

**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,

-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.

**Governor Hochul's and
Lt. Governor Benjamin's
Answer to Amended Petition**

Index No. E2022-0116CV

McAllister, J.S.C.

The respondents, Governor of New York State Kathy Hochul and Lieutenant Governor and President of the Senate of New York State Brian A. Benjamin (the "Executive Respondents") answer the Amended Petition as follows:

1. Admit paragraphs 26, 27, 28, 29, 30, 31, 34, 35, 36, 37, 38, 46, 48, 49, 50, 51, 52, 54, 55, 56, 58, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 83, 85, 107, 153, 154, 169, 212, 253, and 254
2. Upon information and belief, admit paragraphs 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 84, 88, 89, 92, 94, 95, 99, 102, 106, 110, 112, 116, 152, 157, 172, and 183.
3. Deny paragraphs 1, 2, 3, 8, 9, 10, 11, 40, 41, 44, 53, 59, 86, 113, 120, 121, 122, 124, 125, 128, 130, 132, 133, 134, 143, 144, 147, 148, 149, 150, 156, 158, 160, 163, 164, 168, 170, 175,

176, 179, 180, 181, 182, 184, 185, 186, 187, 188, 189, 190, 191, 193, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 232, 233, 237, 238, 240, 241, 243, 244, 245, 250, 251, 252, 255, 260, 261, 263, 267, 268, 269, 270, 271, 272, 273, and 274.

4. Deny knowledge or information sufficient to form a belief as to truth of the allegations contained in paragraphs 90, 91, 93, 96, 97, 98, 100, 103, 104, 105, 108, 109, 111, 115, 117, 123, 126, 129, 135, 136, 137, 138, 139, 140, 142, 151, 155, 166, 167, 171, 192, 213, 214, 215, 216, 231, and 242 and therefore deny the same.

5. State paragraphs 32, 33, 43, 235, 236, 247, 248, 249, 257, 258, and 259 contain legal conclusions to which no response is required, but to the extent a response is required deny the same.

6. Regarding paragraph 4, deny “exclusive” and the final sentence in said paragraph and admit the remaining allegations.

7. Regarding paragraph 5 deny the State “bragged about these” and admit the remaining allegations.

8. Regarding paragraph 6, admit there was a proposed Constitutional amendment and deny the remaining allegations.

9. Regarding paragraph 7, deny “exclusive” and admit the remaining allegations.

10. Regarding paragraph 39, deny LATFOR is a partisan body that produced partisan maps and admit the remaining allegations.

11. Regarding paragraph 42, deny “significant leeway to gerrymander for partisan and incumbent gain” and admit the remaining allegations.

12. Regarding paragraph 45, deny “exclusive” and admit the remaining allegations.

13. Regarding paragraph 47, deny “against the Legislature’s continued gerrymandering practices” and admit the remaining allegations.

14. Regarding paragraph 57, deny “would have gutted the 2014 constitutional reforms” and admit the remaining allegations.

15. Regarding paragraph 60, deny “attempts to avoid the Constitution’s limitations” and “notwithstanding the expressed desires of the People of this State” and admit the remaining allegations.

16. Regarding paragraph 82, deny “exclusive” and admit the remaining allegations.

17. Regarding paragraph 87, deny the first sentence and admit the remaining allegations.

18. Regarding paragraph 101, deny “partisan” and upon information and belief admit the remaining allegations.

19. Regarding paragraph 114, deny “turning a blind eye to the mandatory and exclusive constitutional process for redistricting established in Article III, Section 4” and admit the remaining allegations.

20. Regarding paragraph 118, admit the enacting legislation had a “notwithstanding clause” and deny the remaining allegations.

21. Regarding paragraph 119, admit the Legislature created and enacted state Senate district maps and deny the remaining allegations.

22. Regarding paragraph 127, deny “partisan” and the last sentence and admit the remaining allegations.

23. Regarding paragraph 131, deny “capturing overwhelmingly Democrat-voting towns along the shore” and admit the remaining allegations.

24. Regarding paragraph 141, deny “thereby drastically changing the political composition of this district, providing the Democrats a drastically increased change of flipping it” and admit the remaining allegations.

25. Regarding paragraph 145, deny “Democratic strongholds” and “in order to ‘crack’ them out of Congressional District 18” and admit the remaining allegations.

26. Regarding paragraph 146, deny “awkwardly connected” and “neutralizing these Republican votes” and admit the remaining allegations.

27. Regarding paragraph 159, deny “Republican communities” and “to add Democrat voters” and admit the remaining allegations.

28. Regarding paragraph 161, deny “to pick up additional Democratic voters there” and admit the remaining allegations.

29. Regarding paragraph 162, deny “to pick up the Democrat-voting city of Utica” and admit the remaining allegations.

30. Regarding paragraph 165, deny “thereby packing additional Republican voters” and “eliminating their ability to make surrounding districts more competitive for Democratic candidates” and admit the remaining allegations.

31. Regarding paragraph 173, deny “while notably avoiding certain portions of Monroe and Ontario counties” and admit the remaining allegations.

32. Regarding paragraph 174, deny “with little or nothing in common” and admit the remaining allegations.

33. Regarding paragraph 177, deny “egregious gerrymandering” and “with only slight modifications not related to their gerrymandering efforts” and admit the remaining allegations.

34. Regarding paragraph 178, deny “egregious gerrymandering” and admit the remaining allegations.

35. Regarding paragraph 194, deny “with which it shares a natural community of interest” and admit the remaining allegations.

36. Regarding paragraph 217, deny “thereby blessing her fellow Democrats’ blatant gerrymandering efforts” and admit the remaining allegations.

37. Regarding paragraph 239, deny “leaving the Legislature with no p=maps to act on within the scope of its limited constitutional role” and admit the remaining allegations.

38. Regarding paragraph 262, admit Governor Hochul signed the congressional map into law and respectfully refers the Court to the cited New York Times article for its content.

39. Regarding paragraph 265, admit that is what the Petitioner seeks but deny they are entitled to such relief.

40. Regarding paragraph 266, admit New York Courts must properly construe the New York Constitution and deny the remaining allegations.

41. State paragraphs 234, 246, 256, and 264 refer to other paragraphs in the Petition and answer said paragraphs as the referred to paragraphs were answered.

42. Deny every allegation not otherwise specifically addressed.

1st Affirmative Defense

41. The Court does not have personal jurisdiction over Governor Hochul or Lt. Governor Benjamin.

2nd Affirmative Defense

42. The 2022 enacted New York Congressional district maps and State Senate district

maps are proper.

3rd Affirmative Defense

43. The 2022 enacted New York Congressional district maps and State Senate district maps were properly enacted.

4th Affirmative Defense

44. The Governor and Lt. Governor are entitled to immunity under the NY Constitution's speech and debate clause and common law.

5th Affirmative Defense

45. This matter is nonjusticiable.

6th Affirmative Defense

46. The Petition fails to state a claim upon which relief can be granted.

7th Affirmative Defense

47. Petitioners lack standing to bring this action.

8th Affirmative Defense

48. Petitioners failed to serve or file the Amended Petition following the Court's decision granting their motion to amend.

The Return

49. The Executive Respondents incorporate by reference their Notice of Motion to Dismiss, dated February 24, 2022 (NYSCEF #75), Affirmation of Heather McKay. Esq., with exhibits, sworn to February 24, 2022, in opposition to the Petition and in support of the motion to dismiss (NYSCEF #76-81), the Executive Respondents' Memorandum of Law in opposition to the Petition and in Support of the motion to dismiss, dated February 24, 2022 (NYSCEF #82), and the

Executive Respondents' Reply Memorandum, dated March 2, 2022 (NYSCEF #125), and state that motion to dismiss and those papers are to be construed as now applying to the Amended Petition, copies of which were filed with the New York State Courts Electronic Filing System, and said documents are incorporated by reference herein and made a part hereof. For the reasons stated in those motion papers, the Executive Respondents should be dismissed from this special proceeding.

50. The Executive Respondents further join in and adopt all arguments made by co-Respondents in this action.

WHEREFORE, the Executive Respondents pray that judgment be entered dismissing the Amended Petition in all respects and that the Executive Respondents be awarded reasonable costs and attorney fees and for such further relief as is proper and equitable.

March 10, 2022

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