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May 6, 2022

VIA ECF

The Honorable Gary L. Sharpe
United States District Judge
James T. Foley U.S. Courthouse
445 Broadway, Room 411
Albany, NY 12207

**Re: *United States of America v. New York State Board of Elections, et al.*
10-cv-1214 (GLS)**

Dear Judge Sharpe:

I represent the Petitioners in *Harkenrider v. Hochul*, No. E2022-0116CV (N.Y. Sup. Ct. Steuben Cnty.) (hereinafter "Harkenrider Petitioners"), the lawsuit in which the state courts: (1) struck down as unconstitutional the egregiously gerrymandered congressional map that the Legislature attempted to enact without any authority under the New York Constitution, and (2) ordered New York to hold its congressional primary election under a constitutional map on August 23, 2022, that "compli[es] with federal voting laws, including the Uniformed and Overseas Citizens Absentee Voting Act," *Harkenrider v. Hochul*, ___ N.E.3d. ___, 2022 WL 1236822, at *12 (N.Y. Apr. 27, 2022).

As Judge Kaplan of the Southern District of New York made abundantly clear earlier this week, the same proposed intervenors who submitted their letter to this Court earlier today, Dkt.94, are engaged in a campaign to misuse the federal courts for partisan gain—attempting without any legal basis to cast into doubt New York’s right to hold its congressional primary on August 23, the same date (or earlier) that other States hold their congressional primaries. See Fla. Div. of Elections, *Election Dates* (2022) ("Election Dates for 2022 are: Primary Election: August 23");^{*} Federal Elections Comm’n, *2022 Congressional Primary Dates And Candidate Filing Deadlines For Ballot Access*.[†] Judge Kaplan condemned this as "a Hail Mary pass, the object of which is to take a long shot try as having the New York primaries conducted on district lines that the State says are unconstitutional." Dkt.92-2 at 15. Putting into any doubt New York’s right to hold its congressional primary on August 23, he noted, would create "confusion" that does not "serve[] anybody’s interest," Dkt.92-2 at 17, and is "against the public interest," Dkt.92-2 at 39. Indeed, such as a request would "impinge[], to some degree, on the public perception" of "[f]ree, open, rational elections" and the "respect for the courts." Dkt.92-2 at 40.

^{*} Available at <https://dos.myflorida.com/elections/for-voters/election-dates/>.

[†] Available at <https://www.fec.gov/resources/cms-content/documents/2022pdates.pdf>.

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In short, this Court should not allow proposed intervenors' campaign to cause confusion in New York's elections to continue for even one more day (or weekend), but rather should grant the New York State Board of Election's request today—a request that the U.S. Department of Justice does not oppose. Dkt.92. If, however, this Court is inclined to delay ruling on the Board of Election's request in order to hear from proposed intervenors, then the Harkenrider Petitioners will need to seek to intervene in these proceedings on Monday, May 9, as they did before Judge Kaplan, Dkt.92-2 at 24, in order to combat this unseemly campaign to undermine the New York Constitution, basic principles of federalism, and the judgement that the Harkenrider Petitioners obtained to secure a constitutional congressional map for the 2022.

Sincerely,

/s/Misha Tseytlin
Misha Tseytlin

CC: All counsel of record (via ECF)

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