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February 4, 2026

VIA NYSCEFHeather Davis
Clerk of Court
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207***Re: Williams et al. v. Board of Elections of the State of New York et al.,
APL-2026-00010***

Dear Ms. Davis:

We represent Appellants-Respondents Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York (“NYSBOE”), Anthony J. Casale, in his official capacity as Commissioner of the NYSBOE, and Raymond J. Riley, III in his official capacity as Co-Executive Director of the NYSBOE (collectively, “Appellants”). We write in response to the Court’s January 29, 2026 letter requesting briefing regarding this Court’s jurisdiction.

The Court has jurisdiction over this appeal, pursuant to CPLR 5601(b)(2), because the Decision and Order of Supreme Court, New York County (Pearlman, J.) (the “Order”) finally determines the proceeding and the issue on appeal is the constitutionality of a statutory provision of the state.

I. The Order is final because no further judicial action is required.

An order is final when it “disposes of all of the causes of action between the parties in the action or proceeding and leaves nothing for further judicial action apart from mere ministerial matters” (*Burke v Crosson*, 85 NY2d 10, 15 [1995]). Courts look at the substance of an order, not its label, in determining finality (*Reynolds v Dustman*, 1 NY3d 559, 561 [2003] [“Although the Supreme Court paper respondents served identifies itself as both a decision and order, it can be treated as a judgment determining the proceeding, an appealable paper.”]; *Hammerstein v Henry Mtn. Corp.*, 11 AD3d 836, 838 [3d Dept 2004] [ignoring the Supreme Court’s label when deciding appealability of decision]).

Here, the Petition’s sole cause of action alleged that the current congressional map is unconstitutional under Article III, § 4(c) of the NY Constitution. The Order fully adjudicated this claim by declaring the map unconstitutional. Supreme Court further determined that “the proper remedy in this case is to reconvene the IRC to redraw the CD-11 map so that it comports with the standard described above” (Order at 17). Supreme Court then ordered the IRC to “reconvene to complete a new Congressional Map in compliance with this Order by February 6, 2026” (Order at

18).¹ Thus, the Supreme Court completely disposed of the unconstitutional vote dilution claim by adjudicating the claim and ordering a remedy (*Burke*, 85 NY2d at 15; *McCormack v Maloney*, 148 AD3d 1268, 1269 [3d Dept 2017]).

While the Order confusingly states, “this case shall not be deemed resolved until the successful implementation of a new Congressional Map complying with this order,” the plain language of the Order demonstrates that there is no judicial action left for the Court to resolve. The only remaining actions under the Order belong to the IRC and, in turn, the Legislature. Accordingly, there is no future judicial action for Supreme Court to perform in connection with the Petition, meaning the Order is necessarily final.

Similarly, in *Harkenrider v Hochul*, this Court necessarily determined that the Appellate Division’s order was final under CPLR 5601(b)(1), notwithstanding that the Appellate Division had remitted the case to Supreme Court for further proceedings (38 NY3d 494, 508 [2022]; see also *Harkenrider v Hochul*, 204 AD3d 1366, 1375 [4th Dept 2022]). In *Harkenrider*, the Appellate Division affirmed the trial court’s finding that the 2022 congressional map was unconstitutional, gave the Legislature until April 30, 2022 to enact a constitutional replacement, and remitted the matter to Supreme Court for further proceedings. As there is no difference in the finality determination between CPLR 5601(b)(1) and CPLR 5601(b)(2), this Court should, as it did in *Harkenrider*, deem the Order to be final.

II. The decision solely relates to a constitutional question because the only issue is the validity of a statutory provision under the NY Constitution.

This appeal lies as of right, pursuant to CPLR 5601(b)(1), because the only question involved on appeal is the validity of a statutory provision, the current congressional map, under the NY Constitution. This Court routinely finds jurisdiction when the appeal at issue, like here, centers on the constitutionality of a statute. For example, in *Iannucci v Board of Supervisors of Washington County*, this Court confirmed that, although the Appellate Division had granted leave to appeal, “such leave was unnecessary since the appeals lay as of right on the basis of the constitutional questions involved” (20 NY2d 244, 249 n 2 [1967]). That case concerned the constitutionality of an apportionment scheme under the one person, one vote doctrine (*id.* at 249; see also *Graham v Board of Supervisors of Erie County*, 18 NY2d 672 [1966] [appeal as of right from judgment declaring redistricting and apportionment scheme unconstitutional]; *Michl v Shanklin*, 17 NY2d 906 [1966] [same]). Because the question presented in this appeal is the constitutionality of the congressional map, the appeal properly lies as of right under CPLR 5601(b)(1).

While the Petition’s only claim challenges the constitutionality of a statute, and that question is at the core of this appeal, the Order is erroneous for multiple, independent reasons. Among other things, Appellants will argue that that the Order violates their due process rights and the Equal Protection Clause of the U.S. Constitution. Since these arguments also concern the validity of the congressional map under the N.Y. Constitution, jurisdiction is proper under CPLR 5601(b)(2).

¹ The Court also enjoined Appellants “from conducting any election thereunder or otherwise giving any effect to the boundaries of the map as drawn” (*id.*).

III. Appellants do not intend to pursue simultaneous appeals.

Simultaneous appeals to this Court and the Appellate Division do not lie, and Appellants do not intend to litigate their appeals to this Court and to the Appellate Division concurrently. Appellants filed a notice of appeal with the First Department to preserve their rights should this Court determine that it lacks jurisdiction at this juncture, and in the interests of expediency given the urgent nature of this litigation and the impending election. If this Court determines that it has jurisdiction, Appellants will promptly withdraw their appeal to the First Department.

We thank the Court for its attention to this matter.

Respectfully submitted,



Nicholas J. Faso

cc: All counsel via email and NYSCEF