

SUPREME COURT OF THE STATE OF NEW YORK
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,

Index No. E2022-0116CV

AFFIRMATION IN
SUPPORT OF
PETITIONERS' ORDER TO
SHOW CAUSE

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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BENNET J. MOSKOWITZ, an attorney duly admitted to practice before the Courts of the
State of New York, hereby affirms the following under penalty of perjury:

1. I am a Partner at Troutman Pepper Hamilton Sanders LLP, counsel for Petitioners
in this CPLR Art. 4 special proceeding.

2. I submit this Affirmation solely to present to the Court information and materials supporting Petitioners' proposed Order to Show Cause submitted herewith, which materials are attached hereto as described below.

3. Attached hereto as Exhibit A is a copy of the original Petition filed in this action on February 3, 2022 (NYSCEF Doc. # 1.)

4. Attached hereto as Exhibit B is a copy of the affirmation of Bennet J. Moskowitz filed in this action on February 3, 2022 (NYSCEF Doc. # 3.)

5. Attached hereto as Exhibit C is a copy of the Order to Show Cause signed by the Hon. Patrick F. McAllister on, and entered by the Steuben County Clerk on, February 7, 2022.

6. Attached hereto as Exhibit D is a copy of Petitioners' proposed Amended Petition.

7. Attached hereto as Exhibit E is a comparison of Petitioners' proposed Amended Petition to their original Petition.

8. Attached hereto as Exhibit F is a copy of 2021-2022 N.Y. Reg. Sess. Leg. Bills S.8185-A and A.9040-A.

9. Attached hereto as Exhibit G is a copy of 2021-2022 N.Y. Reg. Sess. Leg. Bills S.8197 and A.9168.

10. Petitioners commenced this special proceeding: (1) challenging Respondents and the New York State Legislature's ("Legislature") failure to follow the exclusive process for redistricting embodied in Article III, Section 4 of the New York Constitution, (2) claiming that the only validly enacted map for Congress was the 2012 federal-court-adopted map that is now unconstitutionally malapportioned given subsequent population changes, and therefore invalid, (3) arguing that the Respondents' and the Legislature's 2022 congressional map is clearly gerrymandered to favor the Democratic Party and Democratic incumbents, contrary to Article III,

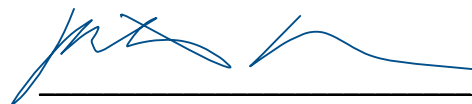
Section 4 of the New York Constitution, and (4) seeking a declaratory judgment on all of those issues, all arising out of the 2022 redistricting process following the 2020 decennial census, as well as seeking other related relief, such as invalidating 2021 legislation, L.2021, c. 633, § 7150, as unconstitutional and suspending any other state laws necessary for the Court to provide effective and complete relief.

11. Petitioners seek leave to amend the Petition to extend their existing claims—against the same Respondents—to one additional map, without altering Petitioners’ theories of recovery.

12. Specifically, Petitioners seek leave to file their proposed Amended Petition to add allegations that Respondents’ same constitutional violations of the procedural and substantive protections enacted by voters in the 2014 amendments to Article III, Section 4, also infected the 2022 state Senate map that the Legislature enacted and the Governor signed on February 3, 2022, and that the 2012 state Senate map is also now unconstitutionally malapportioned, while also making wording changes and adding certain additional citations that do not impact or alter any of their claims or theories.

WHEREFORE, it is respectfully requested that the Court grant Petitioners’ proposed Order to Show Cause, granting Petitioners leave to file their Proposed Amended Petition.

Dated: New York, New York
February 8, 2022



BENNET J. MOSKOWITZ