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April 29, 2022

By E-FilingHon. Patrick F. McAllister
Supreme Court, Steuben County
3 East Pulteney Square
Bath, New York 14810Re: *Harkenrider et al. v. Hochul et al.*, Index No. E2022-0116CV

Dear Justice McAllister:

We represent the Senate Majority Leader in this special proceeding. We write briefly in response to Petitioners' letter of this morning.

It is notable that Petitioners care so deeply about a fair and inclusive Special Master process that they oppose the opportunity for the Legislature even to propose a remedial map for the Special Master's consideration. Petitioners cite the standard for a motion for reconsideration, but of course reconsideration of an order is appropriate where intervening law changes the landscape. Here, as explained in the Senate Majority's letter, the Fourth Department had entered an Order vacating the relevant decretal paragraphs of this Court's March 31, 2022 decision, which was operative when the deadline to submit proposed maps elapsed. Moreover, Petitioners simply ignore the language from the Court of Appeals' decision, which states unequivocally that the parties to this litigation shall be afforded an opportunity to make "any submissions . . . promptly" after its decision. The Court of Appeals did not distinguish between proposed plans for Congress or the Senate. With respect to Congress, the Legislature intends to submit its proposed plan today.

Petitioners note that the Legislature waited until appellate review was complete before proposing a remedial plan. There is nothing nefarious about it doing so. As it explained in its appellate submissions, the Legislature awaited word from the appellate courts as to whether they would identify any specific infirmities in the plan.

To the extent that Petitioners are concerned about having an opportunity to respond to the Legislature's proposal, we respectfully submit that the Court could allow parties or the public to respond to the Legislature's plan by the deadline for submitting proposed Senate plans (or, of course, at the hearing itself on May 6).

April 28, 2022

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Respectfully submitted,



Eric Hecker

cc: All Counsel of Record

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