

February 9, 2022

By E-Filing

Hon. Patrick F. McAllister
Supreme Court, Steuben County
3 East Pulteney Square
Bath, New York 14810

Re: *Harkenrider et al. v. Hochul et al.*, Index No. E2022-0116CV

Dear Justice McAllister:

We represent the Senate Majority Leader in this special proceeding, which Petitioners commenced on February 3, 2022 and served on the Majority Leader yesterday afternoon. Although it will be difficult to comply with the February 17, 2022 opposition date that the Court set in its Order to Show Cause, we have been working diligently to do so. Until last night, we had no intention of asking the Court to revisit the schedule.

Last night, however, Petitioners filed a second proposed Order to Show Cause, this time seeking leave to greatly expand the scope of this special proceeding to include not just specific challenges to the Congressional redistricting map but also specific challenges to the Senate redistricting map. Petitioners cannot credibly deny that they were aware of the existence and characteristics of the Senate map when they filed this proceeding challenging only the Congressional map. They nevertheless commenced this proceeding by proposed Order to Show Cause – *ex parte*, thereby preventing Respondents from being heard with respect to the schedule – without informing the Court of their intention to amend their Petition to challenge both the Congressional and Senate reapportionments. Then, after this Court already had set a compressed schedule, they filed a second proposed Order to Show Cause, again *ex parte*, seeking to expand the scope of the proceeding significantly, but on the same schedule, once again before any Respondent has appeared.

Petitioners have sued a wide variety of government actors. We have calls scheduled later today with both the Attorney General's office, which may or may not represent certain Respondents, and with counsel for the Speaker of the Assembly. Basic notions of fair play require that the government actors who have been sued be given sufficient time to respond to the pending Order to Show Cause, including with respect to the schedule for their answering papers.

We therefore respectfully request that the Court take no action on the pending second proposed Order to Show Cause until counsel for Respondents have been heard. Although we speak only for the Senate Majority Leader, we think it would be reasonable for the Court to expect to hear by Friday from counsel for those parties who have been served and are able to appear. Given the purported gravity of Petitioners' claims and the irregularity of the process thus far, we respectfully request that Respondents be given until Friday to take a position on the pending Order to Show Cause, including with respect to the schedule going forward.

We thank the Court for its attention to this letter.

Respectfully submitted,



Eric Hecker

cc: All Counsel of Record

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