

EXHIBIT 2

(Petitioners` Notice of Appeal and
Appellate Division Information Statement)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PAUL NICHOLS, GAVIN WAX, and GARY
GREENBERG

Petitioners,

Index No. 154213/2022

v.

NOTICE OF APPEAL

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.

PLEASE TAKE NOTICE that Petitioners Paul Nichols, Gavin Wax, and Gary Greenberg, pursuant to CPLR § 5601(b)(2), hereby appeal to the New York Court of Appeals from the Decision and Order of the Supreme Court of the State of New York, New York County (Love, J.), dated May 25, 2022, duly entered in the Clerk's Office of the Supreme Court on the same date, *see* NYSCEF No. 91, and attached hereto as Exhibit A, finally determining and denying in its entirety the Petition, which Petition sought to invalidate the State Assembly map passed by the Legislature and signed by the Governor on February 3, 2022, *see* 2021–2022 N.Y. Reg. Sess. Leg. Bills A.9040-A and A.9168, on the ground that the Legislature violated the exclusive method for redistricting provided in Article III, Section 4(b) of the New York Constitution. *See Harkenrider v. Hochul*, No. 60, 2022 WL 1236822 (N.Y. Apr. 27, 2022).

Dated: New York, NY
May 25, 2022

Respectfully submitted,

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Supreme Court of the State of New York

Appellate Division: First Judicial Department

Informational Statement (Pursuant to 22 NYCRR 1250.3 [a]) - Civil

Case Title: Set forth the title of the case as it appears on the summons, notice of petition or order to show cause by which the matter was or is to be commenced, or as amended.		For Court of Original Instance
Paul Nichols, Gavin Wax, and Gary Greenberg <div style="text-align: center;">- against -</div> 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		<div style="text-align: center;">Date Notice of Appeal Filed</div>
Case Type	Filing Type	For Appellate Division
<input type="checkbox"/> Civil Action <input type="checkbox"/> CPLR article 75 Arbitration	<input type="checkbox"/> CPLR article 78 Proceeding <input checked="" type="checkbox"/> Special Proceeding Other <input type="checkbox"/> Habeas Corpus Proceeding	<input checked="" type="checkbox"/> Appeal <input type="checkbox"/> Original Proceedings <input type="checkbox"/> CPLR Article 78 <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Labor Law 220 or 220-b <input type="checkbox"/> Public Officers Law § 36 <input type="checkbox"/> Real Property Tax Law § 1278
Nature of Suit: Check up to three of the following categories which best reflect the nature of the case.		
<input type="checkbox"/> Administrative Review	<input type="checkbox"/> Business Relationships	<input type="checkbox"/> Commercial
<input type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Domestic Relations	<input checked="" type="checkbox"/> Election Law
<input type="checkbox"/> Family Court	<input type="checkbox"/> Mortgage Foreclosure	<input type="checkbox"/> Miscellaneous
<input type="checkbox"/> Real Property (other than foreclosure)	<input type="checkbox"/> Statutory	<input type="checkbox"/> Taxation
<input type="checkbox"/> Contracts <input type="checkbox"/> Estate Matters <input type="checkbox"/> Prisoner Discipline & Parole <input type="checkbox"/> Torts		

Appeal			
Paper Appealed From (Check one only):		If an appeal has been taken from more than one order or judgment by the filing of this notice of appeal, please indicate the below information for each such order or judgment appealed from on a separate sheet of paper.	
<input type="checkbox"/> Amended Decree <input type="checkbox"/> Amended Judgement <input type="checkbox"/> Amended Order <input type="checkbox"/> Decision <input type="checkbox"/> Decree	<input type="checkbox"/> Determination <input type="checkbox"/> Finding <input type="checkbox"/> Interlocutory Decree <input type="checkbox"/> Interlocutory Judgment <input type="checkbox"/> Judgment	<input checked="" type="checkbox"/> Order <input type="checkbox"/> Order & Judgment <input type="checkbox"/> Partial Decree <input type="checkbox"/> Resettled Decree <input type="checkbox"/> Resettled Judgment	<input type="checkbox"/> Resettled Order <input type="checkbox"/> Ruling <input type="checkbox"/> Other (specify):
Court: Supreme Court		County: New York	
Dated: 05/25/2022		Entered: 5/25/2022	
Judge (name in full): Laurence Love, J.S.C.		Index No.: 154213/2022	
Stage: <input type="checkbox"/> Interlocutory <input type="checkbox"/> Final <input type="checkbox"/> Post-Final		Trial: <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes: <input type="checkbox"/> Jury <input type="checkbox"/> Non-Jury	
Prior Unperfected Appeal and Related Case Information			
Are any appeals arising in the same action or proceeding currently pending in the court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please set forth the Appellate Division Case Number assigned to each such appeal.			
Where appropriate, indicate whether there is any related action or proceeding now in any court of this or any other jurisdiction, and if so, the status of the case:			
Original Proceeding			
Commenced by: <input type="checkbox"/> Order to Show Cause <input type="checkbox"/> Notice of Petition <input type="checkbox"/> Writ of Habeas Corpus			Date Filed:
Statute authorizing commencement of proceeding in the Appellate Division:			
Proceeding Transferred Pursuant to CPLR 7804(g)			
Court: Choose Court		County: Choose County	
Judge (name in full):		Order of Transfer Date:	
CPLR 5704 Review of Ex Parte Order:			
Court: Choose Court		County: Choose County	
Judge (name in full):		Dated:	
Description of Appeal, Proceeding or Application and Statement of Issues			
Description: If an appeal, briefly describe the paper appealed from. If the appeal is from an order, specify the relief requested and whether the motion was granted or denied. If an original proceeding commenced in this court or transferred pursuant to CPLR 7804(g), briefly describe the object of proceeding. If an application under CPLR 5704, briefly describe the nature of the ex parte order to be reviewed.			
Petitioners' appeal from the Decision and Order of the Supreme Court, New York County (Love, J.) denying Petitioners' Order to Show Cause for Preliminary Relief and denying the Petition in full. Petitioners sought preliminary relief to restrain Respondents from using the current Assembly district map in the 2022 election cycle, and Petitioners requested immediate appointment of a special master to evaluate and draft a new Assembly map. The Petition further seeks to invalidate the current Assembly map, enjoin all state and local primaries to August 23, 2022, or September 13, 2022, and reopen ballot-access designating and nominating petition periods.			

Issues: Specify the issues proposed to be raised on the appeal, proceeding, or application for CPLR 5704 review, the grounds for reversal, or modification to be advanced and the specific relief sought on appeal.

(1) The Court of Appeals held in *Harkenrider v. Hochul*, No. 60, 2022 WL 1236822 (N.Y. Apr. 27, 2022), that the method used by the Legislature to enact Congressional, Senate, and Assembly district maps violated Article III of the New York Constitution. The Court, however, declined to invalidate the Assembly map "despite its procedural infirmity" because the petitioners in *Harkenrider* did not seek such relief. *Id.* at *11 n.15. Is the Assembly map, enacted in 2021–2022 N.Y. Reg. Sess. Leg. Bills A.9040-A and A.9168, invalid under Article III? The Supreme Court erred by holding that the *Harkenrider* decision did not rule on the constitutionality of the Assembly map. This is a pure question of law. Petitioners request the First Department invalidate the Assembly map.

(2) Section 5 of Article III of the New York Constitution provides that any law establishing districts found to violate Article III "shall be invalid in whole or in part." Section 5 further provides that an apportionment "shall be subject to review" by the supreme court. Can a supreme court avoid ruling on the validity of such a law by imposing a requirement that a challenge be "timely" or applying the equitable doctrine of laches, when the Constitution mandates review and invalidation? The Supreme Court erred by holding that the Petition is untimely and barred by laches. Petitioners request that the First Department hold that the Petition is timely and not barred by laches.

(3) Within four and six days of the Court of Appeals' April 27, 2022, decision in *Harkenrider*, Petitioners' Greenberg and Wax, moved to intervene in the Supreme Court, Steuben County, seeking the relief sought in the instant Petition. Within four days of the denial of intervention, Petitioners commenced the instant special proceeding in the Supreme Court, New York County. Had Petitioners commenced their action when the Assembly map was enacted on February 3, 2022, no relief would have been granted any earlier than April 27, 2022. Is the Petition untimely or otherwise barred by the equitable doctrine of laches? The Supreme Court erred by holding that the Petition is untimely and barred by laches. Petitioners request that the First Department hold that the Petition is timely and not barred by laches.

Petitioners further request that the First Department order all appropriate relief to the Legislature's unconstitutional action, including granting the relief requested in the Petition.

Party Information

Instructions: Fill in the name of each party to the action or proceeding, one name per line. If this form is to be filed for an appeal, indicate the status of the party in the court of original instance and his, her, or its status in this court, if any. If this form is to be filed for a proceeding commenced in this court, fill in only the party's name and his, her, or its status in this court.

No.	Party Name	Original Status	Appellate Division Status
1	Paul Nichols	Petitioner	Appellant
2	Gavin Wax	Petitioner	Appellant
3	Gary Greenberg	Petitioner	Appellant
4	Governor Kathy Hochul	Respondent	Respondent
5	Senate Majority Leader Andrea Stewart-Cousins	Respondent	Respondent
6	Speaker of the Assembly Carl Heastie	Respondent	Respondent
7	New York State Board of Elections	Respondent	Respondent
8	New York State Legislative Task Force on Demographic Research and Reapportionment	Respondent	Respondent
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Attorney Information

Instructions: Fill in the names of the attorneys or firms for the respective parties. If this form is to be filed with the notice of petition or order to show cause by which a special proceeding is to be commenced in the Appellate Division, only the name of the attorney for the petitioner need be provided. In the event that a litigant represents herself or himself, the box marked "Pro Se" must be checked and the appropriate information for that litigant must be supplied in the spaces provided.

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