forth Petitioners' legal arguments and/or their characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 11, 12 and 13.

7. Admits the allegations contained in paragraphs 14, 15, 16, 17 and 18.

8. With respect to the allegations contained in paragraphs 19, 20, 21 and 22, respectfully refers the Court to the applicable constitutional provision and statutes recited therein (Article III, Section 5 of the New York Constitution, Unconsolidated Laws §§ 4221 and 4225, and CPLR 503(a) and 3001), and denies to the extent that Petitioners' allegations are inconsistent therewith.

9. To the extent that the allegations of paragraphs 23, 24, 25, 26, 27, 28 and 29 set forth Petitioners' legal arguments and/or their characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

10. With respect to the allegations contained in paragraphs 30, 31, 32, 33 and 34, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best

evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

11. Denies the allegations contained in paragraph 35.

12. With respect to the allegations contained in paragraphs 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84 and 85, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, and/or the record of the State's redistricting process as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

13. To the extent that the allegations of paragraphs 86, 87, 88, 89 and 90 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

14. With respect to the allegations contained in paragraph 91, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

15. With respect to the allegations contained in paragraph 92, respectfully refers the Court to the applicable statute recited therein (N.Y. Election Law § 5-134) and denies to the extent that Petitioners' allegations are inconsistent therewith.

16. To the extent that the allegations of paragraphs 93, 94, 95, 96, 97, 98 and 99 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

17. With respect to the allegations contained in paragraph 100, respectfully refers the Court to the applicable statute recited therein (N.Y. Election Law § 6-138) and denies to the extent that Petitioners' allegations are inconsistent therewith.

18. To the extent that the allegations of paragraphs 101, 102, 103, 104 and 105 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

19. With respect to the allegations contained in paragraphs 106, 107, 108, 109, 110, 111, 112, 113 and 114, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

20. To the extent that the allegations of paragraphs 115 and 116 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

21. With respect to the allegations contained in paragraphs 117 and 118, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

22. To the extent that the allegations of paragraph 119, 120, 121, 122, 123 and 124 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

23. With respect to the allegations contained in paragraphs 125 and 126, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

24. To the extent that the allegations of paragraph 127, 128 and 129 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

25. Denies the allegations contained in paragraph 130.

26. To the extent that the allegations of paragraphs 131, 132, 133, 134 and 135 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

27. Denies the allegations contained in paragraphs 136, 137, 138, 139, 140, 141, 142, 143, 144, 145 and 146.

28. With respect to the allegations contained in paragraphs 147 and 148, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

29. To the extent that the allegations of paragraph 149 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

30. Repeats and realleges her responses to the allegations contained in paragraphs 1 through 149 as her response to paragraph 150.

31. With respect to the allegations contained in paragraph 151, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

32. With respect to the allegations contained in paragraphs 152, 153 and 154, respectfully refers the Court to the applicable constitutional provisions recited therein (New York Constitution, Article III, Sections 4(b) and 4(e)) as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

33. Denies the allegations contained in paragraphs 155 and 156.

34. With respect to the allegations contained in paragraphs 157, 158, 159 and 160, respectfully refers the Court to the record and decisions in the trial court and appellate courts in *Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, as the best evidence of their contents, provisions and requirements, and denies to the extent that Petitioners' allegations are inconsistent therewith.

35. Denies the allegations contained in paragraphs 161.

36. Repeats and realleges her responses to the allegations contained in paragraphs 1 through 161 as her response to paragraph 162.

37. To the extent that the allegations of paragraph 163 set forth Petitioners' legal arguments and/or its characterization of this proceeding and the grounds therein, submits that no response is required; to the extent a response is required, denies.

38. Denies the allegations contained in paragraphs 164, 165, 166 and 167.

39. Denies any averment of the Petition not specifically responded to above.

40. With respect to the prayer for relief, denies that Petitioners are entitled to any relief in this proceeding.

**AS AND FOR HER DEFENSES TO THE PETITION  
HEREIN, RESPONDENT GOVERNOR HOCHUL  
ALLEGES:**

41. As further set forth in her accompanying Memorandum of Law in Support of her Answer and in Opposition to the Order to Show Cause, the Petition is barred by the doctrine of laches and thus fails to set forth grounds warranting the relief sought therein.

42. Governor Hochul properly performed the duties imposed upon her by law. The applicable decisions were made in accordance with lawful procedure; were affected by no error of law; were neither arbitrary nor capricious nor an abuse of discretion.

43. The petition on its face fails as a matter of law to set forth grounds warranting the relief sought therein. Petitioners are not entitled to such relief and the petition should be dismissed.

44. Petitioners' claims against Governor Hochul are barred by the doctrine of legislative immunity.

45. Some or all of Petitioners' claims against Governor Hochul are barred by the applicable statute of limitations.

46. The Petition is barred insofar as it raises non-justiciable questions.

47. Petitioners lack standing to assert some or all of their claims.
48. Some or all of Petitioners' claims are barred by the doctrine of mootness.
49. The Court lacks subject matter jurisdiction over Governor Hochul with respect to some or all of Petitioner's claims.
50. The Petition fails to name necessary parties.

WHEREFORE, the Respondents respectfully submit that the proceeding should be dismissed as a matter of law, and for such other and further relief as to this Court seems just and proper.

Dated: New York, New York  
May 23, 2022

Respectfully submitted,

LETITIA JAMES  
Attorney General  
State of New York  
*Attorney for Respondent Governor Hochul*  
By:

/s/ Seth J. Farber  
SETH J. FARBER  
Special Litigation Counsel  
28 Liberty Street  
New York, New York 10005  
(212) 416-8029

**Respondent Governor Kathy Hochul's Memorandum of Law in Support  
of Verified Answer and in Opposition to the Petition and Petitioner's  
Motion by Order to Show Cause,  
dated May 23, 2022  
[pp. 894 - 905]**

**FILED: NEW YORK COUNTY CLERK 05/23/2022 08:17 AM**

NYSCEF DOC. NO. 87

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/23/2022

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK**

PAUL NICHOLS, GAVIN WAX, and GARY  
GREENBERG,

*Petitioners,*

-against-

GOVERNOR KATHY HOCHUL, 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.*

Index No. 154213/2022

**GOVERNOR HOCHUL'S MEMORANDUM OF LAW IN SUPPORT  
OF HER ANSWER AND IN OPPOSITION TO THE PETITION AND  
PETITIONERS' MOTION BY ORDER TO SHOW CAUSE**

LETITIA JAMES  
Attorney General of the  
State of New York  
*Attorney for Respondent Governor Hochul*  
28 Liberty Street  
New York, New York 10005  
(212) 416-8029

SETH FARBER  
Special Litigation Counsel  
*Of Counsel*

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**PRELIMINARY STATEMENT**

Respondent Governor Kathy Hochul (“Governor Hochul”) respectfully submits this memorandum of law in support of her accompanying Answer and in opposition to the petition and motion by Petitioners Paul Nichols (“Nichols”), Gavin Wax (“Wax”) and Gary Greenberg (“Greenberg”) by Order to Show Cause (“OSC”) signed by Justice Laurence Love on May 19, 2022 (the application (*see* NYSCEF No. 25). In the OSC, the Court struck the portion of the OSC presented (NYSCEF No. 2) that sought a temporary restraining order (“TRO”) that would have enjoined respondents from using the 2022 State Assembly map in administering the 2022 primary and general elections, and immediately appointed a special master to begin proceedings to evaluate and draft a State Assembly map for the 2022 primary and general elections.

Petitioners Nichols, Wax and Greenberg allege that they are registered and eligible voters in the State of New York, and are, respectively, a Democratic primary candidate for governor until he was excluded from the ballot because his petition signatures were invalidated (Petition, NYSCEF No. 1 at para. 11), President of the New York Young Republican Club (*id.* at para. 12), and a former candidate for a State Senate seat in District 46, and “a potential candidate” for Congress, the State Senate and the State Assembly (*id.* at para. 13). None of the Petitioners allege that they are actually running for the State Assembly.

In the present OSC, Petitioners seek the following extraordinary relief at a time after the June primary election (that includes Statewide races, races for all 150 seats in the State Assembly and numerous other election contests) is already underway:

“Judgment ... pursuant to CPLR § 411 and CPLR § 3001: [1] Declaring pursuant to CPLR § 3001 that the 2022 State Assembly map, *see* 2021–2022 N.Y. Reg. Sess. Leg. Bills A.9040-A and A.9168, is void based upon the constitutional flaws in its adoption previously found by the Court of Appeals; [2] Appointing a special master to adopt a legally compliant State Assembly map; [3] Enjoining Respondents to adjourn the primary election date for state and local elections to August 23, 2022, or, alternatively, September 13, 2022; [4] Enjoining Respondents to open designating and independent nominating petition periods, *see* N.Y.

Elec. Law §§ 6-134, 6-138, for Statewide, Congressional, State Assembly, State Senate, and local offices with deadlines sufficient for current candidates to obtain new designating petition signatures or run independently, and for potential candidates to newly qualify for primary elections or as an independent in the general election; [5] Suspending or enjoining the operation of any other state laws, or vacating any certifications or other official acts of the New York State Board of Elections or other governmental body, that would undermine this Court's ability to offer effective and complete relief for the November 2022 elections and related primaries; [6] Awarding Petitioners reasonable attorneys' fees and costs; and [7] Awarding such other and further relief as this Court may deem just and proper.

As Governor Hochul advised the Court in her Memorandum in Opposition to the TRO (NYSECF No. 26), similar challenges by two of the three Petitioners have already been rejected by the Steuben County Court that has been handling New York's redistricting litigation for several months, (*Harkenrider v. Hochul*, Steuben County Sup. Ct., Index No. E2022-0116CV, "*Harkenrider*," NYSCEF No. 520). As Judge McAllister noted in denying Petitioners Motion for Intervention, to change the Assembly maps now would "create total confusion" as "a change in the Assembly Districts would impact several elected officials – and that was on May 11<sup>th</sup>, twelve days ago. This would include delegates to the State Supreme Court judicial nominating convention, representatives to county party committees and the New York State Democratic Committee." *Id.*, at 4.

Furthermore, the Statewide and Assembly primary election that Petitioners are again seeking to enjoin has been underway since May 13<sup>th</sup>. *See* Letter of Aaron Suggs on behalf of State Board of Elections opposing TRO, NYSCEF No. 14. Hence, if the relief sought in the OSC and the petition were granted, this would not only disrupt a primary election that is already in progress but would result in further chaos and disruption to an election cycle that has already confounded voters since redistricting challenges initially threw the election process into question three months ago.

For their part, Petitioners flippantly assert that "While *military and overseas ballots* have presumably been mailed (despite BOE's awareness of an imminent and/or pending Assembly map

challenge), any such returned ballots can be discarded or not counted.” See Jim Walden and Aaron Foldenauer letter to the Court of May 18, 2022 (NYSECF No. 23). The Court should soundly reject Petitioners’ cavalier suggestion to disenfranchise voters as a result of Petitioners’ own late filing.

The impact of moving Assembly and other Statewide and local races and of reopening the designating and independent petition process will cause further disarray for candidates across New York. The certification deadline for the June primary has now passed, ballots are being printed, and candidates for judicial elections and party elections will be impacted because the Election Law ties the Assembly districts to election districts in a number of circumstances, and military ballots have already been sent out. Furthermore, the signature gathering period for independent candidates has been open for over a month and petitions are due to be submitted in a matter of days. Under these circumstances, Petitioners’ untimely and improper application for the extraordinary relief of enjoining an election that is already under way should be denied in all respects.

### **ARGUMENT**

#### **A. The Present Application is barred by doctrine of laches.**

Petitioners’ challenge to the Assembly map (and the other attendant extraordinary relief they seek herein, discussed below including canceling the June 28, 2022 primary and reopening designating and independent nominating petition periods) is barred by the doctrine of laches. “Laches bars recovery where a plaintiff’s inaction has prejudiced the defendant and rendered it inequitable to permit recovery.” *Airco Alloys Division, Airco Inc. v. Niagara Mohawk Power Corp.*, 76 A.D.2d 68, 82 (4th Dept 1980).

Laches is “an equitable bar, based on a lengthy neglect or omission to assert a right and the resulting prejudice to an adverse party.” *Reif v. Nagy*, 175 A.3d 107, 130 (1st Dep’t 2019) (quoting *Saratoga County Chamber of Commerce v. Pataki*, 100 N.Y. 2d 801, 816 (2003)). To show prejudice, a defendant must show reliance and change of position from the delay. *Id.* Here, the prejudice that

would stem from Petitioners' belated challenge to the Assembly map is manifest. On May 4, 2022, the State Board of Elections certified the primary ballot for Assembly elections,<sup>1</sup> with local county boards of election throughout the State preparing for the election to go forward on June 28 (at significant effort and expense), with early voting and absentee balloting taking place before that date. As noted above, military ballots have already been sent out to military voters on or about May 13, 2022. If Petitioners' challenge were allowed, the Assembly map would have to be redrawn by a Special Master, and the Assembly primary could not go forward in June, and insofar as numerous other races are tied to Assembly districts, it is not clear what primaries, if any, could go forward in June (and of course, Petitioners seek to cancel and reschedule the entire June 28 primary in any event). Similarly, Petitioners gratuitously seek to open the independent nominating petition period after the period for collection of signatures has elapsed. They give no explanation for why they require that extraordinary relief, much less a reason why they sat on their "rights" while the election process was underway.

The proposed relief would cause yet more delay and add to the already formidable logistical challenges faced by the State and local boards of elections associated with having to accommodate entirely new Congressional and State Senate districts, let alone Assembly districts that have yet to be even drawn (and a new primary in August). This Court should decline to entertain this application.

**B. Changing assembly districts would cause chaos for candidates and voters and place additional, untenable burdens on boards of elections.**

Granting the relief demanded in the Petition of changing the Assembly districts at this late stage – something that could have been raised at least as far back as February – would cause an additional and unnecessary burden on the State's elections process. *See, e.g., Purcell v. Gonzalez*, 549

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<sup>1</sup> See <https://www.elections.ny.gov/NYSBOE/Elections/2022/Primary/Jun282022PrimaryCertification.pdf>.

U.S. 1 (2006) (per curiam) (U.S. Supreme Court has repeatedly cautioned federal courts against late changes to state election laws similar to those contemplated by Petitioners here). Not only does it risk further confusion to voters and candidates, but because the primaries for the State's one hundred and fifty Assembly districts are inexorably linked to a series of other elections, granting the application as requested would cause chaos statewide.

The Election Law requires judicial delegates to be elected from Assembly districts. Election Law § 6-124. Moving the Assembly primary will also necessitate moving the judicial nominating process, and, as indicated in Speaker Heastie's opposition memorandum (NYSCEF No. 15 at 8-10), a number of other offices including candidates for State Assembly, representatives to county party committees and the New York State Democratic Committee, party District Leaders in New York City, as well as delegates and alternate delegates to State Supreme Court judicial nominating conventions.

And, on top of already having to move Congressional and State Senate races as a result of other litigation, granting the relief requested by Petitioners here would upend the Assembly and numerous other races and would have a severe if not incalculable impact on election administration. A further dramatic change to New York's election cycle at this late point in time risks grave harm to candidates, voters, and elections officials.

**C. Petitioners' Challenges to Designating Petitions are Time-Barred and Lack Any Legal Basis.**

Petitioners are seeking to use this case to get a second bite at the apple to get on the ballot after failing to obtain ballot access during the now concluded petitioning process. They are also asking this court to set a stricter standard for statewide petitions than for the races for State Senate and for Congress – one that would demand the collection and submission of new designating petitions

well after the election has already begun. Specifically, in order to effectuate these requests, Petitioners are asking the court for extraordinary relief in the form of

[3] Enjoining Respondents to adjourn the primary election date for state and local elections to August 23, 2022, or, alternatively, September 13, 2022; and [4] Enjoining Respondents to open designating and independent nominating petition periods, *see* N.Y. Elec. Law §§ 6-134, 6-138, for Statewide, Congressional, State Assembly<sup>2</sup>, State Senate, and local offices with deadlines sufficient for current candidates to obtain new designating petition signatures or run independently, and for potential candidates to newly qualify for primary elections or as an independent in the general election

Functionally, Petitioners here<sup>3</sup> seek to leverage their already untimely challenge into an excuse to *cancel the June 28<sup>th</sup> primary for all primary races*. Specifically, Petitioners ask the Court to upend both the party designation process and the independent nominating petition process “for Statewide, Congressional, State Assembly, State Senate and local offices,” *i.e.* what appears to be every single federal, state and local office in New York.

First, Petitioners’ last-ditch challenge to nominating petitions and designating petitions is clearly time-barred. The Election Law deadlines are strict, and with good reason, lest challenges like this result in the kind of chaos described in Point B, above. The period for obtaining signatures on independent nominating petitions has been open since April 19<sup>th</sup> and independent petitions must be submitted between May 24<sup>th</sup> and May 31st (*see* Election Law §§ 6-138(4) and 6-158(9); *see also* NYSCEF No. 5, State 2022 Political Calendar, Ex. 1 to Devlin Aff.).

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<sup>2</sup> Petitioners Wax and Greenberg sought to intervene in the *Harkenrider* case, seeking *inter alia*, to invalidate signatures already gathered, change the dates for new petition signature gathering and submission for Assembly races. The Supreme Court, Steuben County, rejected their intervention motion, finding, *inter alia*, that it was untimely. *Harkenrider*, Steuben County Sup. Ct., Index No. E2022-0116CV, NYSCEF No. 520 at 3-4.

<sup>3</sup> Petitioner Nichols, acknowledges that he himself is a candidate for governor, a statewide office, and his designating petitions for the Democratic primary were rejected for an insufficient number of valid signatures, and he is collecting signatures to run as an independent candidate. *See* Nichols Affidavit dated May 16, 2022, ECF No. 9, at paras. 2-4.

Designating petitions have also already been filed and certified. Petitioners' challenge to the validity of designating petitions that have already been filed and certified is clearly time-barred by the statutory deadlines for filing objections.

Election Law 6-154(2) provides, in relevant part, that:

“Written objections to any certificate of designation or nomination or to a designating petition or a petition for opportunity to ballot for public office or to a certificate of acceptance, a certificate of declination or a certificate of substitution relating thereto .... shall be filed with the officer or board with whom the original petition or certificate is filed within three days after the last day to file such a certificate to which objection is made, or within three days after the last day to file such a certificate, if no such certificate is filed except that if any person nominated by an independent nominating petition, is nominated as a party candidate for the same office by a party certificate filed, or a party nomination made after the filing of such petition, the written objection to such petition may be filed within three days after the filing of such party certificate or the making of such part nomination. When such an objection is filed, specifications of the grounds of the objections shall be filed within six days thereafter with the same officer or board and if specifications are not timely filed, the objection shall be null and void.”

Election Law 16-102(2) provides in relevant part:

“A proceeding with respect to a petition shall be instituted within fourteen days after the last day to file the petition, or within three business days after the officer or board with whom or which such petition was filed, makes a determination of invalidity with respect to such petition, whichever is later.”

In the present case, as designating petitions were received by April 7, 2022, objections were due to the State Board of Elections by April 11, 2022, and aggrieved parties had to commence legal action by April 21, 2022. *See Harkenrider v. Hochul*, CAE 22-506, NYSCEF No. 24 at 1 (4<sup>th</sup> Dep't, April 8, 2022).

Second, Petitioners have no legal basis to assert that the already submitted and certified nominating petitions are not legally sufficient. Providing the Petitioners relief here would result in a stricter standard for petitioning for statewide candidates than the requirements set forth in *Harkenrider* for Congressional and State Senate candidates. (*See Harkenrider*, Steuben County Sup. Ct., Index No. E2022-0116CV, NYSCEF No. 524 at 2.) In particular, candidates who already

qualified for the ballot succeeded in obtaining the required number of signatures in the broad swath of Congressional districts as required by law. For example, a number of candidates for statewide office, including three Democratic candidates and four Republican candidates for governor and three Democratic candidates for lieutenant governor, successfully accumulated enough designating petitions from across the state to appear on the certified ballot for the June 28<sup>th</sup> primary, and a new Congressional map does not change that candidates who have been certified on the ballot demonstrated the required breadth of support from across the state by obtaining the required signatures. To set a different standard here for statewide candidates would be inconsistent and incongruous with that decision and detrimental to both voters and candidates.<sup>4</sup>

Ultimately, Petitioners have timed their application for this relief in as highly prejudicial a manner as their other requests: the independent nominating process began over a month ago, and we are now just days before the period when petitions are due to be submitted. Further, although the Petition itself is replete with references to the Court of Appeals decision in *Harkenrider v. Hochul*, 2022 WL 1236822 (N.Y. Apr. 27, 2022), Petitioners fail to offer any explanation for why they waited until three weeks after that decision to bring the present application despite the clear prejudice that would result to election officials, candidates and voters throughout the State. Indeed, Petitioners' own tardiness should absolutely preclude Petitioners from voiding the petition signatures already obtained by candidates, including those who successfully qualified for the June 28<sup>th</sup> primary election ballot.

Under these circumstances, the extraordinary if not unprecedented relief sought by Petitioners of canceling an entire primary and reopening designating and independent nominating petition

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<sup>4</sup> Even assuming Petitioners were correct, the appropriate remedy would be to mirror what the *Harkenrider* court decided for petitioning in the Congressional races. Instead of creating a new, more restrictive rule for statewide races in the form of a new petitioning period, or restarting the prior petitioning period, candidates would simply rely on the existing petitions that collected to submit the statutory requirements. *Harkenrider*, Steuben County Sup. Ct., Index No. E2022-0116CV, NYSCEF No. 524 at 2.

periods (and thereby dramatically altering the State's entire election landscape) here at this late point in New York's election cycle risks extraordinarily grave harm to candidates, voters, and elections officials, and should be denied by this Court in all respects.

### **CONCLUSION**

For the reasons set forth above, Governor Hochul respectfully submits that Petitioners' motion by OSC should be denied in its entirety and the Petition denied, together with such further relief as the Court may order.

Dated: New York, New York  
May 23, 2022

**LETITIA JAMES**

Attorney General  
State of New York  
*Attorney for Respondent Governor Hochul*

s/ Seth Farber

\_\_\_\_\_  
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[Seth.Farber@ag.ny.gov](mailto:Seth.Farber@ag.ny.gov)

**CERTIFICATION**

In accordance with Rule 202.8-b of the Uniform Rules of Supreme and County Courts, the undersigned certifies that the word count in this memorandum of law (excluding the caption, table of contents, table of authorities, signature block, and this certification), as established using the word count on the word-processing system used to prepare it, is 2,746 words.

Dated: New York, New York  
May 23, 2022

/s/ Seth Farber  
By: Seth Farber  
Special Litigation Counsel

Letter from Seth J. Farber to the Honorable Laurence L. Love, dated  
May 23, 2022



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES  
ATTORNEY GENERAL

DIVISION OF STATE COUNSEL  
LITIGATION BUREAU

Writer's Direct Dial: (212) 416-8029

**By NYSCEF**

May 23, 2022

Honorable Laurence L. Love, J.S.C.  
Supreme Court, New York County  
80 Centre Street  
New York, NY 10013

Re: *Nichols v. Hochul*, Index No.154213/2022

Dear Justice Love:

This Office submits this letter on behalf of Governor Kathy Hochul ("Governor Hochul"), named as a respondent in the above-captioned matter. Governor Hochul respectfully joins in the motion to dismiss filed by Assembly Speaker Carl Heastie (NYSCEF No. 30, *et seq.*).

Respectfully submitted,

Seth J. Farber /s/  
Seth J. Farber  
Special Litigation Counsel

cc: All Counsel (via NYSCEF)

**Letter from Petitioners' Counsel to the Honorable Laurence L.  
Love, dated May 24, 2022**

**[pp. 907 - 908]**



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New York, NY 10281

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May 24, 2022

VIA E-Filing and E-Mail (Drudolf@nycourts.gov)

The Honorable Laurence L. Love  
Justice of the Supreme Court, New York County  
80 Centre Street, Room 122  
New York, NY 10013

**Re: *Nichols v. Hochul*, Index No. 154213/2022**

Dear Justice Love:

We represent Petitioners in the above action. We write to respectfully ask that the Court enter a final judgment determining the Petition should it deny Petitioners' emergency motion for a temporary restraining order ("TRO"). The Attorney General has answered the Petition on behalf of Governor Hochul, *see* NYSCEF No. [86](#), and all arguments were heard on May 23, 2022, which was the return date of the Petition and deadline for answering papers that the Court set in its order to show cause, *see* NYSCEF No. [25](#). Petitioners make this request because the Court and all parties recognize that the passage of time is critical to the relief sought in the Petition and a fair resolution of this action. In these circumstances, an expeditious appeals process is warranted. Under CPLR 5601(b)(2), Petitioners may appeal as of right directly to the Court of Appeals "from a judgment of a court of record of original instance which finally determines an action where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States." Should the Court deny the Petition, Petitioners will therefore seek a direct appeal to the Court of Appeals.

Petitioners additionally write to oppose the motion to dismiss filed on May 22, 2022, by Respondent Heastie (mot. seq. #002) and the motion to dismiss filed on May 23, 2022, by Respondent Stewart-Cousins (mot. seq. #003). Petitioners oppose the motions to dismiss on the same grounds argued in their reply letter to Respondents' opposition to Petitioners' requested TRO. *See* NYSCEF No. [23](#). Petitioners further oppose the motions to dismiss for the reasons Petitioners argued on the record at the show-cause hearing on May 23, 2022, at 10:00 am. To the extent the motions to dismiss make arguments that were not addressed in Petitioners' reply letter or during oral argument at the hearing, Petitioners reject those arguments as well.<sup>1</sup>

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<sup>1</sup> In the motions to dismiss, Respondents argue that the Petition should be dismissed because N.Y. Election Law § 16-116 requires that a special proceeding to invalidate ballot-access petitions must be initiated by a verified petition. *See* Heastie Mem. Of Law at 20–21, NYSCEF No. [81](#). This argument fails for the same reason Respondents' arguments regarding necessary parties, statute of limitations, and standing fail: the Petition does not seek to invalidate any ballot-access petitions. The Petition asserts a constitutional claim under Article III and a claim for declaratory judgment that the State Assembly map is unconstitutional. The

Respondents have no basis to oppose this request. They have already moved to dismiss the Petition, and argument was conducted on the record. Thus, all arguments to grant or deny the Petition have been heard. Any opposition by Respondents would further betray the delay-by-design tactics Respondents have leaned on throughout this and related litigation.

For these reasons, and without waiving opposition to Respondents' motions to dismiss, Petitioners respectfully ask that the Court decide the Petition and enter a final judgment in order to facilitate a speedy appeals process.

Respectfully submitted,




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Jim Walden

Peter A. Devlin

*Attorneys for Petitioners*

cc: All Counsel (via NYCSEF and E-Mail)

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Petition requests as relief ancillary to the constitutional claim that the State Assembly map be invalidated, that state and local primary elections be moved to August 23 or September 13, and that a ballot-access petition period be reopened—without necessarily invalidating any of those petitions. This is the same relief that was sought and ultimately granted in Steuben County in *Harkenrider v. Hochul*, Index No. E2022-0116CV. Petitioners further oppose Respondents' motions to dismiss to the extent they fail to comply with New York's Civil Practice Law and Rules, including, but not limited to, CPLR 2214 and/or CPLR 406.

Letter from Steven B. Salcedo to the Honorable Laurence L. Love, dated  
May 25, 2022  
[pp. 909 - 911]



Phillips Lytle LLP

Via NYSCEF

May 25, 2022

Hon. Laurence L. Love  
New York State Supreme Court Justice  
New York County Supreme Court  
80 Centre Street, Room 128  
New York, New York 10013

Re: *Matter of Nichols v. Hochul* (New York County Index No. 154213/2022)

Dear Justice Love:

As co-counsel with Graubard Miller to New York State Assembly Speaker Carl Heastie (the "Speaker") in the above-captioned proceeding, we respond to the letter filed electronically last evening on behalf of counsel for Petitioners (NYSCEF Dkt. No. 89).

We reiterate the petition should be dismissed for any of the reasons set forth among the papers supporting the Speaker's motion to dismiss (Dkt. Nos. 30-81), and/or other Respondents' papers moving to dismiss (Dkt. Nos. 84-85) or otherwise opposing the petition (Dkt. Nos. 82-83, 86-88). This Court already denied Petitioners' application for a temporary restraining order ("TRO") when it struck the TRO language set forth in the order to show cause Petitioners proposed (*see* Dkt. No. 25, at p. 3), and should not award any TRO to Petitioners now. Further, we reserve the Speaker's arguments in relation to any appeal that may ensue from the requested dismissal of the Petition, and will respond to such appeal at the appropriate time and in the appropriate forum.

The Speaker's notice of its motion to dismiss the petition was proper. In a special proceeding such as this one, "[m]otions ... made before the time at which the petition is noticed to be heard, shall be noticed to be heard at that time." CPLR 406. "[P]ursuant to CPLR 406, any motion in a special proceeding may be made on little or no notice as long as it is made returnable when the petition is scheduled to be heard." *50 E. 191st St. Assocs. v. Gomez*, 148 Misc. 2d 560, 561 (N.Y. City Civ. Ct. Bronx County 1990) (citing *Goldman v. McCord*, 120 Misc. 2d 754, 755 (N.Y. City Civ. Ct. N.Y. County 1983)). Because this Court's order to show cause (Dkt. No. 25) noticed the petition to be

STEVEN B. SALCEDO

DIRECT 716 504 5782 SSALCEDO@PHILLIPSLYTLE.COM

ATTORNEYS AT LAW



Hon. Laurence L. Love  
Page 2

May 25, 2022

heard on Monday, May 23, 2022, at 10:00 a.m., with answering papers due by 9:00 a.m. that day, the Speaker's dismissal motion e-filed Sunday evening, May 22, 2022, and noticed to be heard on May 23 at 10:00 a.m. was timely.

Once again, Petitioners claim their "Petition does not seek to invalidate any ballot-access petitions" (Dkt. No. 89, at p. 1 n.1). The order to show cause and the Petition belie this inaccuracy. Absent a timely challenge pursuant to New York Election Law § 16-102 on or before April 21, 2022, the candidacy of every person who filed designating petitions to run for office in territory based upon New York State Assembly districts — *i.e.*, for State Assembly, for representatives to county party committees, for party District Leaders in New York City, for representatives to the New York State Democratic Committee, and for delegates and alternate delegates to State Supreme Court judicial nominating conventions — has been valid, particularly in view of the determination of the New York Court of Appeals not to invalidate the Assembly districts enacted in Chapter 14 of the New York Laws of 2022. *Matter of Harkenrider v. Hochul*, \_\_\_ N.Y.3d \_\_\_, 2022 WL 1236822, at \*11 n.15 (Apr. 27, 2022). Yet the order to show cause and the Petition demonstrate that, weeks after the April 21 deadline to commence a challenge, Petitioners seek an Order that would require those candidates to "obtain new designating petitions," and run for office in new districts other than the ones where they were originally designated (Dkt. No. 1, at p. 30; Dkt. No. 25, at p. 2). Petitioners also seek to "vacat[e] any certifications" of those candidates for the primary ballot, including certifications made by 57 county Boards of Elections and the New York City Board of Elections which are not parties to this proceeding (*id.*). Without question, therefore, Petitioners seek a remedy conditioned upon satisfying the requirements of Election Law § 16-102 and naming all those candidates and boards of elections as necessary parties to this proceeding, which Petitioners have not done. No such conditions pertained to the remedy in *Matter of Harkenrider v. Hochul* (Steuben County Index No. E2022-0116CV), because that proceeding was commenced months before the designation of any candidates to run in this year's elections, and any Congressional or State Senate candidate collected and filed designating petitions to run in districts that they knew had been challenged and were subject to change.



Hon. Laurence L. Love  
Page 3

May 25, 2022

Finally, should the Speaker's motion to dismiss be denied (which it should not), the Speaker respectfully requests the opportunity to answer the Petition upon such terms as may be just, pursuant to CPLR 404(a).

Respectfully,

Phillips Lytle LLP

By 

Steven B. Salcedo

SBS3CRB  
Doc #10443835

Transcript of Proceedings, dated May 23, 2022  
[pp. 912 - 1015]

**FILED: NEW YORK COUNTY CLERK 05/31/2022 08:24 PM**

NYSCEF DOC. NO. 95

INDEX NO. 154213/2022

RECEIVED NYSCEF: 05/31/2022

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1 SUPREME COURT OF THE STATE OF NEW YORK  
2 COUNTY OF NEW YORK - CIVIL TERM - PART 63  
3 -----X  
4 PAUL NICHOLS, GAVIN WAX, and GARY GREENBERG,  
5  
6 Petitioners,  
7  
8 -against- Index No. 154213/22  
9  
10 GOVERNOR KATHY HOCHUL, SENATE MAJORITY LEADER AND  
11 PRESIDENT PRO TEMPORE OF THE SENATE ANDREA  
12 STEWART-COUSINS, SPEAKER OF THE ASSEMBLY CARL  
13 HEASTIE, NEW YORK STATE BOARD OF ELECTIONS, and  
14 THE NEW YORK STATE LEGISLATIVE TASK FORCE ON  
15 DEMOGRAPHIC RESEARCH AND REAPPORTIONMENT,  
16  
17 Respondents.  
18 -----X  
19 60 Centre Street  
20 New York, New York  
21 May 23, 2022  
22  
23 B E F O R E: HONORABLE LAURENCE LOVE  
24 Supreme Court Justice  
25  
26  
27 A P P E A R A N C E S:  
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39 Attorney for the Petitioner  
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(Continued)

dk

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19 NEW YORK STATE

BOARD OF ELECTIONS

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Albany, New York 12207

21 BY: BRIAN QUAIL, ESQ.

22

23 Diane Kavanaugh, RMR, CRR, CRC

Senior Court Reporter

24

25

dk

## Proceedings

1 THE COURT: Good morning to all sides.

2 We're here in the action Paul Nichols, Gavin Wax,  
3 and Gary Greenberg against Governor Kathy Hochul, et al.,  
4 Index No. 154213 of 2022.

5 First, if I could have appearances from all  
6 counsel, starting with the Petitioner.

7 MR. WALDEN: Yes, sir. My name is Jim Walden. I'm  
8 here with my colleague, Peter Devlin, on behalf of  
9 Petitioners.

10 MR. FOLDENAUER: Good morning, Your Honor. Aaron  
11 Foldenauer, on behalf of Gavin Wax.

12 THE COURT: Anyone else for Petitioner?  
13 For Respondents.

14 MR. BUCKI: Good morning, Your Honor. Craig Bucki,  
15 B-U-C-K-I, from the law firm of Phillips Lytle, in Buffalo,  
16 New York, on behalf of New York State Assembly Speaker Carl  
17 Heastie, H-E-A-S-T-I-E. And with me in court today is my  
18 co-counsel, C. Daniel Chill, from the law firm of Graubard  
19 Miller, in New York City.

20 THE COURT: Thank you.

21 MR. FARBER: Good morning, Your Honor. Seth  
22 Farber, special litigation counsel, from the office of  
23 Attorney General Letitia James, New York, New York,  
24 appearing on behalf of Governor Hochul.

25 MR. HECKER: Good morning, Your Honor. My name is

dk

## Proceedings

1 Eric Hecker, Cuti Hecker Wang, on behalf of the Senate  
2 Majority Leader.

3 THE COURT: Good morning, all.

4 Just as a brief procedural matter, I did receive a  
5 request on Friday from the press seeking to have cameras in  
6 the courtroom, which is a request that is being denied at  
7 this time. Obviously the courtroom is certainly open to the  
8 public. Anyone from the press or anyone else can be here.

9 I'm just waiting on the technical piece, in terms  
10 of some of the Respondents that have already answered, we  
11 have some representatives here from the New York City Board  
12 of Elections who are joining us virtually. I believe they  
13 have had some issues they were dealing with.

14 Who is here on behalf of the State Board of  
15 Elections?

16 MR. QUAIL: Good morning. Brian Quail, from the  
17 New York State Board of Elections. I am also joined by my  
18 colleague, Kevin Murphy.

19 THE COURT: Good morning.

20 You are the only ones who are participating in the  
21 process obviously. We will obviously keep track on the  
22 technical end the best we can on our side. If we run into  
23 some issues on your side, please let us know as soon as  
24 possible.

25 With that said, good morning. I'm Judge Love. I

dk

## Proceedings

1 know you are obviously here with an order to show cause that  
2 came before me the middle of last week.

3 I'm certainly aware, as everyone else who is here  
4 is aware as well, I wasn't the first judge that the case got  
5 assigned to.

6 I know the initial order to show cause was uploaded  
7 on Sunday and went through whatever the technical stuff was  
8 through the court system. Even though we obviously move a  
9 lot quicker now that many things go through electronically,  
10 it still takes a couple of days to be properly processed and  
11 to go to two of my other colleagues before the case came  
12 before me.

13 As you also know, obviously I signed off on the  
14 order to show cause with a return date this morning. I'm  
15 certainly very cognizant of the time constraints that we're  
16 all dealing with in real time in this entire situation.

17 Although I know Petitioner was seeking an initial  
18 TRO in this matter as well, I did strike that provision  
19 pending hearing from everyone in detail today. Frankly,  
20 recognizing that even at the time that this proposed order  
21 to show cause was submitted, military ballots and things had  
22 already been processed, and certainly cognizant from  
23 documents that had already been uploaded on NYSCEF in this  
24 matter that the Board of Elections was already actively in  
25 the process of things. And I did not want to add an

dk

## Proceedings

1 additional potential delay that could have some significant  
2 ramifications over the course of the weekend.

3 I will also say, and then I will hear from counsel  
4 on both sides momentarily, this obviously is not occurring  
5 in a vacuum. This process here today is not occurring in a  
6 vacuum.

7 Everyone here is certainly aware of the process  
8 that occurred with one of my colleagues upstate, with the  
9 initial lawsuit that was filed back on February 2nd after  
10 the lines were initially put out by the Legislature and  
11 signed by the Governor, and all of the process that's gone  
12 on through the Fourth Department's review and the  
13 Court of Appeals decision culminating with the new  
14 Congressional and State Senate lines that were released over  
15 the course of this weekend.

16 So with that said, I guess I'll first turn to  
17 Petitioners' counsel and give you an opportunity to be heard  
18 in this matter.

19 MR. WALDEN: Thank you, Your Honor.

20 I am going to argue for all three Petitioners,  
21 although if I miss anything, I think Mr. Foldenauer would  
22 like to reserve a little bit of time.

23 THE COURT: That's fine.

24 MR. WALDEN: My remarks, Your Honor, won't delay  
25 the Court long because I'm going to get right to the point.

dk

## Proceedings

1           The constitutional amendment that's at issue in  
2           this case passed overwhelmingly by the voters. They passed  
3           it by a margin of 58 percent to 41 percent. The mandate in  
4           that constitutional amendment was clear and resounding. And  
5           the purpose behind it was clear as well.

6           As Senator Nozzolio said on the Floor, when  
7           advocating for passage, to ignore the constitutional process  
8           we are envisioning today in any way I believe certainly  
9           would be contrary to the public interest.

10          Well, the New York State Legislature did just that.  
11          They ignored the Constitution and went ahead with their own  
12          maps.

13          It doesn't matter what I think because the  
14          Court of Appeals has already spoken clearly. The Assembly  
15          map is unconstitutional. That much nobody can possibly  
16          dispute.

17          But it begs an important question, Your Honor.

18          And if you don't mind, I'm just going to move my  
19          chair back for a second.

20          It begs an important question, which is, why are  
21          the leaders of the Democratic and Republican parties and  
22          their BOE appointees aligned here together advocating for an  
23          unconstitutional map, defending it based on a conflict with  
24          the oath of office they took to uphold the Constitution, in  
25          defiance of the Court of Appeals, and at two great costs?

dk

## Proceedings

1           One cost, to the confidence in our electoral system  
2           with voters already feeling deeply cynical and voter turnout  
3           at an epic low.

4           And a second one is a financial cost because it has  
5           cost a queen's ransom to hire lawyers to defend these  
6           litigations, defending an unconstitutional map all across  
7           the state, and the litigation continues.

8           And basically in the papers, Your Honor, the  
9           Respondents give you three answers.

10           Answer number one, the Assembly map is bipartisan.

11           Now, constitutionally that's irrelevant, obviously,  
12           because the constitutional amendment was not only  
13           bipartisan, it was overwhelming, even in the Legislature.  
14           The Assembly, I think, passed it 23 to -- I can't remember  
15           what the numbers were, Your Honor, but it was overwhelming.

16           But only in an environment that is as cynical and  
17           craven, as we are in America today, could someone say the  
18           Assembly map was bipartisan with a straight face.

19           Two-thirds of the Republicans and the Assembly  
20           voted against it, and every single member of the Senate on  
21           the Republican side voted against the Assembly map.

22           THE COURT: Okay.

23           Counsel, one-third of the Assembly Minority voted  
24           in favor of the map.

25           MR. WALDEN: Fourteen members. You're right,

dk

## Proceedings

1 Your Honor. And that has become, as we've seen even in  
2 Congress, the touchstone for saying something's bipartisan,  
3 which is when you get a couple of people to sign on from the  
4 other side.

5 That is not a bipartisan in the context of American  
6 democracy. And it's certainly not an argument that matters  
7 or should constrain the Court when we're talking about a  
8 violation of constitutional proportions.

9 But because they can't sell the bipartisan  
10 argument, in part because it is legally irrelevant, they  
11 then move to the chaos argument. And they say that voiding  
12 the Assembly map will throw the election into chaos.

13 Now, three things, Your Honor, important to note.

14 The Courts rejected that argument already. And  
15 we're not that far down the road from April 27th, which is  
16 when the Court of Appeals came out with its decision.

17 THE COURT: Counsel, I might take issue with  
18 exactly the way you word that. I mean, the Court of Appeals  
19 issued the decision that they did in terms of their findings  
20 on the Congressional maps and the State Senate maps.

21 As to the Assembly maps, they certainly referenced  
22 that they had some constitutional infirmities related to  
23 that map, but for the reasons that we're all aware of, they  
24 issued a ruling that essentially they weren't in a position  
25 to make the determination on the Assembly maps at that time

dk

## Proceedings

1 and left it open-ended for how anyone wanted to proceed.

2 MR. WALDEN: So, Your Honor, I did you a  
3 disservice. I apologize. I think that I didn't phrase my  
4 argument carefully enough. So you thought I was saying one  
5 thing. I was trying to say something else.

6 THE COURT: That's fine. I'll give you a chance to  
7 clarify.

8 MR. WALDEN: I can do both.

9 First of all, Your Honor, you're absolutely right  
10 that the Court of Appeals did something that nobody really  
11 could have predicted, right. No one knew what the  
12 Court of Appeals was going to do.

13 What we know is that Judge McAllister declared the  
14 maps sua sponte unconstitutional for the same reason that  
15 the Congressional and Senate maps were declared  
16 unconstitutional.

17 THE COURT: Even that, counsel, I'll just correct  
18 you. There was a finding between him, and then when it went  
19 to the Fourth Department, that the Congressional maps were  
20 certainly clearly unconstitutional with the gerrymandering  
21 issues and all of that.

22 But as to the Senate maps, he found that they were  
23 unconstitutional. He did not, on the technical issues  
24 because of what happened with the 2014 Commission and the  
25 two maps, and what was and wasn't filed, but I don't believe

dk

## Proceedings

1 even he made reference that those maps were unconstitutional  
2 in terms of gerrymandering or other issues. And, as you  
3 said, he sua sponte added the Assembly maps into the mix as  
4 well.

5 MR. WALDEN: So, Your Honor, let me just very  
6 precisely say to you, so that if there's any lack of clarity  
7 in what I'm arguing here, our petition is all about the  
8 procedural constitutional violation. And we call it  
9 procedural. Respondents minimize the significance of it.

10 And when I tried to explain the constitutional  
11 consequences and why it was important to American democracy,  
12 I was accused of giving a civics lecture. So I won't give  
13 one to the Court. I'm more than happy to go into that.

14 THE COURT: I think I've had enough civics lessons  
15 through the years. My mother was a history teacher. Plus I  
16 occasionally paid attention in school.

17 You can go ahead from there.

18 MR. WALDEN: But, Your Honor, we're not talking  
19 about the fact that all three maps were declared  
20 unconstitutional. You're correct that the Congressional one  
21 was also gerrymandered, but they were all declared  
22 unconstitutional for the same procedural reason that is  
23 imbedded in the Constitution, which is, they were all done,  
24 they were all drawn in violation of the Constitution.

25 So when I say that the Court of Appeals rejected

dk

## Proceedings

1 the argument that it was impossible that it would cause  
2 chaos, what I meant was on April 27th, very, very shortly  
3 ago, the Court of Appeals said, with respect to the Senate  
4 and the Congressional maps, I trust you are going to be able  
5 to work it out.

6 In point of fact, we can work it out, Your Honor.

7 This chaos argument is ridiculous because, although  
8 this is not before the Court right now, we have a very  
9 simple solution, and we put that solution forward.

10 And what you've got are generalized, exaggerated  
11 adjectives as to why it's overly burdensome. When all we're  
12 saying is let's move all the State races back to September,  
13 which is the historic date for party primaries. Until 2014,  
14 all party primaries were on September 14th. Leave the  
15 Congressional race where it is. That eliminates any Federal  
16 issues whatsoever. And move the primaries to September.  
17 That gives the Board of Elections even more time to get it  
18 right, which is what matters.

19 And so this notion of chaos is illusory. But, more  
20 importantly, who caused the chaos? They go to great lengths  
21 in their papers to blame us for delay. Seriously,  
22 Your Honor?

23 On March 31st, Judge McAllister declared the  
24 Assembly map void and unusable. His words could not have  
25 been more clear.

dk

## Proceedings

1           The Respondents had no idea what was going to  
2           happen. I assume they had no idea. I certainly hope they  
3           had no idea what was going to happen in the  
4           Fourth Department and Court of Appeals. For all they knew  
5           that judgment would be sustained.

6           THE COURT: But, counsel, that's not where the  
7           timeline starts. The timeline starts February 2nd.

8           MR. WALDEN: Yes.

9           THE COURT: February 2nd was the date that the  
10          proposed lines from the Legislature were completed on the  
11          2nd and signed off on by the Governor on March 2nd. And the  
12          lawsuit that was before Judge McAllister was literally filed  
13          on that same day.

14          And once that was filed on the March 2nd date, and  
15          I think the initial petition was amended on March 8th to  
16          include the State Senate lines, and very clear, when it was  
17          filed at that time, the parties made clear they were not  
18          seeking to take any action related to the Assembly lines.  
19          That's when the clock started.

20          So I agree with you, nobody would have had any way  
21          of knowing what Judge McAllister's decision would have been,  
22          what the Fourth Department was going to do, or what the  
23          Court of Appeals was going to do between February and the  
24          April 27th decision from the Court of Appeals.

25          But the opportunity for your clients or anyone else

dk

## Proceedings

1 to add the issue, the potential issue, of the Assembly maps,  
2 the clock on that started to run on that same February 2nd  
3 date.

4 MR. WALDEN: Well, Your Honor, I was not addressing  
5 that point. But I take Your Honor's -- I take what you are  
6 saying, Your Honor, but I respectfully disagree. This is  
7 why.

8 There are two reasons, Your Honor. There's a legal  
9 reason and there's a factual reason.

10 The legal reason is clear. The Respondents made  
11 this argument in the context of our intervention motions.  
12 Fair enough. The intervention statute has a timeliness  
13 requirement.

14 The last time I looked, Your Honor, the  
15 apportionment provision of article 3 section 5 does not have  
16 a time provision. It says that the Court shall hear a case.  
17 That it shall be decided promptly. And that any citizen in  
18 the State can file one.

19 And they cite not a single case where a judge in  
20 this state applied a judicially created timeliness  
21 requirement to apportionment litigation.

22 So, Your Honor, just from a legal perspective,  
23 we're not in intervention land here. And they have to show  
24 you -- this is not my burden. They have to show you that  
25 there is authority for creating one in an apportionment case

dk

## Proceedings

1 where the consequences for our democracy are epic.

2 And they argue all of these equitable doctrines.

3 And that's what I was trying to get to, Your Honor, which is  
4 this timeliness.

5 It wouldn't be fair, Judge, for you to count  
6 timeliness for us, and I can walk through why we were timely  
7 for sure, but it wouldn't be fair for you to count that  
8 against us and not recognize the fact that they  
9 intentionally stood on their -- sat on their hands.

10 They did it on purpose, Your Honor, because the  
11 whole point here is to run out the clock. That's why we  
12 were trying to get in front of the Court so quickly because  
13 they're saying every day that passes, it's more pandemonium.  
14 And every single time, even with today, today they filed a  
15 motion to dismiss. When you asked for papers in response to  
16 our TRO, they didn't even have a return date on their  
17 papers. The Court bounced them. And then two minutes later  
18 they re-filed them with a return date that violated the  
19 Court's order because you said give eight days and they  
20 noticed it for today.

21 Judge, going back to the chaos argument, which is  
22 really important, they were on notice as of March 31st.

23 Talk about us sitting on our hands? The Board of  
24 Elections has a responsibility to the voters of New York to  
25 make sure that they're prepared for an election. And this

dk

## Proceedings

1 whole problem was a problem of the people that appointed  
2 them to their positions. And I hope that they're going to  
3 act independently and not just simply at the whim of the  
4 people that appointed them.

5 And they did nothing. They could have developed a  
6 contingency plan on March 31st to today. What if somebody  
7 knocks down the Assembly maps, what are we going to do?  
8 They haven't. They put their heads down and rushed forward.

9 Ask them, Your Honor, did you prepare a contingency  
10 plan for the election if some Court shut down the Assembly  
11 on March 31st, can you tell me that you were preparing for a  
12 different scenario on March 31st?

13 They did nothing, because that's what they wanted  
14 all along, Your Honor.

15 So it's like the kid who said, I would have done my  
16 homework if only, fill in the blank. That's exactly what  
17 happened here. And their delay was of constitutional  
18 significance. Ours was an equitable consideration, I guess,  
19 which doesn't matter in this context when the enabling  
20 constitutional provision and the statute do not require  
21 timeliness.

22 But when the bipartisan argument fails, and when  
23 the chaos argument fails, and, Judge, here is where the  
24 rubber meets the road, they actually make the argument that  
25 the maps that they drew unconstitutionally are fair.

dk

## Proceedings

1 I mean, I obviously couldn't believe that I saw  
2 that in the papers, Your Honor, because I really hope that  
3 whatever questions you have for me, you are equally direct  
4 with them.

5 How they can --

6 THE COURT: I am definitely equal opportunity.

7 MR. WALDEN: Thank you, Judge.

8 THE COURT: And whoever is standing in front of me,  
9 there will be some questions, I assure you.

10 MR. WALDEN: Thank you.

11 They said the same thing about the Senate map. And  
12 the Court of Appeals struck it down. And the Special Master  
13 redrew.

14 And, lo and behold, what happened, it did the one  
15 thing, the one thing that's critical to the protection of  
16 our democracy, which is it did not protect incumbent  
17 Independents.

18 The Special Master redrew the Congressional map.  
19 Also deemed fair. All throughout this litigation, it's  
20 fair, it's fair, you should uphold it. New lines were  
21 drawn.

22 Guess what, Your Honor? The same quality to the  
23 maps. It didn't protect the incumbents. The Assembly map  
24 was drawn specifically to protect Democratic incumbent  
25 candidates. It is antidemocratic at its core. And this is

dk

## Proceedings

1 not speculation or guesswork, Your Honor. When I say that  
2 it was rigged, I can give you examples.

3 There was an Assembly man -- an Assembly challenger  
4 in the 37th district in Queens. His name is Huge Ma,  
5 H-U-G-E, M-A.

6 And among other things that he's done, Your Honor,  
7 he actually created a website to allow people to find COVID  
8 vaccine sites. Obviously that's someone that deserves a run  
9 at the polls.

10 And guess what happened to Mr. Ma in these fair  
11 lines that the Legislature crammed through in an  
12 unconstitutional way? Exactly what the voters of New York  
13 were trying to get them not to do from the beginning. They  
14 played with the maps and they rigged the game against  
15 Mr. Ma.

16 Suddenly Mr. Ma wakes up one day and realized that  
17 he can no longer run in the 37th district because his house  
18 has been drawn outside the line.

19 And, Judge, this is all about winners and losers.  
20 Please, we all understand that. Who won in that  
21 circumstance? An incumbent Democrat named Catherine Nolan,  
22 high-ranking person in the Democratic Party, served for  
23 almost 40 years. She won. Who lost?

24 THE COURT: But, I'm sorry, just for that specific  
25 example, isn't she retiring?

dk

## Proceedings

1 MR. WALDEN: I was just going to get there. Thank  
2 you.

3 THE COURT: Not a problem.

4 MR. WALDEN: Mr. Ma can now no longer run in the  
5 37th district. She's retiring for medical reasons. It was  
6 announced after the maps came out. And Mr. Ma now can't run  
7 in the 37th district, even though he would be a leading  
8 candidate there. That was done to protect the Democrats.

9 So who lost? The voters lost.

10 And another candidate -- they talk so much about  
11 candidate protection. Every time they say it, Your Honor, I  
12 hope that what burns in your ears is not candidate  
13 protection. They don't care at all about challengers. They  
14 care about incumbents. That's what they're here for.

15 That did not protect the candidate, who was a  
16 quality candidate from the 37th district. But he wasn't  
17 alone. Go up to Albany. Sam Fein was trying to run in the  
18 108th district. Somehow the map magically moved his house  
19 out of the 108th into another district. And he had to take  
20 himself off the ballot.

21 THE COURT: But, counsel, the concept of when lines  
22 are drawn, whoever draws them, whether they are from a  
23 special commission, by the Legislature in the past, by a  
24 Special Master, whoever draws the line at a certain point,  
25 the line is drawn within a community, on a county line, or

dk

## Proceedings

1 meandering up and down in certain sections, where the  
2 criteria that went into how those lines are drawn take in  
3 numerous items in terms of population and trying to, you  
4 know, preserve fairness in terms of racial, you know,  
5 coherence, to keep things -- not coherent, but to keep  
6 things cohesive in terms of certain communities that  
7 hopefully still have a voice.

8 But the bottom line is, even on the current maps  
9 that the Special Master has put out for both the State  
10 Senate and the Congressional, we all know there have been  
11 numerous decisions that were made in that where individual  
12 candidates, whether they are incumbents or just candidates  
13 for the first time planning to run, have found their homes  
14 to be just outside of a certain district, or that they have  
15 now been lumped together with a neighboring district where  
16 the political decisions on whether someone's running in one  
17 place or another have changed.

18 So I guess I'm just questioning the argument to say  
19 that because the Assembly and Legislature, if the  
20 Legislature drew up lines where you're coming up with -- you  
21 can come up with examples where it benefited certain  
22 candidates and hurt other candidates, I guess I'm trying to  
23 say the same exact argument could be put in place for every  
24 single map that the Special Master has put into place for  
25 the Senate and Congressional maps at this time.

dk

## Proceedings

1           There are still -- you know, there are still  
2 candidates out there for some of those offices who are  
3 claiming that there are issues with those maps. And I'm  
4 certainly not looking to dive into that. I'm enjoying  
5 myself just dealing with what's in front of me.

6           But I just think it's a little bit of an unfair  
7 argument to say that the maps were drawn specifically to  
8 keep one person out of one specific district.

9           With that said, you may proceed.

10          MR. WALDEN: Thank you, Your Honor. I appreciate  
11 your perspective.

12          And if your perspective was actually the way the  
13 Respondents were acting, I would be happy with democracy and  
14 I would be moving on to some other pro bono case, right.  
15 That would be great.

16          But, Your Honor, there are two things that are  
17 important. First of all, I have used this adage before, but  
18 I find it useful in these circumstances, if it walks like a  
19 duck, and it talks like a duck, it's a duck.

20          And when you have candidates, and I guess I won't  
21 go through all the list of them, Your Honor, where in race  
22 after race after race and district after district after  
23 district where it just happens to be that the incumbent is  
24 staying in the district and a strong challenger is moved  
25 outside, I think that it does not take a cynical mind to see

dk

## Proceedings

1 that there's a bad purpose.

2 So their argument that it's fair will require me to  
3 go into lots of examples that will challenge your notion,  
4 Your Honor, but, as a legal matter, again, getting back to  
5 the law, even if that is your presumption, even if you give  
6 Respondents more credit than I did based on the  
7 circumstances, generally, you can't possibly do that here,  
8 Your Honor. You can't cut them slack here. You can't  
9 presume that they operated from good motives because they  
10 intentionally violated the Constitution and then spent  
11 millions of dollars from the public trough to defend an  
12 unconstitutional map, even when there was time to say to the  
13 Fourth Department, no, you know what, you're right, this was  
14 wrong, we did it the wrong way, we've got an obligation to  
15 uphold the Constitution, we're going to go back and do it  
16 right.

17 Instead, what's happening in these courts across  
18 the state is a game. It's blood sport. They're trying to  
19 run out the clock until they create so much delay that the  
20 Court of Appeals even throws up their hands and says, okay,  
21 there's not enough time.

22 I don't think the Court of Appeals is going to do  
23 that, Your Honor. This case is going to go to the  
24 Court of Appeals. And I think the Court of Appeals is going  
25 to hold the Democrats and the Republicans accountable for

dk

## Proceedings

1 their rhetoric because they stand up and they decry voter  
2 suppression in the south and decry rigging in the south, and  
3 they decry ID laws that suppress the vote, particularly  
4 among poor and minority communities in the south, and then  
5 they rig the maps here.

6 And, Your Honor, the manipulations in the map are  
7 not just candidates. And if the Respondents are deluding  
8 themselves into thinking that the intrepid young prosecutors  
9 at the Public Corruption Unit at the US Attorney's Office in  
10 this city are not paying attention to what's going on here,  
11 they're crazy.

12 Your Honor, look at district 61. That was a tried  
13 and true, there's no demographic changes there, right. It's  
14 the same district demographically than it was before. And  
15 they decided to change the map.

16 And what did they do?

17 They snaked along, out of Staten Island, along the  
18 Brooklyn Waterfront, and then went into Manhattan. And,  
19 Judge, do you know how many voters they picked up in  
20 Brooklyn by snaking along the Waterfront? Four. Four  
21 voters. And do you know where they live? On a houseboat.  
22 They picked up four voters on a houseboat.

23 Do you know what they got for that, Your Honor?  
24 Two new Legislative leaders.

25 And do you know who is going to elect those two

dk

## Proceedings

1 Legislative leaders? The four people on the houseboat.

2 Your Honor, this is something of a Banana Republic.

3 This is not the America or the New York that I know.

4 And so this is going to be examined, not just by  
5 this Court, but for all of the deals that resulted in all of  
6 these things that all seem to line up to what every  
7 editorial board in this state knows to be true, which is  
8 this is another Albany game.

9 We've seen it again and again and again. And this  
10 is just the latest incarnation of we're not accountable.  
11 The ends justify the means.

12 So, Your Honor, what I had been saying is that they  
13 have three primary arguments; bipartisan, chaos, fair.

14 None of them are true. None of them are accurate.  
15 And it still begs the question, why are we here, why are  
16 they defending an unconstitutional map?

17 We all know the answer, Your Honor. The editorial  
18 boards have published this again and again and again, and  
19 every corner of the state, Conservative, Democratic,  
20 Liberal, Progressive, whatever you want to say, they're all  
21 lying. They know that this is the incumbent protection  
22 game.

23 The Assembly map was the key prize all along. That  
24 is why it was not challenged in Steuben County.

25 Whatever else happened in the courts, the parties

dk

## Proceedings

1       agreed they did not want anyone reviewing the Assembly map  
2       because the Democrats, for whatever reason, wanted it to be  
3       inviolable.

4               THE COURT: Counsel, which begs the question, and  
5       I'm sure I'll come to this on the other side as well, but  
6       why do you believe they had a different view on the Assembly  
7       maps than the other maps?

8               MR. WALDEN: Well, Your Honor, I don't want to take  
9       too much of your time, but I'll give you the easiest answer.

10              Of all the people who voted against, and, Judge,  
11       again, I'm not giving a civics lesson, so if I go over my  
12       skis, just do this, and I'll shut up. I'm very respectful  
13       in that way.

14              Obviously this amendment grew from, right, it  
15       wasn't some elected official that woke up one day and was,  
16       like, you know what, what we do with these maps is really  
17       unfair, right.

18              There's a long, long history to the amount of  
19       cynicism and anger at the game playing around these lines.

20              It culminated in 2012. But it was 20 years before  
21       that, Judge. And I can go through the history.

22              THE COURT: It's fair to say every time we've gone  
23       through a census and redistricting --

24              MR. WALDEN: I won't.

25              THE COURT: There's a long history in New York and

dk

## Proceedings

1 around the country on that.

2 MR. WALDEN: Yes.

3 THE COURT: We don't need to go through all of  
4 that.

5 MR. WALDEN: But, Judge, yes. I'll leave that  
6 alone.

7 But what is true is New York has positioned itself  
8 as a leader on the anti-voter suppression effort. And in  
9 2012, New York made good on that promise, right, made good  
10 on it by initiating the very long process of two separate  
11 votes in the Legislature, by the voters, enabling statutes  
12 and changes to numerous state laws to make this all happen  
13 and line up. And then they threw it away over the Assembly  
14 maps.

15 And your question is why. And I only have one  
16 answer.

17 You would think that every lover of democracy would  
18 vote for something like that. Who is the one person on the  
19 Democratic, or one of the people on the Democratic side who  
20 cast a vote against this is the current Speaker, Carl  
21 Heastie. He voted against it.

22 So, Your Honor, we all know the history of three  
23 men in a room and all of these manipulations. I can't tell  
24 you, because I'm not in the Assembly, why that line was  
25 drawn, but what I do know is that line is very consistent

dk

## Proceedings

1 with Mr. Heastie's vote in 2013.

2 THE COURT: Okay. I'll just take a step back.

3 The Commission that was created, and passed by the  
4 voters of New York, that created a Commission of ten  
5 members, five Democrats and five Republicans, to do a  
6 certain job that they -- I don't think anyone is arguing  
7 they didn't do the job they were supposed to do, correct?

8 MR. WALDEN: No, Your Honor. They weren't given  
9 the chance to do the job. The job required a very clear  
10 process that was laid out, an alternative. The job was,  
11 submit one map. It gets up or down voted. It got down  
12 voted. Okay. Do another map.

13 THE COURT: Right.

14 MR. WALDEN: And if, and if, and this is the escape  
15 valve that they wrote in to the Constitution, if that  
16 doesn't pass, then there can be an action brought to make  
17 the IRC take a series of actions.

18 Now, I didn't write that, Your Honor. They did.

19 THE COURT: Right.

20 MR. WALDEN: They're just trying to sidestep it.

21 So the idea that I don't think we can blame the  
22 Commission for not doing its job when their job was taken  
23 away from them midstream. We don't know what would have  
24 happened with that second map. We don't know if they would  
25 have hired a Special Master, like Cervas, to say, listen, we

dk

## Proceedings

1 need you to cut through all this political nonsense and put  
2 the voters of the State of New York first and stop our  
3 jockeying for the Incumbent Protection Act.

4 But they decided to do something different. They  
5 snatched it.

6 THE COURT: All right.

7 Counsel, I am going to hear from Respondents  
8 momentarily. I don't want to cut you off. I will let you  
9 finish up if you have any additional argument you want to  
10 make.

11 MR. WALDEN: I do.

12 THE COURT: Go ahead. I'll come back.

13 MR. WALDEN: Let me go to their defenses,  
14 Your Honor. They have a number of defenses; not just one,  
15 but several.

16 They've essentially used every technicality in the  
17 book. Putting aside this is an issue of the constitutional  
18 amendments on which the Court of Appeals has spoken and  
19 rejected many of the arguments they put forward, let's put  
20 that aside, they have so many technicalities I'm really  
21 surprised that they didn't find a way to challenge or use  
22 semicolons, right. Some of these defenses, Your Honor, are  
23 just ridiculous.

24 Honestly, me, as a private lawyer, if I did it in  
25 court papers and I cited an authority that had nothing to do

dk

## Proceedings

1 with the issues, I think the judges would be very, very  
2 critical and cynical, and maybe even yell at me for doing  
3 it.

4 But I've been surprised, this has nothing to do  
5 with you, that they did this in Steuben County and basically  
6 no repercussions at all.

7 So this -- but one they didn't try in Steuben  
8 County, which is kind of interesting in and of itself, is  
9 the statutory bar issue. They didn't raise that one in  
10 Steuben County. That was an innovation for this one, the  
11 delay tactic.

12 They cite CPLR 6313 for the notion that a Court is  
13 prohibited from restraining a public officer's duties.  
14 Okay. Simple enough.

15 Does that seriously mean that a Court can't direct  
16 a public officer or agency to act within the law, to act  
17 according to the Constitution? Of course not, right.

18 Now, the funny thing about this, Your Honor, it  
19 would be funny, I guess, if the stakes weren't so high, when  
20 they cited this, of course, you know, Mr. Devlin and I were,  
21 like, wait a minute, they didn't cite any case authority.  
22 This is a new argument. We're vaguely aware of this  
23 provision, but we went and looked it up. Oh, there's a lot  
24 of case law. They didn't cite any of it.

25 Let's look at it.

dk

## Proceedings

1 Case after case after case after case says Courts  
2 have the power to direct agencies to act lawfully and  
3 constitutionally despite CPLR 6313.

4 So we said in our reply papers, they didn't cite  
5 any law. But here's the law. Here's the law dating back  
6 even before the CPLR, because this is imbedded in New York  
7 jurisprudence since the 19th century. We actually cited two  
8 cases from the late 1900s.

9 So what do they do? They submit a reply paper.

10 In the reply paper they cite one case, one case  
11 only, DiFare versus Shek. D-I-F-A-R-E, S-H-E-K. It's a  
12 Second Department case from 1974.

13 I'm guessing, Your Honor, in relying on this so  
14 prominently in defense of this they didn't really read the  
15 case. I have a copy of it if you would like.

16 DiFare actually stands for the opposite  
17 proposition. In that case a Yonkers police officer decried  
18 his lowly position on a list for the position of sergeant.  
19 And so he filed an injunction to prevent the appointing  
20 commission in Yonkers from appointing any sergeants from the  
21 people on this list. Okay.

22 There was a problem. The problem is that there  
23 were already two appointments made at the time he filed his  
24 petition. So the lower court dismissed the petition  
25 outright.

dk

## Proceedings

1           The Second Department reinstated the petition. And  
2           then commented in dicta on something that was in the order  
3           to show cause that the Petitioner had filed. And it cited  
4           6313. And it said, you can't request an injunction this  
5           way. It makes reference to an ex parte. But they quote the  
6           language accurately. The problem is it's dicta because the  
7           Court wasn't actually reviewing a decision from the lower  
8           court.

9           But you have to read on, Your Honor.

10          The very next paragraph in the opinion, and I am  
11          going to quote it because it's so clear, the  
12          Second Department did order an injunction against any  
13          further appointments on the list other than the other two,  
14          and the words that they used are, quote, we think it  
15          necessary to restrain further appointments from the  
16          challenged list of eligibles until Petitioner's challenge  
17          thereto has been rebutted.

18          So whatever the force and effect of this seminal  
19          case that is the only one that they cite for their  
20          interpretation of 6313, the case says the exact opposite.

21          But, Your Honor, let's go through the other  
22          defenses. I'll try to do it more quickly. As you can tell,  
23          Your Honor, I love citing cases. I love going through  
24          cases. But I know that your time is important. So I will  
25          answer any -- I've read every single one of their cases.

dk

## Proceedings

1 Any one ask me about and I can discuss it.

2 But they go to this failure to join necessary  
3 parties. This is actually another innovation. They didn't  
4 use this in Steuben County. They only use it here. Here is  
5 their argument.

6 Their argument is that we're effectively trying to  
7 invalidate petitions for specific candidates. Hmmm. Okay.  
8 Where? Where do we say that?

9 The language that they quote is a partial and  
10 misleading quote from something that we said in Steuben  
11 County.

12 Here, we asked for no such relief, Your Honor. You  
13 can look at the order to show cause, paragraph 4. You can  
14 look at the fourth request for relief that's on, I think  
15 it's also on page 4 of our petition. I could be wrong about  
16 that.

17 We don't ask for any petitions to be decertified.

18 What we ask is, and this is completely consistent  
19 with what Judge McAllister did in Steuben County with  
20 respect to the Senate and the Congressional maps, when the  
21 lines are going to be redrawn, candidates are going to be in  
22 very different positions.

23 There are some candidates that may have completely  
24 valid signatures because all of the people that signed  
25 happened to be in the district. There may be other people

dk

## Proceedings

1 that are also okay because they got so many signatures in  
2 addition to the statutory requirements that if they lose  
3 2 percent or 5 percent, it won't make a difference, they  
4 still have a valid petition. Then there will be other  
5 candidates who lose some signatures.

6 And all we were trying to do is give those  
7 candidates a short petitioning period to get additional  
8 signatures to replace the ones that they lost because,  
9 honestly, Your Honor, that's going to happen mostly to  
10 challengers as opposed to incumbents, because the incumbents  
11 get five times the number of signatures and little known  
12 challengers have a little bit more trouble with the  
13 petitioning process.

14 THE COURT: Right. I mean, I think everyone would  
15 say it's fair to say the group that would be most  
16 detrimentally impacted by having to go through petitioning  
17 again will be grass roots or local people, potentially  
18 making a first run or doing it on a limited budget. It's  
19 not a trade secret that incumbents usually have a lot more  
20 support and experience on doing what they need to for the  
21 petitioning process and all of that.

22 So I agree with you, doing this will hurt, for lack  
23 of a better term, it has a potential to hurt the little guy  
24 more than incumbents.

25 MR. WALDEN: What will hurt the little guy more,

dk

## Proceedings

1 Your Honor?

2 THE COURT: Throwing this out and going through the  
3 whole process again and having everyone do new petitions.

4 MR. WALDEN: No, no, Your Honor. No matter what --  
5 first of all, the little guy that you're talking about.

6 THE COURT: Right.

7 MR. WALDEN: They're already harmed by these maps.  
8 Please don't misunderstand. We're talking about a  
9 completely different set of candidates.

10 There are a set of candidates. This is the one I  
11 was going to go through, the laundry list. There are a set  
12 of candidates that were taken off the ballot because the  
13 lines were redrawn. Those are the people that were harmed,  
14 in addition to the voters, by this manipulation with the  
15 Assembly map. All we were trying to --

16 THE COURT: But, also, when you are dealing  
17 specifically with the Assembly maps and the petitioning for  
18 the Assembly maps, it's very rare that you are dealing with  
19 just an Assembly candidate.

20 You're dealing with other candidates for local  
21 positions and to be judicial delegates. There's a host, and  
22 I think that's part of the argument that you're kind of  
23 going through now in terms of Respondents' arguments on lack  
24 of joinder on some parties. I mean, there are literally  
25 thousands of positions across the state that are directly

dk

## Proceedings

1 tied to the Assembly map and the petitioning and everything  
2 that we need to go through.

3 MR. WALDEN: Totally agree, Your Honor. I'm not --  
4 I apologize if I'm losing the thread here a little bit,  
5 Your Honor.

6 Let me say a couple of things.

7 First of all, this issue about joining, you're  
8 right, if they're correct, then the next time that someone  
9 wants to challenge the maps, they put up a completely  
10 artificial barrier that the Court of Appeals is never going  
11 to agree with. And that is that you have to join candidates  
12 that might be, might be adversely affected.

13 We have no idea who could be adversely affected yet  
14 because we haven't seen the maps, right. We haven't seen  
15 the redrawn maps.

16 If you look at the Senate and the Congressional  
17 maps, there were plenty of district lines where there was no  
18 need to change anything at all.

19 What are we supposed to do? What is a Petitioner  
20 supposed to do when carrying out the constitutional mandate  
21 of holding them to the process that the voters agreed on?  
22 Like, literally just everyone.

23 First of all, Your Honor, understand, again, I hope  
24 that you -- I trust that you see through this. They didn't  
25 raise this in Steuben County. There are a lot of candidates

dk

## Proceedings

1 there that would have had to have been joined.

2 So whether they waived it or not, it's clear that  
3 they are raising new arguments that for some strange reason  
4 they didn't raise in the one proceeding where they all  
5 colluded on keeping the Assembly sacrosanct.

6 Also, the solution doesn't fit the problem. The  
7 problem is not the petitions. And no matter what they say,  
8 they cannot point you to language in anything that we've  
9 filed in this proceeding that says invalidate a single  
10 petition. We didn't. Their argument is, well, you may  
11 impact candidates. And that is not the standard,  
12 Your Honor.

13 If you look at their cases, and I can go through  
14 them in great detail, the standard for joining a necessary  
15 party is very clear across the cases.

16 The Court requires that there is -- someone has an  
17 identified arm that is inextricably interwoven with the  
18 litigation. And if there is a candidate that doesn't know  
19 whether he or she will be impacted because they haven't seen  
20 the lines, they have not suffered any sort of injury that is  
21 inextricably interwoven such that reapportionment litigation  
22 will essentially turn into a free-for-all where every single  
23 one that wants to hold up the Constitution has to name  
24 thousands and thousands of candidates as necessary parties.

25 Can you imagine what that's going to do to the

dk

## Proceedings

1 Court? Can you imagine what that's going to do to the  
2 resource of these candidates that now don't even know if  
3 they're impacted, but they've got to use campaign finance  
4 funds to come into court to appear because now they've been  
5 named? That would be completely unworkable. And there's  
6 not a single case to support it, not one.

7 So, Your Honor, these defenses that they talk  
8 about, the laches case, this is, like, the idea that they're  
9 citing Schultz for laches -- again, Judge, I'm really  
10 getting close to the end.

11 THE COURT: Go ahead.

12 MR. WALDEN: I'm really getting close to the end.

13 The laches argument is kind of a funny one. Again,  
14 they have to prove prejudice for laches to apply. And they  
15 have no prejudice.

16 They talk about burden. But burden is not  
17 prejudice within the meaning of the law. Prejudice is their  
18 rights were adversely affected, not it's going be harder.

19 Somebody is not prejudiced when the Court orders  
20 them to pay a \$10,000 fine that the judge thinks is  
21 appropriate. They're burdened, but they're not prejudiced.  
22 They have to spend money and they have to do a lot of things  
23 over again. That's burden. That's not prejudice in the  
24 legal sense of the word.

25 So laches is off the table for that reason and that

dk

## Proceedings

1 reason alone.

2 But they cite Schultz, like Schultz, the only case  
3 for laches. And I'm sure Your Honor read it. I read it as  
4 well. A case where there was a law that allowed public  
5 financing for many agencies across the state. The law went  
6 into effect. The government amassed this incredible  
7 infrastructure, spent millions of dollars to issue these  
8 bonds. And the bonds were issued. Hundreds of millions of  
9 dollars, including bonds that went to some of the most  
10 sophisticated financial institutions in America.

11 Money came into the State of New York, hundreds of  
12 millions of dollars, from these bonds. Petitioner sat on  
13 their hands. Petitioner sat on their hands and waited until  
14 all of the bonds were issued and only then brought a  
15 constitutional challenge that ultimately the Court found  
16 they had not shown. They had not preserved, right.

17 So the constitutional issue wasn't addressed in the  
18 merits in the decision they cited. But there is a  
19 corresponding opinion where the Court says, and, by the way,  
20 now we want to say something about this. They didn't even  
21 preserve this constitutional challenge all along.

22 In those circumstances, the Court applied the  
23 laches doctrine and said, listen, there's been -- there will  
24 be so much financial and reputational damage to the State of  
25 New York for your delay, right, because it was their delay.

dk

## Proceedings

1 They waited until all this was done. That's where they  
2 apply laches.

3 The damage, financial and otherwise, that is being  
4 done to the State of New York now was done by the  
5 Respondents because they acted unconstitutionally and in the  
6 manner that was intended to benefit incumbents.

7 They raise some other defenses. If you have any  
8 questions about any of them, I'm more than happy to address  
9 them.

10 I would, Your Honor, because you've been very  
11 patient with me, I would like to conclude.

12 THE COURT: I am going to ask one other brief  
13 topic. Then I will turn to Respondents and may come back to  
14 you.

15 You wave your magic wand and I grant everything  
16 that you're looking for, okay. And it goes up --

17 MR. WALDEN: Judge, my legal pen, not my magic  
18 wand.

19 THE COURT: It goes up to the Appellate Division,  
20 and in all likelihood the Court of Appeals, and you get  
21 everything that you are looking for. And so the  
22 Special Master now has to be appointed, go through all of  
23 this in detail again, and come up with appropriate maps, go  
24 through some level, even if it is an expedited process, some  
25 level of an expedited review with some public comment, and

dk

## Proceedings

1 puts out that, congratulations, these are the new maps for  
2 the State Assembly and everything now needs to get started.

3 As you know, at this point, military ballots were  
4 issued on the 13th.

5 MR. WALDEN: Not relevant here. That's  
6 Congressional.

7 THE COURT: Correct.

8 Election processes have already begun. I think  
9 even you would have difficulty standing here today and  
10 arguing that if you got everything that you were hoping to  
11 get, that it would be realistic to do the primary on the  
12 August date that is currently out there for the  
13 Congressional and the State Senate.

14 So you are probably talking about, even in a best  
15 case scenario, of something being done in September. Is  
16 that fair to say?

17 MR. WALDEN: Well, you said a lot there,  
18 Your Honor. You said something like I would have trouble  
19 arguing something. The answer to that question is no, I  
20 won't have trouble arguing at all.

21 Again, Your Honor, you have a lot of discretion.  
22 And they want to make it seem like, oh, my God, this is  
23 going to be a train wreck. Of course they want you to buy  
24 that argument, because that goes along with dragging this  
25 out, putting the burden and expense on us to go up the

dk

## Proceedings

1 chain, when we all know what the Court of Appeals is going  
2 to say because they've said it already.

3 THE COURT: Counsel, it was essentially a  
4 three-month plus process from when the initial lawsuit was  
5 filed in February in this matter until there was a decision  
6 by the Court of Appeals on April 27th, that then resulted in  
7 a fairly quick process with the Special Master releasing  
8 Congressional and Senate maps over the course of this  
9 weekend. It's today, May 23rd, the first working day since  
10 that has occurred. So all of March, all of April, all the  
11 way through May. So it's three plus months to get that done  
12 with an August date being set as a primary.

13 MR. WALDEN: Your Honor, we can get to maps. And  
14 if you order a TRO today -- first of all, Your Honor, please  
15 don't count the week since we filed against us.

16 And, honestly, the intervention was on our rights.  
17 So a lot happened in that period of time. And you know full  
18 well that some measure of those things they did in order to  
19 be able to make this argument. So I hope you hold them to  
20 account for that.

21 THE COURT: I understand. And I've also read  
22 Judge McAllister's decision in detail when he turned down  
23 the intervention request because, in short, I am not going  
24 to quote through all of it now, but in short a lot of what  
25 he had to say was allowing this issue to be dealt with at

dk

## Proceedings

1 the same time by a Special Master, who was already up to  
2 speed and dealing with a Congressional and State Senate map,  
3 he said there simply would not be enough time and that doing  
4 all of that would further delay the process. And, as he  
5 pointed out, it all still goes back to that March 2nd date  
6 when the first actions began.

7 MR. WALDEN: Your Honor, I don't think that's what  
8 Judge McAllister said respectfully, Your Honor. What he  
9 said was, it would cause too much confusion in light of this  
10 case. Nothing stops you from filing, nothing, he said it  
11 twice, stops you from filing your plenary action.

12 THE COURT: I agree. I one hundred percent agree  
13 Judge McAllister clearly said you couldn't intervene in this  
14 case, but you could start a separate standalone case, which  
15 is why we're here today, which is fine. I'm not disputing  
16 your right to have brought it.

17 But I can't get away from a lot of the language he  
18 used when he denied the intervention. And, here, he was a  
19 judge who was most familiar with everything that was going  
20 on on the redistricting, already had an established  
21 relationship with a Special Master, who he was comfortable  
22 using for this process. And that Special Master was  
23 obviously already doing a lot of the work. So he had a  
24 tremendous head start on something that was already in a  
25 short window.

dk

## Proceedings

1 But, nonetheless, even with those circumstances,  
2 let's remember, Judge McAllister, at the outset, sua sponte  
3 had thought the Assembly lines should be part of the mix,  
4 you know, in the first place. And it went through the  
5 Appellate Division. And the Court of Appeals issued the  
6 decision that they did.

7 There was nothing that was stopping  
8 Judge McAllister at that stage from saying, okay, I already  
9 had this finding, I'm going to stick with it, and now let's  
10 add the Assembly into the pile.

11 So that opportunity was there a couple of weeks ago  
12 for that to have occurred. And a good part of the reason  
13 that he rejected the intervention, while at the same time  
14 saying you could file a new case, but a great part of the  
15 reason he rejected it was because going through that process  
16 would necessitate probably a further delay on the  
17 Congressional and the State Senate part.

18 MR. WALDEN: Well, Your Honor, you said quite a bit  
19 there, Your Honor, so I'm not sure what you want me to focus  
20 on, but even if, for no other reason, if you just let me  
21 make the record on a couple of things.

22 THE COURT: That's fine. I will let you do that.

23 MR. WALDEN: I have a very brief concluding  
24 statement.

25 THE COURT: That's fine.

dk

## Proceedings

1 MR. WALDEN: Thank you. I appreciate that.

2 So, first of all, I said this, this argument of  
3 burden on the election, it's not before the Court because  
4 there is no timeliness requirement under the Constitution.  
5 The Constitution doesn't say you have to do these things  
6 unless it's really hard. It says you have to do them.

7 So, Your Honor, I think on that basis alone, if the  
8 Court were to deny the TRO based on burden, especially when  
9 there's no prejudice, they're going to get up here and say  
10 burden, burden, burden. They're going to say prejudice, but  
11 it's not. They created the burden. That's the unclean  
12 hands doctrine. They can't complain about the burden that  
13 they self created.

14 So legally, Your Honor, I don't think you can  
15 consider this. Factually, Your Honor, I don't think that  
16 you should. And, most importantly, it's illusory.

17 You could simply move back, even if it was just the  
18 Assembly, it would be confusing to have three primaries, but  
19 at least it would be constitutional, you could move back the  
20 Assembly race alone, which has other, as you've said,  
21 fairly -- has other collateral races that are tied to the  
22 Assembly, that would give the Board of Elections plenty of  
23 time, right. Ask them for specifics on why that's not  
24 possible.

25 THE COURT: I intend to.

dk

## Proceedings

1 MR. WALDEN: Thank you.

2 THE COURT: That will be part of what we're doing  
3 today.

4 MR. WALDEN: Your Honor, what they have said in all  
5 these affidavits and what they said to Judge Steuben was all  
6 these generalities, oh, there's so much burden, there's so  
7 much burden, and it's extreme. They blame us for it. But  
8 they never say, okay, if we really -- because think about  
9 the timing, Your Honor, they have from May 20th to  
10 August 23rd to do these, three months. If we get the maps  
11 in two weeks, they will have three months to do the Assembly  
12 race in September. If they can do one race, and this is  
13 where the Court of Appeals' decision is so important,  
14 Your Honor, the time period is virtually identical.

15 So this whole issue -- aside from the reasons I  
16 have given you, this whole argument is made up. They're  
17 trying to be as general as possible, hoping against hope  
18 that some judge is, like, I don't need to dig into the  
19 details.

20 And the details here are important if they're going  
21 to to meet -- satisfy their burden for a legal standard,  
22 laches, which doesn't apply here.

23 I'm going to wrap up, Your Honor. I'm going to get  
24 to the TRO standards. This will be two minutes or less.

25 The issue before the Court is really only this

dk

## Proceedings

1 issue, is there a likelihood of success on the merits, is  
2 there irreparable harm, and what is the balance of equities.

3 On likelihood of success on the merits, we all know  
4 what the Court, of course, is going to do. They have  
5 already spoken. We are going to win on the merits. They  
6 don't seriously contend otherwise.

7 On irreparable harm, the Court of Appeals has been  
8 extremely clear that if you allow an election to go over --  
9 go forward on unconstitutional maps, that is a  
10 constitutional injury to voters. So that satisfies  
11 irreparable harm.

12 And now we're just down to the balance of equities.  
13 They say to us, you've delayed, right. We say to them, you  
14 intentionally broke the law, you're violating your oaths by  
15 even defending this litigation, and you certified, which is  
16 now going to be before a judge in Albany, an  
17 unconstitutional map, even though the Court of Appeals could  
18 not award relief because of the procedural gamesmanship.  
19 The Board of Elections can't just simply willy-nilly ignore  
20 the Court of Appeals, right.

21 They should have said, sorry, game over, we're  
22 going to do our jobs. They didn't.

23 So, Your Honor, I'm begging you, please, on behalf  
24 of the voters of New York and every candidate that was  
25 rigged off the bid by these shenanigans, for the Court to

dk

## Proceedings

1 say, not on my watch. Their tactics are more informed by  
2 Darwin than Mill, right.

3 The voters here are what count. The excluded  
4 candidates are what count.

5 I beg Your Honor to keep them at the forefront of  
6 your mind when you are listening to the Respondents'  
7 arguments.

8 Thank you. Thank you for all the time, Your Honor.

9 THE COURT: Thank you, counsel.

10 Counsel, I am just going to -- I want to take a  
11 short break so that everyone can stretch their legs,  
12 including the court reporter.

13 We are going to take a five minute or so recess.  
14 Then we will resume with Respondents' argument.

15 (Whereupon, a recess was taken.)

16 COURT CLERK: Come to order.

17 THE COURT: You may all be seated.

18 We'll turn now to counsel for Respondents.

19 Whatever order you wish to proceed. I know the  
20 Governor was first named. We can proceed from there.

21 MR. FARBER: Thank you, again, Your Honor. Seth  
22 Farber, with the Office of the Attorney General, for  
23 Governor Hochul.

24 Your Honor's questions indicate that you have a  
25 thorough understanding of what is going on here.

dk

## Proceedings

1 Counsel for the Petitioners asked the question of  
2 who caused the chaos. And not to answer a question with a  
3 question, except I will, who brought this case on May 15th?  
4 Who didn't bring this case on May 2nd or May 3rd --  
5 February 2nd or February 3rd, when the Steuben County  
6 litigation got started, or in the month of February, in the  
7 month of March, or even in the month of April, after the  
8 Fourth Department and the Court of Appeals had decided this  
9 case?

10 Instead, they waited to intervene until the  
11 beginning of May, when the Supreme Court Justice in Steuben  
12 County, who has lived with the redistricting issues since  
13 February, concluded that, notwithstanding his own view on  
14 the Assembly maps, the attempts at intervention at that  
15 point were too late.

16 So, instead, they come to this Court and put this  
17 all on you, at this late hour, after military ballots have  
18 gone out, numerous other preparations for the election,  
19 including the printing of approximately 700,000 ballots that  
20 would have to be destroyed, unknown numbers of military  
21 ballots would have to be discarded, and military voters  
22 disenfranchised. Why? Because Petitioners have waited  
23 until now to bring this case.

24 Another matter not discussed in argument is that  
25 the relief sought is a lot more than simply invalidating the

dk

## Proceedings

1 Assembly maps. And even invalidating petitions or redoing  
2 petitions for other offices that are tied with Assembly  
3 maps, relief is also sought to literally cancel and  
4 reschedule the June primary altogether for all offices, not  
5 just the Assembly, but including statewide offices,  
6 including Governor, for which, well, one of the Petitioners  
7 advises that they were an unsuccessful candidate for. It's  
8 not addressed in argument, but, nonetheless, what is before  
9 the Court.

10 All of these issues could have been addressed for  
11 months, but are brought now, literally at the twelfth,  
12 thirteenth or fourteenth hour, because the election is  
13 underway now.

14 I have no doubt that my colleagues for the State  
15 Board of Elections, for Speaker Beastie, for the Senate  
16 Majority Leader Cousins, can go into more detail on these  
17 points.

18 But under the circumstances, Your Honor, at this  
19 late hour, even as Justice McAllister noted, chaos would be  
20 caused as a result of interfering with the election process  
21 at this hour.

22 If Your Honor has no further questions, I'll defer  
23 to my colleagues.

24 THE COURT: All right. Thank you, counsel. I will  
25 hear from your colleagues as well.

dk

## Proceedings

1 MR. FARBER: Thank you, Your Honor.

2 THE COURT: Counsel on behalf of the Assembly  
3 Speaker.

4 MR. BUCKI: First off, would Your Honor prefer I  
5 stand here or at the podium?

6 THE COURT: I think between all the Plexiglas and  
7 stuff, it would be perfectly fine if you stand there, it is  
8 a little closer, as we continue to navigate the joys of our  
9 current COVID universe.

10 MR. BUCKI: Certainly, Your Honor.

11 Where I would like to begin is a point that is  
12 similar to where I began my presentation at Steuben County  
13 Supreme Court on the intervention motion.

14 I have to call out Mr. Walden again for the  
15 numerous irresponsible accusations that he makes as an  
16 officer of this court. I can get past all of his sarcasm  
17 because I've dealt with many sarcastic lawyers in the past.  
18 What I can't get past is when he accuses people who take a  
19 constitutional oath of office in the New York State Assembly  
20 of things like voter suppression, without any evidence, when  
21 he says that there are going to be Federal investigations,  
22 that the FBI and public integrity units are going to become  
23 involved, and he doesn't offer any kind of evidence, when he  
24 says that Legislators are violating their Congressional  
25 oaths of office, and he doesn't offer any evidence.

dk

## Proceedings

1           Where we should be focused on this special  
2           proceeding is on the law, rather than making wild  
3           accusations and delving into the kind of conspiracy theories  
4           that the Courts are supposed to stay away from.

5           And so with that in mind, I would like to begin by  
6           saying that contrary to what Mr. Walden says, I would submit  
7           to this Court that this case has nothing to do with the  
8           Constitution for these Petitioners. This case has nothing  
9           to do with democracy for these Petitioners.

10          Rather, this case needs to be viewed through the  
11          prism of the fact that all three of these Petitioners have  
12          grievances with either the New York State Board of Elections  
13          or the New York State Assembly.

14          And that's the reason why this proceeding was not  
15          brought until May 15th. That's why we didn't have  
16          litigation in February or March or April, because now they  
17          have beefs with either the Board of Elections or the  
18          Assembly, and so this is their way to get back at them. And  
19          they have the money to do it. They have the money to hire  
20          Mr. Walden and Mr. Foldenauer. So that's what this case is  
21          really all about.

22          And I would boil down the interests of the  
23          Petitioners to three words, correction, attention, and  
24          coercion.

25          Now, with respect to Mr. Nichols, this proceeding

dk

## Proceedings

1 is all about correcting his mistakes that he made in his  
2 race for Governor because he needed to get a certain number  
3 of signatures to get onto the primary ballot. And he simply  
4 didn't get enough valid signatures. So the State Board of  
5 Elections ruled him off the ballot.

6 And then Mr. Nichols brought a lawsuit in Albany  
7 County Supreme New York, which he discloses nowhere in the  
8 petition, nowhere in the supporting papers, and he brings  
9 this case in Albany, but his problem was, he botched the  
10 service of the petition. And because he botched the  
11 service, therefore, the case was dismissed on May 12th.

12 And so he had the opportunity to take an appeal  
13 from that decision on May 12th in an effort to try to get  
14 the Third Department to restore his candidacy, but for  
15 whatever reason, he decided he wasn't going to take that  
16 appeal. And therefore was going to try to bring this  
17 proceeding as kind of a collateral attack on the fact that  
18 the Board of Elections threw him off the ballot. And he  
19 couldn't even get the service right for his lawsuit.

20 So that's the motivation of Mr. Nichols.

21 With respect to Mr. Wax, his motivation is  
22 attention.

23 Why else would we have tweets from Mr. Wax going  
24 back to February calling Republican Assembly members weak  
25 and pathetic and saying all these guys, referring to members

dk

## Proceedings

1 of the State Assembly, care about is keeping their pension.

2 You know, he's a conservative commentator. He's a  
3 conservative activist. He can't get on Fox News, so he goes  
4 on One America News, which is to the right of Fox News, to  
5 offer his opinions. And in this day and age, the more  
6 outlandish the opinion, the more attention that you get.

7 And so I would submit that for him, this lawsuit is  
8 all about getting attention and sticking it to the  
9 Republicans in the Assembly with whom he has grievances, as  
10 he has set forth in Twitter.

11 In the case of Mr. Greenberg, this lawsuit is all  
12 about coercion, because time and again, particularly in the  
13 last few weeks, he has been attacking the Assembly on  
14 Twitter, he has been tagging the Speaker on Twitter, because  
15 he is very passionate about a piece of legislation called  
16 the Adult Survivors Act with respect to adult victims of  
17 sexual abuse, and he has policy differences personally as  
18 opposed to what has been proposed in the state legislature.

19 And so time and again he is saying we need to have  
20 a taxpayer supported fund for different kinds of adult  
21 survivor claims.

22 And there is, I think, at least I perceive,  
23 disagreement between what Mr. Greenberg thinks ought to be  
24 done and what the Legislature is hoping to do during what  
25 remains of this session.

dk

## Proceedings

1                   And so rather than hire a lobbyist, which maybe  
2                   he's done, I'm not sure about that, but rather than go  
3                   through the legitimate channels of persuasion to try to  
4                   achieve the result legislatively that he's hoping to  
5                   achieve, he brings this lawsuit to coerce the Assembly and  
6                   to hold the political process hostage so he can get what he  
7                   wants on this bill that is very important to him.

8                   So I would submit that all of this explains why  
9                   this proceeding wasn't brought in February or March or  
10                  April. These are newfound grievances that all three of  
11                  these Petitioners have.

12                  And so the question this Court needs to ask itself  
13                  is, will they allow these grievances to grind the electoral  
14                  system in the State of New York to a halt.

15                  And I would submit that the answer is no.

16                  Mr. Walden called the arguments that are made by  
17                  the State Assembly in support of its motion to dismiss  
18                  cynical and craven.

19                  My response is that what I think is truly cynical  
20                  is that Mr. Walden made the same arguments before  
21                  Justice McAllister in support of his intervention motion,  
22                  and Justice McAllister, whom this Court rightly notes, back  
23                  on March 31st did sua sponte invalidate the Assembly  
24                  district lines, there were appeals that followed, and on  
25                  those appeals the Fourth Department said, we're leaving the

dk

## Proceedings

1 Assembly lines alone. The Court of Appeals said, we're  
2 leaving the Assembly lines alone.

3 And so Mr. Walden went to Steuben County back on  
4 May 10th and tried to argue in support of intervention, and  
5 intervention was denied because, as Justice McAllister noted  
6 in his decision, to allow intervention on May 10th, and, by  
7 the way, we're already at May 23rd, but back on May 10th,  
8 Judge McAllister said allowing intervention would create  
9 total confusion.

10 And I would submit, Your Honor, nothing has changed  
11 since May 10th, except that now we're not at May 10th  
12 anymore. We're at May 23rd. And so whatever confusion  
13 there would have been by allowing intervention on May 10th  
14 is only compounded with every passing day that goes by.

15 THE COURT: But I will, counsel, just briefly,  
16 although I agree Judge McAllister did have those findings,  
17 and there was a large part of it rationale for denying their  
18 intervention at that time, he did, as Petitioners pointed  
19 out, he did go on to say that the parties were free to file  
20 a new suit, specifically on the Assembly issue, which is  
21 what brings us here today. He did not just issue a blanket  
22 ruling of saying too little, too late at that time.

23 So the fact that he still believed at that point,  
24 he obviously didn't issue a ruling on the substance of it,  
25 but that he essentially opened the door and invited

dk

## Proceedings

1 Petitioners to consider further legal action, what is your  
2 response to that?

3 MR. BUCKI: I wouldn't say that Judge McAllister  
4 made any kind of invitation of anything.

5 What Judge McAllister said was, these proposed  
6 intervenors, which at the time were Mr. Wax and  
7 Mr. Greenberg, they can bring a separate lawsuit and they  
8 didn't need Justice McAllister's permission to bring a  
9 separate lawsuit.

10 And when I counsel clients about, you know, is it  
11 possible that I'm going to get sued, what I like to say is,  
12 anybody can sue anybody else over anything at any time.  
13 There's no doctrine or decree that says you cannot sue  
14 somebody.

15 But when you decide to bring a separate action and  
16 commence a separate lawsuit, you need to be prepared to  
17 address any of the defenses that might be raised to that  
18 lawsuit; equitable defenses, defenses concerning necessary  
19 parties, defenses concerning standing, defenses concerning  
20 timeliness.

21 And the fact is, if the Assembly map was going to  
22 be challenged, notwithstanding whatever the Court of Appeals  
23 may have said in a footnote, the challenge needed to be made  
24 in the right way in order for it to have any effect.

25 And a good example, which I also raised in the

dk

## Proceedings

1 argument before Judge McAllister, is what happens in cases  
2 involving suits seeking to address illegal or  
3 unconstitutional government action such as, say, a land use  
4 dispute, an issue that arises under the State Environmental  
5 Quality Review Act.

6 You have a very narrow statute of limitations in  
7 which to make your challenge. Sometimes it's four months.  
8 Sometimes it's maybe 60 days. Sometimes it can even be as  
9 little as 30 days. Or, under the Election Law, as little as  
10 14 days.

11 And we're going to get to that statute of  
12 limitations in a minute.

13 So all the time it happens that matters that are  
14 substantively illegal or substantively unconstitutional are  
15 allowed to stand because they're not challenged timely,  
16 because they're not challenged using the proper procedure.  
17 And so when Mr. Walden says at the beginning of his more  
18 than an hour long presentation how can the Assembly defend  
19 these lines, I can tell Your Honor how we can defend it.

20 Number one, because the Court of Appeals had an  
21 opportunity to invalidate the Assembly map and it declined  
22 to do so.

23 And, furthermore, that there are a whole host of  
24 issues relating to timeliness and necessary parties and  
25 standing, et cetera, and we're going to go through every

dk

## Proceedings

1 single one, that make this challenge not a challenge that  
2 can be countenanced at this point in time.

3 And so we offer a variety of defenses. And I would  
4 say that any one of them independently has sufficient merit  
5 to justify dismissing this lawsuit.

6 And the first one is laches.

7 I can hardly believe my ears to hear Mr. Walden  
8 claim that somehow there is no limit, either as a matter of  
9 equity or as a matter of statute, with respect to timeliness  
10 of bringing a claim such as the one that's brought in this  
11 petition.

12 If that were true, then there would be no reason  
13 for any kind of statute of limitations at all.

14 And under the law of equity, it is a well-known  
15 principle that those who seek equity must do equity.

16 And the last people on earth in this case who did  
17 any kind of equity at all were Mr. Nichols and Mr. Wax and  
18 Mr. Greenberg because while all of the proceedings were  
19 going on in Steuben County Supreme Court, with the  
20 Petitioners and counsel for the Legislative leaders and  
21 counsel for the Governor, having a trial, having expert  
22 testimony concerning a variety of very complex technical  
23 issues relating to the redistricting process, what were  
24 Mr. Wax and Mr. Greenberg doing? They were tweeting, rather  
25 prolifically. They were hiding behind their computers in

dk

## Proceedings

1 their basement offering all kinds of commentaries on the  
2 lawsuit.

3 THE COURT: I would just ask you, the bench trial  
4 that was held before Judge McAllister, approximately how  
5 long did that bench trial last?

6 MR. BUCKI: So the first day of argument on motions  
7 in the trial took place on March 3rd.

8 And, in fact, we have copies of Mr. Greenberg's  
9 tweets where he was actually live tweeting and copying  
10 commentaries made by others who were tweeting about the  
11 proceedings because they were live streamed, so anyone who  
12 wanted to watch the proceedings. So Mr. Greenberg was well  
13 aware of what was going on, not to mention the fact that he  
14 was posting copies of the pleadings on Twitter.

15 THE COURT: No, no. That I'm aware of in terms of  
16 the timeline. I saw that in the various papers filed.

17 MR. BUCKI: Certainly.

18 So March 3rd was the first day of argument on  
19 motions. And then March 14th, I believe it was, was a  
20 Monday. And so we had testimony on the 14th, the 15th, and  
21 the 16th, with the possibility of the 17th, but we didn't  
22 have to go over to the 17th.

23 And then there still needed to be closing  
24 arguments. And the closing arguments took place in person  
25 in Steuben County on March 31st. And there was a decision

dk

## Proceedings

1 later that day. So effectively, when you add up the  
2 different court appearances, it amounted to five days.

3 THE COURT: Right.

4 MR. BUCKI: And then the appellate process followed  
5 from that.

6 So there was ample opportunity for Mr. Wax and  
7 Mr. Greenberg to commence a proceeding or to intervene at  
8 that earlier point in time when all of these issues could  
9 have been hashed out concerning not only the Congressional  
10 map and the Senate map, but also the Assembly map too.

11 And why that's important also is that back in  
12 February and in March, there had been no designating  
13 petitions filed anywhere in the State of New York. Those  
14 filings didn't happen until April 4th through 7th.

15 So Mr. Walden says why is it that these arguments  
16 concerning necessary parties were not raised in the original  
17 Harkenrider proceeding in Steuben County that was begun in  
18 February, because there had been no petitions filed, and so,  
19 therefore, there were none of these candidate necessary  
20 parties who could have been named because you don't know who  
21 your candidates are going to be whose rights might be  
22 inequitably affected until these individuals' petitions  
23 would have been filed.

24 So for Mr. Walden to say that we're somehow  
25 imposing that draconian burden upon the Petitioners to make

dk

## Proceedings

1       them sue all kinds of candidates, that's a burden they  
2       themselves created. Because if they had brought this  
3       lawsuit in February, there would have been no need to name  
4       any of these other candidates because no petitions would  
5       have been filed yet at that time.

6               And so, really, it was the delay on the part of the  
7       Petitioners that leads us to this point.

8               And, of course, laches, an equitable doctrine,  
9       equals delay, plus prejudice. We certainly have the delay.

10              And in terms of the prejudice, here's the prejudice  
11       that we have. First of all, prejudice to candidates. And  
12       we're not just talking about candidates for State Assembly.  
13       We're talking about candidates for district leader in  
14       New York City, for State Democratic Committee, for county  
15       party committee, because you have to run in the Assembly  
16       district where you live. And then, finally, and perhaps  
17       most critically with respect to time frame, candidates for  
18       delegates and alternate delegates to the various judicial  
19       nominating conventions.

20              And Mr. Walden claims that we're not looking to  
21       invalidate any kind of candidacies. And so, therefore,  
22       there's no need for any of these candidates to be worried,  
23       for any of these thousands of different positions throughout  
24       the State of New York.

25              Well, let's look at the relief that is sought by

dk

## Proceedings

1 Mr. Walden in his petition. The words speak for themselves.

2 He says in the petition that the Petitioners are  
3 looking to enjoin Respondents, quote, to open designating an  
4 independent nominating petition periods for statewide  
5 Congressional, State Assembly, State Senate and local  
6 offices with deadlines sufficient to obtain new designating  
7 petition signatures.

8 So, in fact, even if candidates aren't necessarily  
9 going to be disqualified, Mr. Walden is asking for the  
10 petitioning period to be reopened for candidates for all  
11 kinds of offices to have to get new signatures.

12 And I would submit that that is a way in which  
13 these candidates are going to be prejudiced and inequitably  
14 affected because, as of right now, candidates for all of  
15 these various offices that I mentioned, they know what  
16 districts they're running in, they know they filed their  
17 petitions from April 4th through 7th, they know, if they  
18 haven't been thrown off the ballot, that they've satisfied  
19 the signature requirements, they know if they have a  
20 primary, they know who their primary opponent is going to  
21 be, or if they don't have an opponent, they know that they  
22 don't have a primary opponent.

23 So by granting the relief that Mr. Walden asks for  
24 at this late date, all of these assumptions that are baked  
25 into the decisions that have been made by the Boards of

dk

## Proceedings

1 Elections are going to go up in smoke.

2 And so now candidates may go from having no race,  
3 to perhaps having a race, from thinking they've gotten  
4 enough signatures to now needing to get more.

5 These are all the reasons in which candidates, for  
6 a variety of these positions, not just State Assembly, are  
7 going to be inequitably affected because Assembly districts  
8 are the building blocks pursuant to which other offices are  
9 elected.

10 That's why the New York State Democratic Committee,  
11 elected from Assembly districts. Judicial delegate and  
12 alternate, elected from Assembly districts. Where you can  
13 run for county committee, determined by your Assembly  
14 district.

15 So this isn't just about getting rid of Assembly  
16 districts. By getting rid of Assembly districts, and having  
17 a brand-new map, you affect all of these races and all of  
18 these thousands of candidates where a whole variety of  
19 offices are going to be prejudiced.

20 And Mr. Walden simply discounts that. And we would  
21 submit that that's wrong.

22 That's the first way candidates are prejudiced.  
23 And that applies whether you're an incumbent or a  
24 challenger.

25 THE COURT: Counsel, I will let you continue in a

dk

## Proceedings

1 moment.

2 MR. BUCKI: Sure.

3 THE COURT: But just hypothetically, if what  
4 Petitioner was seeking was granted and officially a new  
5 primary date was being set for sometime in September  
6 because, as I mentioned, I cannot fathom how we could get  
7 through that, even that potential hypothetical, following  
8 the same August dates that are in place for the Senate and  
9 Congressional races, do you believe, and I will hear  
10 obviously from the Board of Elections as well, but do you  
11 believe in your opinion that it would be possible to get all  
12 of that together for a September primary?

13 MR. BUCKI: Absolutely not. And here's an example  
14 as to why.

15 Under UOCAVA, Uniformed and Overseas Citizens  
16 Absentee Voting Act, the absentee ballots need to be sent to  
17 our overseas citizens and our men and women serving our  
18 country in uniform 45 days before the general election.

19 And the general election this year is scheduled for  
20 November 8, 2022. There is no changing that date.

21 And 45 days before November 8th is September 23rd.  
22 So the ballots need to be sent to all of these people  
23 overseas September 23rd.

24 And yet Mr. Walden proposes a September 13th  
25 primary date. And, as Your Honor knows, sometimes elections

dk

## Proceedings

1 are close. You may think that you will get a result on  
2 election night. But, as recent history has shown, sometimes  
3 you can have elections that take weeks to be decided, like  
4 the race for district attorney in Queens back in 2019.

5 And so a ten-day window from a September 13th  
6 primary to a September 23rd date for sending out all of  
7 these absentee ballots is simply unworkable because of the  
8 prospects of having close races.

9 In addition, what cannot be forgotten is the need  
10 to finalize the ballot for New York State Supreme Court. So  
11 if you have primary races on September 13th to choose  
12 delegates to judicial nominating conventions, those  
13 primaries, inasmuch as they take place, the winners need to  
14 be certified. And then you actually need to have the  
15 judicial nominating conventions. And you don't know who the  
16 candidates for State Supreme Court are going to be until the  
17 nominating conventions are actually held.

18 So only once those conventions are held can ballots  
19 be actually printed listing the names of the candidates for  
20 State Supreme Court. There simply is not enough time. Not  
21 to mention that it's already enshrined in statute that the  
22 judicial nominating conventions are supposed to take place  
23 during the early part of August.

24 So those are two examples that demonstrate why the  
25 September 13th primary date that they propose is simply

dk

## Proceedings

1 unworkable.

2 And what the Petitioners forget is that UOCAVA, the  
3 Federal statute, is a relatively recent creation.

4 The reason why we were able to have primaries in  
5 the State of New York in September for so long is that for  
6 many years there was no UOCAVA statute. And, in fact,  
7 absentee ballots were routinely sent to people no matter  
8 where in the world they were located in the month of  
9 October.

10 But the Federal Government stepped in and said, we  
11 want to have a statute that standardizes nationwide when  
12 people in the military are supposed to get their absentee  
13 ballots. And so that's why we have that statute now.

14 And that statute places a firm limit on the ability  
15 of the State Board of Elections to send absentee ballots --  
16 I should say to finalize absentee ballots any later than the  
17 date that is set by the UOCAVA statute.

18 And that is why the calendar that the Petitioners  
19 propose is simply unworkable.

20 THE COURT: Counsel, to pick up on that, because as  
21 you just mentioned, within New York State it was fairly  
22 common that primaries used to take place in September for a  
23 long period of time.

24 MR. BUCKI: Very true.

25 THE COURT: And I understand the rationale you just

dk

## Proceedings

1 gave in terms of the Federal statute with the 45-day window,  
2 but are there other additional reasons why you believe  
3 potentially having a primary in September would create any  
4 other difficulties?

5 MR. BUCKI: Well --

6 THE COURT: Beyond what -- I know you referenced  
7 some.

8 MR. BUCKI: Simply the difficulty of actually  
9 getting ballots printed in a timely fashion. As the Board  
10 of Elections has stated in various affidavits, because of  
11 supply chain issues, we've even had problems getting the  
12 necessary supplies that are required simply to print out the  
13 ballots that are needed for the entire State of New York,  
14 not to mention the fact that the more compressed of a time  
15 frame that you have, the more the cost increases.

16 And I expect the State Board of Elections will talk  
17 in great detail about the problems they have been having  
18 simply to satisfy the requirements already that have been  
19 imposed by Justice McAllister. And September 13th is simply  
20 unworkable.

21 Not to mention the fact that the Petitioners, even  
22 though Justice McAllister has exercised jurisdiction over  
23 the Congressional and Senate lines, the Petitioners, for  
24 whatever reason, in their petition want to circumvent  
25 Justice McAllister's authority in Steuben County

dk

## Proceedings

1 Supreme Court and have this Court somehow reopen or change  
2 the limitation period for candidates' signatures and the  
3 signature requirements with respect to Congressional and  
4 State Senate offices, when that's really the domain of  
5 Justice McAllister.

6 And, in fact, the August 23rd primary date that he  
7 set had to be approved by a Federal Judge, Judge Sharpe, in  
8 the United States District Court for the Northern District  
9 of New York.

10 So should this Court accept the invitation of the  
11 Petitioners to have yet another change, it would be  
12 necessary to go back to Judge Sharpe.

13 And Judge Sharpe has already ruled that the fourth  
14 week of August is about as far as one can go in terms of  
15 having a primary in order to satisfy Federal law as it  
16 exists at the present time. That didn't used to be the  
17 case, but it is the case now. And that's an important  
18 consideration that this Court should keep in mind.

19 So because of the delay that was promulgated by  
20 these Petitioners, sitting on the sidelines and tweeting,  
21 while everybody else was litigating over the Congressional  
22 and State Senate lines that causes prejudice to candidates,  
23 be they incumbents or challengers, it causes prejudice to  
24 our men and women in uniform, in the military, who are  
25 required to get their absentee ballots, have them sent out

dk

## Proceedings

1 by a particular date, and the prejudice in terms of the time  
2 frame because it took a month, approximately, for  
3 Justice McAllister to put together, with the aid of a  
4 Special Master, 89 districts combined, for Congress and  
5 State Senate.

6 And this Court would have to put together 150  
7 districts for State Assembly, not to mention that all of  
8 those State Assembly districts are going to impact races for  
9 a variety of other offices that I already mentioned.

10 So even to think that a month would be sufficient  
11 to put together a new map, we would submit that that's an  
12 unrealistic expectation.

13 So that's the issue of laches.

14 And I would combine in with the issue of laches the  
15 issue of the statute of limitations. Because of the  
16 inequitable effect that will be had upon various candidates  
17 if these lines go down, to invalidate candidacies for  
18 particular offices, in a particular district, Election Law  
19 16-102 is clear, there was a 14-day statute of limitations  
20 from the last day for filing designating petitions.

21 And it's not enough for the Petitioners to claim  
22 that they're not looking to invalidate candidacies because,  
23 yeah, they are. They're looking to invalidate candidacies  
24 that are dependent upon the districts that exist now and  
25 they're looking to require candidates who have already filed

dk

## Proceedings

1       their petitions to now go get new petitions or, at a  
2       minimum, run in districts other than the districts where  
3       they had planned and intended to run all along.

4               And so Election Law 16-102 is clear, they had  
5       14 days to bring this proceeding from the last day for  
6       filing petitions. And that was April 21st. And this  
7       proceeding was brought on May 15th. It is simply untimely.

8               And Mr. Greenberg knows well about the statute of  
9       limitations. He was very much an advocate for the Child  
10      Victims Act. And all of those Child Victims Act lawsuits  
11      only became possible by changing the statute of limitations.

12              And so too here, the Petitioners have to live with  
13      the statute of limitations that exists under the  
14      Election Law right now. If they want to change the law and  
15      go to Albany and try to advocate for that, then that's  
16      something they can certainly do. But the law right now  
17      imposes a 14-day statute of limitations, separate and apart  
18      from, and in addition to, the application of the equitable  
19      doctrine of laches. And this is why this proceeding is  
20      simply untimely.

21              THE COURT: Counsel, just on the statute of  
22      limitations argument, I mean, I understand the argument that  
23      you're making, but here, they're not challenging one  
24      specific group that was designated by the petitions. This  
25      is obviously on a much larger scale. So do you still

dk

## Proceedings

1 believe that the 14-day statute of limitation would be in  
2 place where we're not talking about the specific petitions  
3 but the overall constitutional status of them?

4 MR. BUCKI: They are challenging specific  
5 petitions. They are challenging the candidacies and the  
6 designations of every single person statewide who was  
7 designated for State Assembly, for district leader, for  
8 delegate judicial convention, for all judicial convention,  
9 for county party committee and for State Democratic  
10 Committee, because all of those designations depend upon the  
11 Assembly districts being as they were enacted back on  
12 February 3rd in Chapter 14 of the laws of 2022. And so that  
13 is why that statute of limitations applies.

14 And even if this Court should determine that that  
15 statute of limitations doesn't apply, the equitable doctrine  
16 of laches applies regardless. And so either way, this is an  
17 untimely proceeding.

18 And then the next issue that I really think cannot  
19 go unnoticed is the issue of the absence of the necessary  
20 parties.

21 And Mr. Walden pokes fun at the argument, but I'll  
22 tell you, the First Department last year did not poke fun at  
23 the argument in Matter of Clinton versus Board of Elections  
24 of the City of New York, which is binding precedent on this  
25 Court.

dk

## Proceedings

1 And that was a case concerning a certificate for  
2 filling vacancies with respect to a judicial nominating  
3 convention. And there was a challenge to the certificate,  
4 but only certain individuals who were named on the  
5 certificate were actually named as parties to the lawsuit.

6 And they said this case should be dismissed because  
7 everyone who was named on the certificate needs to be  
8 treated as a necessary party because if the certificate goes  
9 down, not only do our filling the vacancies goes down, but  
10 the vacancies filled by everybody else on the certificate  
11 goes down. And the First Department agreed. And the  
12 New York Court of Appeals denied leave to appeal.

13 And so here, Mr. Walden made a statement in his  
14 presentation saying, well, you know, this is an argument  
15 that depends upon what might happen in terms of whether a  
16 person will have to run in a different district or whether a  
17 person will be happy with their new district, unhappy with  
18 their new district.

19 Well, that's the standard because CPLR 1001(a) says  
20 that persons who might be inequitably affected by a judgment  
21 in the action shall be made plaintiffs or defendants. The  
22 standard isn't whether they will be inequitably affected.  
23 The fact is they might be inequitably affected.

24 And all of these candidates, for all of these  
25 different offices, that are based upon the Assembly district

dk

## Proceedings

1 lines, these are all individuals who might be inequitably  
2 affected by a judgment in that, as Mr. Walden requests in  
3 his petition, they might need to get new signatures. They  
4 might need to run in different districts. They might end up  
5 facing a primary opponent who they presently do not have.  
6 They might end up having a tougher race than they had  
7 bargained for in a district that looks different from what  
8 they're currently planning on.

9 All of those are ways in which the candidates who  
10 are on the ballot right now might be inequitably affected by  
11 a judgment in this case. All of them are necessary parties.  
12 And yet none of them are here.

13 And with respect to that issue, what also cannot be  
14 ignored is the fact that we have Boards of Elections  
15 throughout the State of New York that also are necessary  
16 parties. And the cases on this issue are Flynn v. Orsini  
17 from the Fourth Department and Gagliardo, G-A-G-L-I-A-R-D-O,  
18 versus Colascione, C-O-L-A-S-C-I-O-N-E, because in the  
19 petition, Mr. Walden and the Petitioners ask this Court to  
20 suspend or enjoin the operation of any other state laws or  
21 vacating any certifications or other official acts of the  
22 New York State Board of Elections or other governmental  
23 body.

24 And what's important to keep in mind is that it's  
25 not only the New York State Board of Elections that

dk

## Proceedings

1 certifies candidacies and certifies the primary ballot.  
2 When a particular office to be elected crosses county lines,  
3 the petitions for that office are indeed filed with the  
4 New York State Board of Elections. But in the City of  
5 New York, if the office to be elected does not cross between  
6 lines within the city versus outside the city, those  
7 petitions are filed with the New York City Board of  
8 Elections. And in Long Island, upstate, if the race to be  
9 elected is only to be elected from within a particular  
10 county, likewise, the petitions are filed at that particular  
11 county's Board of Elections.

12 So Mr. Walden, in his petition, is asking for all  
13 kinds of certifications of the ballot and certifications of  
14 candidacies to be suspended and enjoined and vacated. And  
15 yet the Boards that issued these certifications are not here  
16 to be represented. We don't have the New York City Board of  
17 Elections here. We don't have the 57 other county Boards of  
18 Elections throughout the State of New York, outside New York  
19 City, represented here. And we would submit that they too  
20 are necessary parties, even if the individual candidates are  
21 not.

22 And so, either way, there are necessary parties  
23 that needed to be named, that might be inequitably affected,  
24 and yet are not represented here.

25 And for Mr. Walden to go talking about how much

dk

## Proceedings

1 he's interested in people's rights, what about the rights of  
2 these candidates, what about the rights of the Boards of  
3 Elections?

4 Apparently the Petitioners don't care about their  
5 rights, because if they really cared about their rights,  
6 then those individuals, those Boards, would have been named  
7 as Respondents to this proceeding.

8 And this is why the proceeding fails as well.

9 I'll touch briefly on standing.

10 We would submit Election Law 16-102 standing  
11 requirements apply. You need to be a party chair or  
12 objector or an aggrieved candidate.

13 The Petitioners are none of these. Mr. Nichols  
14 cannot possibly claim that he's aggrieved by how the  
15 Assembly map looks. He's only aggrieved inasmuch as he  
16 didn't get enough signatures for Governor in the first  
17 place. And then he tried to bring a lawsuit. And he  
18 couldn't follow the instructions right for getting the  
19 lawsuit served. And instead of bringing an appeal to the  
20 Appellate Division Third Department, he decided, well, I'm  
21 going to do a Hail Mary pass three days later and try to  
22 bring this case and latch on with Mr. Wax and Mr. Greenberg.

23 And we would submit that that's -- that that does  
24 not satisfy the test of aggrievement.

25 And then further, with respect to Mr. Wax and

dk

## Proceedings

1 Mr. Greenberg, they too had an opportunity to appeal from  
2 the denial of intervention to the Appellate Division  
3 Fourth Department.

4 Funny thing, they decided not to do that because  
5 maybe they could tell they weren't likely to succeed. And  
6 so now they want to come to this Court to try to get a  
7 second bite at the apple to see if they can try again with  
8 another judge when Justice McAllister, who was so keenly  
9 familiar with the issues, simply would not give them  
10 countenance for the challenge that they're trying to pursue.

11 THE COURT: But, counsel, do you believe that  
12 Mr. Wax and Mr. Greenberg also lack standing or you are just  
13 making that argument with Mr. Nichols?

14 MR. BUCKI: Yes, with respect to all the  
15 Petitioners, yes, they absolutely lack standing.

16 THE COURT: And you are making that statement  
17 despite what was within the Court of Appeals decision in  
18 terms of standing on these types of matters?

19 MR. BUCKI: Yes. The Court of Appeals talked about  
20 the constitutional language saying that any citizen could  
21 bring a challenge to Assembly maps.

22 We would submit that this case is about a lot more  
23 than challenging Assembly maps. It's about challenging  
24 candidate certifications. It's about requiring candidates  
25 to go get new signatures, requiring candidates to run in

dk

## Proceedings

1 districts other than the districts for which their  
2 candidacies have been certified. And so that crosses from  
3 the realm of simply challenging maps to the realm of trying  
4 to have an inequitable effect upon candidacies that already  
5 were finalized back on April 21st when they were not  
6 challenged. And that is why the Petitioners don't have  
7 standing.

8 And where I would like to close is, let's say, for  
9 the sake of argument, that the Court agrees with Mr. Walden  
10 that notwithstanding all of these defenses that the petition  
11 can be granted, I would submit to this Court that the  
12 solution is not the convoluted solution that Mr. Walden  
13 proposes to try to create havoc in this year's elections.  
14 Rather, I apply the rule of Occam's razor whereby the  
15 simplest solution is usually the correct one.

16 And so too here, all that's been alleged in papers,  
17 putting aside bluster, putting aside conspiracy theories,  
18 putting aside wild accusations from Mr. Walden, all that's  
19 been actually alleged in litigation papers in this lawsuit  
20 is procedural unconstitutionality of the Assembly map, that  
21 the Assembly map was enacted, notwithstanding the fact that  
22 the Independent Redistricting Commission had not had an  
23 opportunity to, at least in the view of the  
24 Court of Appeals, had not had sufficient opportunity to  
25 issue a second set of maps for the Legislature's

dk

## Proceedings

1 consideration.

2 Nowhere is it alleged that there is any substantive  
3 unconstitutionality in the map for the Assembly districts.

4 Nowhere in the petition do they say anything about  
5 the fact that the map is somehow gerrymandered.

6 Nowhere do they say, aside from bluster today,  
7 nowhere do they say, backed up by any evidence, that somehow  
8 the match was unfair.

9 Nowhere do they say that the map for Assembly is  
10 not compact.

11 Nowhere do they say that it ignores communities of  
12 interest.

13 Nowhere do they say that doesn't -- that it fails  
14 to satisfy any of the other substantive Congressional  
15 criteria that are said in Article III of the State  
16 Constitution.

17 All that's alleged is this purported procedural  
18 infirmity. And so the solution to the procedural infirmity,  
19 should the Court find one, and should the Court determine  
20 that this is somehow a timely proceeding, and somehow that  
21 there isn't a necessary parties problem, and that somehow  
22 there isn't a laches problem, the solution is simply to take  
23 the map that was enacted by the representatives of the  
24 people of the State of New York, not imposed by a judge  
25 elected by a small portion of the state population, but

dk

## Proceedings

1       rather by the representatives who are elected by all  
2       20 million of us, take that map and impose it, and say, this  
3       will be the map for the next ten years, and adopt it and  
4       ratify it.

5               I think an important contrast needs to be drawn  
6       between this proceeding and the one that was brought by the  
7       Petitioners in Steuben County.

8               The Steuben County Petitioners, in challenging the  
9       Congressional map and the State Senate map as a substantive  
10      matter, they brought evidence, they put forth expert  
11      affidavits. We had a trial based upon very complex issues  
12      of statistics, Monte Carlo simulation, issues that would  
13      take a long time to explain, and that I think would go  
14      beyond the proper boundaries of my argument today, and  
15      likewise, the Respondents offered a variety of experts too.  
16      So there needed to be a trial to hash out all of the  
17      different expert opinions that were based upon simulations  
18      and evaluations of statistical data.

19              Here, by contrast, the Petitioners offer nothing of  
20      the sort. To use a baseball analogy, they want to take the  
21      fact that the Petitioners hit a home run on the issue of  
22      procedural unconstitutionality before the Court of Appeals,  
23      and they are the ones who want to run the bases, even though  
24      they had nothing to do with that outcome. We would submit  
25      that that's not proper.

dk

## Proceedings

1 THE COURT: Counsel, my only question on that is,  
2 when everything -- I understand what you're saying,  
3 essentially to, for lack of a better term, rubber stamp the  
4 existing Assembly and wave my magic wand and say that they  
5 are now constitutional, but the State Senate maps were also  
6 solely found to be procedurally unconstitutional.

7 There was no claim in terms of gerrymandering or  
8 any of the other issues with that, yet it still resulted in  
9 the process that was just completed upstate where those set  
10 of lines were, in fact, redrawn.

11 MR. BUCKI: Well, actually, the Petitioners did  
12 allege in great detail and offer simulation evidence stating  
13 that the Senate now was substantively unconstitutional and  
14 did not -- setting aside the procedural argument, did not as  
15 a matter of substance satisfy the criteria for  
16 redistricting.

17 THE COURT: I understand your argument was made,  
18 but the Court of Appeals in their decision related to the  
19 State Senate map found that it was just -- their finding was  
20 it was only procedurally unconstitutional. They weren't  
21 getting into -- did not agree that there was any sort of  
22 gerrymandering or other items that had occurred.

23 But that said, I do understand the argument that  
24 you are putting forth.

25 MR. BUCKI: Your Honor is absolutely right that the

dk

## Proceedings

1 Special Master in Steuben County, Dr. Cervas, C-E-R-V-A-S,  
2 he would have been well within his rights simply to say,  
3 we're going to adopt the Senate map that was enacted. In  
4 fact, that was what I argued before the Special Master back  
5 on May 6th.

6 In large part, Dr. Cervas did leave the Senate map  
7 unchanged. He did make a few revisions, particularly in  
8 Erie County, and also in New York City, and on Long Island,  
9 because he decided that those were decisions he wanted to  
10 make.

11 THE COURT: Which I understand. And just  
12 hypothetically, if I followed your, and I know it's not your  
13 main argument, but if it came down to it, and I followed  
14 what you are suggesting as an alternate resolution and  
15 simply said that the existing Assembly maps are -- that  
16 there's nothing wrong with them and that they should remain  
17 in place, wouldn't we still have to go through a lot of the  
18 same process?

19 MR. BUCKI: Absolutely not, because there's no need  
20 for a Special Master unless there is a need for changes to  
21 the map.

22 And what differentiates this case from the case  
23 that concerned the Senate is, with respect to the Senate  
24 maps, there was strong clash among the parties as to whether  
25 those maps were a substantive gerrymander. And we had a

dk

## Proceedings

1 significant amount of testimony and evidence concerning that  
2 issue.

3 Here, by contrasting the Assembly map, we have  
4 nothing in the way of expert affidavits. We have nothing in  
5 the way of simulations. We have nothing that could support  
6 even an allegation that there is any kind of substantive  
7 unconstitutionality, aside from the new matter that  
8 Mr. Walden raises today based upon anecdotes about people  
9 who purportedly wanted to run for Assembly.

10 And my response to that is, the State Constitution  
11 is clear, that in a redistricting year, you can move into  
12 the district where you want to run. No one is prohibited  
13 from doing that.

14 THE COURT: No, I understand, as long as you are a  
15 resident.

16 MR. BUCKI: As long as you've been a resident of  
17 the county for a certain period of time, you are welcome to  
18 move into any other Assembly district, Senate district in  
19 that county that you choose.

20 And so to say that this is some -- that the way  
21 certain lines were drawn based upon anecdotes and  
22 accusations therefore is somehow a gerrymander is really  
23 irresponsible because the solution is if you want to run in  
24 a different district, move to that different district.  
25 Nothing is stopping you as a candidate from moving to that

dk

## Proceedings

1 district.

2 THE COURT: All right.

3 MR. BUCKI: We would submit, as I said, that this  
4 proceeding should be dismissed or, in the alternative,  
5 regardless of dismissal, we would submit that the map that  
6 was enacted for State Assembly by the New York State  
7 Legislature in February be ratified so that the elections  
8 for State Assembly and all of these other races that depends  
9 on the Assembly map can continue in an orderly fashion as  
10 they have been to this point.

11 THE COURT: Thank you.

12 Just before I turn back to hear from the Board of  
13 Elections, I just want to follow up on that last point with  
14 Mr. Walden.

15 To be clear, I think you had said it as part of  
16 your argument, is your only claim to strike the Assembly  
17 maps and to do the other items based upon the perceived  
18 procedural unconstitutionality or are you seeking a claim  
19 that there are issues in terms of potential gerrymandering  
20 and other things that have gone on which would, in all  
21 likelihood, require the Court to hear, essentially go  
22 through a similar bench trial to what may have occurred  
23 before Judge McAllister?

24 MR. WALDEN: Your Honor, to be crystal clear,  
25 again, I'm sorry if I wasn't crystal clear before, the issue

dk

## Proceedings

1 here is what everybody here is referring to as procedural  
2 unconstitutionality. Also I was responding to the fact that  
3 they keep saying it's fair. But if you want me to wait  
4 until after the BOE.

5 THE COURT: I wanted that quick point. I'll come  
6 back.

7 With that said, counsel, I am now going to turn to  
8 the representative from the State Board of Elections.  
9 Whoever is going to speak on behalf of the Board, I will  
10 give you an opportunity to be heard as well.

11 MR. QUAIL: Thank you, Your Honor.

12 Brian Quail for the New York State Board of  
13 Elections.

14 I appreciate that a lot has been said before the  
15 Court today. Nonetheless, I would like to take a very brief  
16 segue back to 1976.

17 In 1976, in a case that bears little relation to  
18 the circumstances in this one, because, frankly, no case  
19 does, the Court, in Pataki v. Hayduk, 87 Misc.2d 1095,  
20 articulated rather brilliantly the considerations, though,  
21 that need to be considered by the Court in an Election Law  
22 case like this.

23 And what the Court there said is that once the  
24 Board of Elections takes the first step and gears are set in  
25 motion, and the next step then must be taken by the person

dk

## Proceedings

1 aggrieved, whether candidate or nominee, the Supreme Court  
2 then may act and adequate machinery is set up for the  
3 immediate review by the highest court, if necessary.

4 And then the Court continued, time is the  
5 watchword. The candidate must have time to conduct a  
6 campaign. The electorate must have time to identify  
7 candidates to make up its mind. The municipal body must  
8 have time to set up the ballot and prepare the voting  
9 machine. There is no room for procrastination or  
10 retraction. And the Court concluded, only confusion and  
11 chaos can result from delay.

12 In this case, the possibility that Petitioners here  
13 could have brought their grievance into the courthouse, as  
14 has been well established, is the truth of the matter as of  
15 February of this year. Here we are in May.

16 But instead of looking back, I think it is more  
17 instructive to look forward.

18 We are 36 days away from a primary election on  
19 June 28th that was scheduled as a matter of law. And we are  
20 26 days away from the beginning of early voting.

21 And while there were some averments in this  
22 courtroom that the Board of Elections has only offered up  
23 vague articulations of what the problems are, I would point  
24 to the 15-page affidavit of Mr. Valentine that was submitted  
25 in this matter, which was quite specific. But I am more

dk

## Proceedings

1 than happy to get even more specific than that.

2 The issue with the election time frame boils down  
3 to reverse planning. So in this instance we know we're  
4 having a general election on November 8th. And that date --  
5 so we have to first begin to plan back from there.

6 The way New York's election calendar works, the  
7 goal is to have the ballot certified 54 days out from the  
8 election. That 54 days out from the general election puts  
9 us on or about September 13th.

10 From September 13th then, the Board needs to,  
11 collectively all the boards in New York, need to make sure  
12 that military ballots are able to flow by 9-24, which is not  
13 so many days later, 9-23/9-24. The state law deadline is  
14 actually 46 days before the election and the Federal  
15 deadline is 45.

16 So when looking at the scenario that was presented  
17 on April 27th, when the Court of Appeals in Harkenrider  
18 determined that there was going to have to be a remedial  
19 primary, and remanded this matter to Steuben County Supreme  
20 Court to determine the calendar for that primary, the  
21 question was, looking forward from April 27th, and knowing  
22 where we need to be by 9-13, which is a certified ballot for  
23 the general election, how do we squeeze in yet another  
24 primary.

25 So we have one on June 28th. And there's no basis

dk

## Proceedings

1 to move anything other than Congress or State Senate because  
2 they were not impacted by the judge's order. If those  
3 primaries were to move, that determination would need to be  
4 made, and I believe Judge McAllister noted this on more than  
5 one occasion, that determination would need to be made by  
6 the Legislature, which is due deference, because it is not  
7 necessary to move any other primaries other than the State  
8 Senate and Congressional one to effectuate the  
9 Court of Appeals ruling and the prior ruling of  
10 Judge McAllister that started all of this back at the end of  
11 March.

12 So the Board looked at where we were at on  
13 April 27th, and looked at where we needed to be, and  
14 determined that the latest date that a primary would be  
15 feasible would be August 23rd.

16 Moving forward from August 23rd, the ballot for the  
17 general election would need to be certified by 9-13,  
18 facilitating the flow of military ballots just eight  
19 some-odd days after that.

20 And the Board then endeavored to create a calendar  
21 moving it back from that date, the August 23rd date, that  
22 would permit that primary to occur.

23 The certification date for the August primary,  
24 54 days before that date, would be June 29th, which would  
25 allow time between June 29th and July 8th to transmit

dk

## Proceedings

1 military ballots timely for that primary.

2 And then what has to happen in between, what has to  
3 happen between where we were on April 27th and getting to  
4 the point where we have a ballot on 6-29, military ballots  
5 flowing on 7-8, we have to fit in all the ballot access. We  
6 have to fit in a challenge period. We have to fit in all of  
7 the steps that would normally happen in a much longer period  
8 of time in that window, which was already comprised.

9 As a result, the Board recommended a calendar that  
10 shrank the designating petitioning period from 37 days to  
11 21. And a number of other interstitial steps with respect  
12 to other filings that are related to post election ballot  
13 sorting and challenges that would shrink the amount of time  
14 that it would take to complete them. And in so doing, and  
15 as you will note, we began the designating petitions process  
16 at the absolute first available date, literally the day  
17 after the maps were promulgated. And that date was  
18 originally scheduled for the 24th. But in order to grab  
19 additional time to make the process work reasonably, the  
20 Board asked the Court if it could do something to move off  
21 of its original calendar promulgation date of May 24th, and  
22 the Court graciously did, promulgating the calendar --  
23 excuse me, promulgating the districts on the 20th, or in the  
24 wee morning hours of the 21st, which the case may be.

25 So that's how we managed to fit in this new

dk

## Proceedings

1 primary.

2 Now, also of consideration in all of this is that  
3 the June primary has to coexist with the August primary.  
4 The same machines are going to be needed at both events.  
5 And one of the considerations then, obviously, also had to  
6 be can there be a turnaround from primary number one and  
7 primary number two, from July 28th to August 23rd. And,  
8 very tightly, the answer to that is yes, but it is very  
9 tight.

10 Remember, an election event --

11 THE COURT: I'm sorry, counsel, you froze up there  
12 for a second. Repeat the last line.

13 MR. QUAIL: An election event is not an  
14 insignificant undertaking. There are 15,000-plus election  
15 districts, 5,000 poll sites, more than 300 early voting  
16 sites, and over 50,000 people who are deployed, in order to  
17 make all of those mechanics function.

18 So in looking at the scenario that was presented,  
19 we did manage to squeeze in the August primary in a way that  
20 would comport with getting military and overseas and all  
21 other ballots out timely for November and be far enough from  
22 the June primary to make the June primary also work.

23 So now we hear that the Petitioners are interested  
24 in having a primary in September. Their papers would have  
25 suggested that all primaries were going to move. But during

dk

## Proceedings

1 oral argument now, Petitioners have posited perhaps just  
2 some of the primaries could move to 9-13. The remainder, or  
3 just the Congressional primary, perhaps, would continue to  
4 be held on August 23rd.

5 The distance between August 23rd and 9-13 in a two  
6 primary scenario is absolutely, positively undoable. There  
7 is not enough election machinery to turn the machines around  
8 between those two events.

9 There would be tremendous overlap of various  
10 processes, like absentee ballots out for both elections at  
11 the same time, and any number of other logistical hurdles  
12 and problems that there is absolutely no surmountable  
13 scenario to get around. It's just, it's a nonstarter  
14 positively.

15 Then we turn to, sort of, the argument that we  
16 should have done something more to get ready.

17 The Board of Elections doesn't draw the lines. The  
18 Board of Elections administers elections on dates that are  
19 provided by law. And our duty is to have fidelity to the  
20 law and to implement elections as they are provided for by  
21 court order, obviously, or by statute.

22 That is what the Board did in this case.

23 The idea that we could have begun planning for a  
24 remedial election on an as yet undetermined date with maps  
25 that would not be determined until some unknown point in the

dk

## Proceedings

1 future, that there was some burden or duty on the part of  
2 the Board to do that is just remarkable that it was even  
3 asserted.

4 What the Board of Elections has done in a  
5 yeoman-like manner, particularly county Boards of Elections,  
6 is continuing along the process and planning for two  
7 election events relatively close in time, one of which was  
8 not planned for, with substantial supply chain problems  
9 presented, the need to schedule poll sites for a second  
10 event that normally would have been occurring earlier, much  
11 earlier in the year. And they have set about this work as  
12 the diligent public officials that they are.

13 And I come back to where I began. There is no room  
14 for procrastination or retraction. Only confusion and chaos  
15 can result from delay.

16 Words of wisdom from 1976, absolutely true in 2022.

17 I respectfully ask Your Honor to deny the  
18 application that's been made by the Petitioners because  
19 democracy requires orderliness to unfold so that people's  
20 voices can be heard. That's what a denial in this case  
21 means.

22 It is not somehow or another bending to the  
23 political class that's trying to manipulate anything. It's  
24 about making sure that the people's voices in this day, the  
25 millions of voters who participate in these election

dk

## Proceedings

1 contests, can be heard.

2 Thank you, Your Honor.

3 THE COURT: Mr. Quail, let me just ask you, sir, to  
4 be clear, I think you mentioned it, the physical turnaround  
5 time between the machines that would be used on the  
6 August 23rd primary for Congressional and Senate races, is  
7 it your testimony here today that it would be impossible to  
8 have those machines ready to go again for another primary  
9 21 days later?

10 MR. QUAIL: It is literally unthinkable that it  
11 would be possible to have the election on that date, get the  
12 election results certified and reprogram and have reprinted  
13 ballots in time to go for an election on 9-13.

14 THE COURT: Okay.

15 Realistically, how much time would you need to  
16 complete that undertaking?

17 MR. QUAIL: Generally speaking, the time from the  
18 certification to when the election itself actually occurs,  
19 we are typically looking at 54 days is what we would  
20 normally look at.

21 By the way, I would point out that for a 9-13  
22 election, we would be looking at early voting that would be  
23 starting ten days before that date, right. So we would be  
24 looking at 9 -- you know, the 2nd of September early voting  
25 would be starting for -- on at least some set of machines

dk

## Proceedings

1 during an election that was conducted, that would need to be  
2 completed and ready and made available for an election held  
3 on 8-23. The mechanisms by which that would happen are  
4 just, I can't fathom that.

5 THE COURT: Okay.

6 MR. QUAIL: And, Your Honor, I'm not able to  
7 testify here because I'm only an attorney, but I --

8 THE COURT: I apologize. To be clear, I know I  
9 said your testimony. I mischaracterized that. I meant to  
10 say your position and your part of the arguments. I know  
11 obviously the affidavits that were filed as part of these  
12 proceedings.

13 MR. QUAIL: What dictates this, Your Honor, is the  
14 size of the election event. So if you have a situation  
15 where some very small subset of a county is having an  
16 election event within a window of, say, 20 days and there's  
17 sufficient voting machines available in their county, then  
18 there are scenarios where it can occur.

19 But when you're talking about a large election  
20 event, one of which at least is going to be a statewide  
21 election event, which means all election districts, poll  
22 sites are going to be engaged in that election event, a mere  
23 20 some-odd days between the two things, and the need to  
24 prepare for that is just unthinkable.

25 THE COURT: Thank you.

dk

## Proceedings

1 I am just going to turn back to Petitioners'  
2 counsel. I will give you an opportunity.

3 MR. WALDEN: Your Honor, you heard the three  
4 attorneys. They had a break. I would like to consult with  
5 my client, who is in the courtroom.

6 MR. QUAIL: Your Honor, we can't hear.

7 THE COURT: I'm sorry. Counsel was just asking for  
8 a brief recess before I gave him an opportunity for a  
9 rebuttal.

10 Counsel, I have no problem doing that. I'm just  
11 cautioning, because I'm looking at the clock, we sort of  
12 have to break for lunch by 1:00. So depending on how long  
13 you need you think with your rebuttal, I would like to get  
14 this done before the lunch break rather than having to come  
15 back in the afternoon.

16 So with that said, I am okay taking a quick  
17 five-minute recess, but it will be a real five-minute  
18 recess, not a traditional court five-minute recess.  
19 All right.

20 With that, I will see everyone back in five  
21 minutes.

22 (Whereupon, a recess was taken.)

23 THE COURT: Everyone may be seated.

24 Counsel for Petitioners, I want to give you an  
25 opportunity for some rebuttal. You may proceed.

dk

## Proceedings

1 MR. WALDEN: Thank you, Your Honor.

2 That's going to be, given how much was said here, a  
3 little more than ten minutes. I'll do my best.

4 You asked Mr. Bucki -- and, by the way, I have  
5 great respect for him. I'm not going to engage in insults  
6 to counsel, which I don't think have a place in the  
7 courtroom, but I respect him.

8 You asked him a pointblank question. Mr. Bucki, is  
9 it impossible to do a September 13th primary. And his  
10 answer was, well, Judge, there's this statute, and I can't  
11 even pronounce the acronym, but I think Your Honor  
12 understands this, it's the same statute that the Board of  
13 Elections was talking about when they're talking about this  
14 reverse clock, everybody keeps talking about military and  
15 overseas ballots. Does that apply to State races? No, it  
16 doesn't. It's a Federal statute that applies to Federal  
17 races. It is irrelevant to their reverse clock for the  
18 purposes of this petition.

19 THE COURT: Well, counsel, if there are New York  
20 State residents who are outside of the state, they still  
21 have the opportunity to vote.

22 MR. WALDEN: Yes, Your Honor, but that statute  
23 applies only to Congressional races. It's a Federal  
24 statute.

25 There is a corresponding State Court statute, but

dk

## Proceedings

1 the whole point of the Court of Appeals is that in light of  
2 the Congressional infirmity, including the procedural one  
3 with respect to the Senate, you have the power to change all  
4 State Court deadlines.

5 That's what Judge McAllister did. He changed the  
6 number of signatures on the petition. He changed the time  
7 frame for petitions to be submitted. He changed when things  
8 were supposed to get certified and when people got notice.

9 It's imperfect, Your Honor, but they can't use the  
10 reverse clock with respect to the military and overseas  
11 ballots on the Federal election side. You can't change  
12 that.

13 They're right, that's what Judge Sharpe is for. We  
14 would have to go to Judge Sharpe if we were changing the  
15 Congressional race, which is why we did not ask to change  
16 the Congressional race.

17 THE COURT: No, I understand. And I certainly  
18 understand what you're saying. But, counsel, in terms of  
19 the issue of the practicalities of election machines, going  
20 out to, as they said, 5,000 polling sites around the state  
21 for an August 23rd primary date, just the physical logistics  
22 of getting those machines back in, doing what they need to  
23 to certify the results, and then to get the machines back  
24 out for a September primary 21 days later, and, as they  
25 pointed out, it's not just 21 days later because we now have

dk

## Proceedings

1 early voting, so it would be probably about ten to  
2 twelve days later, that they are characterizing as  
3 essentially being an impossible task.

4 MR. WALDEN: I heard them, Your Honor.

5 THE COURT: Do you agree with that?

6 MR. WALDEN: No. Your Honor, that's why I think  
7 it's great that Mr. Quail made that caveat at the end. You  
8 remember, you asked him the question pointblank, Mr. Quail,  
9 are you telling me, put aside the testimony, but are you  
10 telling me you can't turn them around. And he totally  
11 hedged.

12 The reason he hedged is his expert affidavit  
13 doesn't said anything about time. And it's a red herring  
14 anyway, Your Honor, because we have two forms of relief when  
15 it comes to the date.

16 If they're saying they can't turn around a second  
17 primary, fine, let's have one primary on August 23rd. Then  
18 you only use the election machines once. We can clarify  
19 everything.

20 We were trying to give them an option to have more  
21 time, at least with respect to the Assembly, so that --

22 THE COURT: But then, counsel, we're back to the  
23 initial problem, to try to get everything done that would  
24 need to be done, to invalidate the current Assembly maps,  
25 consult with a Special Master, go through the process of

dk

## Proceedings

1 coming through with new maps, and getting all of that done  
2 timely enough that they would be in place for the same  
3 August 23rd primary date currently in place for the Senate  
4 and Congressional maps. I mean, that was a good part of the  
5 reason that your application to intervene in the action  
6 before Judge McAllister was denied.

7 MR. WALDEN: Judge, again, because of the potential  
8 time --

9 THE COURT: I understand.

10 MR. WALDEN: I disagree there, Your Honor. But  
11 here's the issue that I didn't get to earlier, which is, we  
12 asked for the Special Master there to be appointed here  
13 because even though the BOE decided, maybe because of their  
14 political master does not have a contingency plan, and that  
15 was pretty shocking, they said the BOE didn't have any  
16 responsibility to that, I'm sure the Special Master did  
17 because he was living in a world where he thought the  
18 Assembly maps were going to be gone for about a month and  
19 half.

20 And Mr. Bucki made an incredibly important  
21 concession, Your Honor. And I hope that you take this into  
22 account. What he said was that the Senate maps were changed  
23 very little. They mostly stayed the same. They mostly  
24 stayed the same.

25 That detail is important, Your Honor, because what

dk

## Proceedings

1 the Special Master did was to fix the obvious problems.

2 And you know what he invited you to do? He invited  
3 you to own those problems, even though you have no idea why  
4 they excluded Candidate Ma, why they excluded  
5 Candidate Fein, why they --

6 THE COURT: Counsel, I agree, if there is a  
7 Special Master, if it came to it, and I was in a position to  
8 appoint a Special Master to deal with the Assembly maps, as  
9 a starting point, don't make the assumption I'm using --  
10 would use the same Special Master who was already utilized  
11 for other matters. There are --

12 MR. WALDEN: He's done.

13 THE COURT: He's done his job and had his  
14 qualifications for it, but, as we all know, there are other  
15 individuals who could be serving in that role.

16 MR. WALDEN: Judge, their whole point is that we  
17 acted so irresponsibly in not filing a plenary action there  
18 because there's so much expertise there. But I think it  
19 would be a missed opportunity, Your Honor, to not use the  
20 same guy. When the BOE was sitting on its hands, he was  
21 probably looking at the Assembly maps, and has a lot of  
22 experience there, Your Honor.

23 My only point to you, Mr. Bucki invited you to just  
24 recertify the maps. And I don't think it's wise for the  
25 Court.

dk

## Proceedings

1 THE COURT: I understand.

2 MR. WALDEN: On maps that clearly have significant  
3 problems, which goes to the substantive fairness issue.

4 THE COURT: Counsel, I'll say at the outset, I  
5 agree with you, I think that's a dangerous way to go. I  
6 think, you know, literally having one person, even if it's  
7 myself, or especially if it's myself, depending who you ask,  
8 but having me make the determination of what the maps are  
9 for all of the Assembly districts without having an expert  
10 to rely on, who goes through a much more detailed process  
11 and goes through things, I would be very hesitant to do  
12 something like that. I would want to have an opportunity to  
13 hear full arguments on the rationale for all of this. And,  
14 frankly, that's part of my concern.

15 And I know Judge McAllister I'm sure had that as, I  
16 don't want to get into his head, and I'm not going to  
17 predetermine for him, but he had a short window of time, but  
18 there was a window nonetheless, a window of time where he  
19 was able to go through this whole process and get a Master  
20 in and go through some really significant things that needed  
21 to be done, which obviously has an impact on everyone in the  
22 state for the next ten years.

23 MR. WALDEN: The argument Mr. Bucki suggested is  
24 that the voters are going to be living with an  
25 unconstitutional map for ten years, Your Honor. So I can

dk

## Proceedings

1 say a couple of things. Again, I ask that you give me a  
2 little bit more time.

3 THE COURT: Briefly. I am here all day. I would  
4 rather not have to have everyone come back after two.  
5 Go ahead.

6 MR. WALDEN: I'm not asking for an hour. I'm  
7 asking for a couple of minutes.

8 THE COURT: I will give you a few minutes.  
9 Go ahead.

10 MR. WALDEN: Your Honor, I know this is a difficult  
11 burden for you, but you've got broad shoulders.

12 Judge McAllister's decision, whatever you think of  
13 it, is not relevant here, Your Honor. This can be done. It  
14 can be done.

15 And what -- the two things that you have to  
16 understand when you're going to go on burden or delay, which  
17 are all part of the laches structure, which is, they don't  
18 deny that the Constitution and the Court of Appeals said  
19 what they said. And it's mandatory and it's  
20 nondiscretionary.

21 But think about it, Your Honor, take their argument  
22 to its logical extreme, what if we had filed in February,  
23 what really would be different now?

24 Judge McAllister still would have thrown out the  
25 Assembly maps. He would have just done it on a motion as

dk

## Proceedings

1       opposed to sua sponte. The Fourth Department still would  
2       have reversed. And the Court of Appeals -- this is the only  
3       difference. The Court of Appeals would have had a  
4       Petitioner there. And so on April 27th, which is really not  
5       that long ago, the maps would have been invalid.

6               THE COURT: Well, I will say this, on April 27th,  
7       the Court of Appeals may have issued a different decision  
8       related to the Assembly maps, but if they did, that would  
9       have then been part of what was being done by  
10      Judge McAllister.

11             MR. WALDEN: I'm not sure, I apologize, maybe I'm  
12      tired, but I don't understand what you're saying.

13             THE COURT: If the Assembly maps, if the Court of  
14      Appeals hypothetically had said that the Assembly maps were  
15      unconstitutional for procedural reasons and need to be  
16      redrawn as well, that would have been part, on April 27th,  
17      that would have gone back before Judge McAllister at the  
18      same time.

19             MR. WALDEN: I totally agree, Your Honor. I'm  
20      being candid about this. It's not February that matters.  
21      What matters is what happened right after the  
22      Court of Appeals. And right after the Court of Appeals, we  
23      moved to intervene within days, within days. And we were  
24      denied. They opposed. We were denied. Right.

25             Honestly, Judge, that is not a great look for

dk

## Proceedings

1 anyone when we act that quickly and we're denied on these  
2 grounds.

3 And, again, Your Honor, this is really important.  
4 Mr. Bucki's whole claim here is that you have the discretion  
5 to knock us out on timeliness grounds, which don't apply  
6 under the statute. But remember his words, he said, those  
7 who seek equity must do equity. Very broad pronouncement.

8 What he doesn't understand, but I know that he's a  
9 smart guy, so I'm sure that was tactical on his part, we're  
10 not seeking equity here. We're not. We're trying to  
11 enforce the Constitution, regardless of what he thinks my  
12 clients' motives are. And when he questions those motives,  
13 he's punching above his weight class.

14 They're trying to get equity. They're trying to  
15 use all of these doctrines which you know don't apply.  
16 They're seeking laches. They have to do equity in order to  
17 get equity. They have the burden, not us. They violated  
18 the Constitution. They are violating their constitutional  
19 oaths.

20 My clients are simply trying to defend the  
21 Constitution, not just for this election, but for the next  
22 ten years.

23 Thank you, Your Honor.

24 THE COURT: Thank you, counsel.

25 My appreciation to counsel on all sides. I know

dk

## Proceedings

1 everything was done under a relatively tight time frame to  
2 be in here today, even under normal circumstances. I  
3 recognize everyone's dealing with one version or another of  
4 COVID circumstances as well.

5 I will endeavor to issue a decision on this matter  
6 fairly quickly. It will certainly be out this week. I'm  
7 certainly going to endeavor to get it done hopefully over  
8 the next day or two so that everyone has that out there and  
9 can proceed accordingly from there.

10 With that said, I am going to conclude this matter.

11 I will ask if both sides can order a transcript of  
12 today's proceedings.

13 And with that, I wish everyone the best of luck.

14 MR. WALDEN: Thank you, Judge.

15 MR. BUCKI: Thank you, Your Honor.

16 MR. FARBER: Thank you, Your Honor.

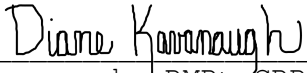
17 MR. QUAIL: Thank you, Your Honor.

18

19 \* \* \* \*

20 Certified to be a true and accurate transcript of  
21 the stenographic minutes taken within.

22

23   
Diane Kavanaugh, RMR, CRR, CRC  
24 Senior Court Reporter  
25

dk

## Certification Pursuant to CPLR §2105

## CERTIFICATION PURSUANT TO CPLR § 2105

I, Peter A. Devlin, a member of the firm of Walden Macht & Haran LLP, Attorneys for Petitioners-Appellants, hereby certify pursuant to § 2105 of the CPLR that the foregoing papers constituting the Record on Appeal have been personally compared by me with the originals filed herein and have been found to be true and complete copies of said originals and the whole thereof, all of which are now on file in the office of the clerk of the Supreme Court, County of New York.

Dated: May 31, 2022

Walden Macht & Haran LLP

By:



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Peter A. Devlin

*Attorneys for Petitioners-Appellants*