

December 7, 2022

Jacob D. Alderdice
Tel +1 212 891 1625
Fax +1 212 891 1699
JAlderdice@jenner.com

VIA NYSCEF

Susanna Molina Rojas
Appellate Division, First Department
Attn: Clerk of the Court
27 Madison Avenue
New York, NY 10010

Re: *Nichols et al. v. Hochul et al.*
Index No. 2022-04649; Originating Court No. 154213/2022

Dear Clerk of the Court:

I am counsel of record for Respondents Ken Jenkins, John Fleteau, Yovan Samuel Collado, Ivelisse Cuevas-Molina, and Elaine Frazier in the above-referenced appeal (“Submitting Respondents”), all of whom are Commissioners on the New York State Independent Redistricting Commission (“IRC”).¹ I write to inform you that the Submitting Respondents respectfully concur with the position of other Respondents that the trial court’s September 29, 2022 Order (as amended on October 12, 2022) should be affirmed.

The Submitting Respondents were added to this action by order of the trial court on September 29, 2022 (as amended on October 12, 2022). The Submitting Respondents did not object to being added to this action as Respondents and stated before the trial court that they were prepared to undertake expeditiously the duty of redrawing the State Assembly map based on the 2020 census data by formulating a proposed Assembly map and following the procedural steps set forth in Article III, §§ 4 and 5-b of the New York State Constitution. (A1225 [Response to Order to Show Cause at 2]; A1349–1350 [Tr. of Sept. 16, 2022 Proceedings at 31:17–32:3].)

In fact, the Submitting Respondents are already undertaking their constitutional duty in accordance with the order of the trial court. At a public meeting on December 1, 2022, after unanimously electing a new Chair and Vice-Chair, the Submitting Respondents along with Respondents Nesbitt, Brady, Conway, Harris, and Stephens unanimously voted to submit to the

¹ Chairperson David Imamura was initially named in this lawsuit. By order of the trial court dated November 22, 2022 (NYSCEF No. 192), Mr. Jenkins was substituted for Mr. Imamura. Mr. Jenkins concurs with all statements made by the Submitting Respondents in the proceedings below.

public a draft redistricting plan for the State Assembly, using the 2020 census data, so that the public can review, analyze, and comment on the draft plan at the public hearings that are scheduled to take place starting on January 9, 2023.² In accordance with the trial court's order and the New York Constitution, the Submitting Respondents will participate in public hearings on the draft Assembly redistricting plan in the following cities: Albany, Buffalo, Syracuse, Rochester, and White Plains; and the following counties: Bronx, Kings, New York, Queens, Richmond, Nassau, and Suffolk, concluding on March 1, 2023.³ Following those hearings, the Submitting Respondents intend to comply fully with the trial court's order and all other deadlines contained therein for the submission of a proposed Assembly redistricting plan to the Legislature.

The Submitting Respondents respectfully urge the Court to affirm the trial court's order. The Submitting Respondents further respectfully submit that if the Court desires to hear argument from them, Jessica Ring Amunson (of the bar of the District of Columbia) will argue on their behalf by permission of the Court. Ms. Amunson was admitted *pro hac vice* by this Court on November 8, 2022.

Respectfully submitted,

/s/ Jacob D. Alderdice
Jacob D. Alderdice

cc: All parties of record via NYSCEF

² The draft Assembly Plan may be accessed on the IRC's website. *See Draft Assembly Plan*, N.Y. State Indep. Redistricting Comm., <https://www.nyirc.gov/assembly-plan> (last visited Dec. 6, 2022). Archived video and a transcript of the meeting may also be accessed through the IRC's website. *See Meetings*, N.Y. State Indep. Redistricting Comm., <https://www.nyirc.gov/meetings> (last visited Dec. 6, 2022).

³ *See id.* (listing future meeting dates and locations).