

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU  
HON. PAUL I. MARX, J.S.C.

-----X  
HAZEL COADS, STEPHANIE M. CHASE, MARVIN  
AMAZAN, et al.,

Index No. 611872/2023

Plaintiffs,

**ACTION I**

-against-

NASSAU COUNTY, the NASSAU COUNTY  
LEGISLATURE, et al.,

Defendants.

-----X

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
NEW YORK COMMUNITIES FOR CHANGE, MARIA  
JORDAN AWALOM, et al.,

Index No. 602316/2024

Plaintiffs,

**ACTION II**

-against-

COUNTY OF NASSAU, THE NASSAU COUNTY  
LEGISLATURE, et al.,

Defendants.

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**VERIFIED ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS  
NASSAU COUNTY AND THE NASSAU COUNTY  
LEGISLATURE IN COADS (ACTION I)**

Defendants Nassau County (“County”) and the Nassau County Legislature (“Legislature”), through their undersigned counsel, hereby respond to Plaintiffs Hazel Coads, Stephanie M. Chase, Marvin Amazan, Susan E. Cools, Suzanne A. Freier, Carl R. Gerrato, Esther Hernandez-Kramer, John Hewlett Jarvis, Sanjeev Kumar Jindal, Hermione Mimi Pierre Johnson, Neeraj Kumar, Karen M. Montalbano, Eileen M. Napolitano, Olena Nicks, Deborah M. Pasternak, Carmen J. Pineyro,

Danny S. Qiao, Laurie Scott, Raja Kanwar Singh, Amil Virani, Mary G. Volosevich, and the Nassau Democratic County Committee's ("Plaintiffs") Verified Complaint dated July 26, 2023 (NYSCEF No. 1) ("Complaint") as follows:

### **NATURE OF THE CASE**

1. The County and Legislature admit that Plaintiffs filed this action on July 26, 2023, seeking a declaratory judgment and challenging the 2023 redistricting map for the Nassau County Legislature. The County and Legislature deny that Plaintiffs are entitled to the relief that they seek, or any relief.

2. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in the first sentence of Paragraph 2 of the Complaint, and so deny. The remaining allegations in Paragraph 2 of the Complaint state legal conclusions to which no response is required. To the extent a response is required, the County and Legislature deny the allegations.

3. Paragraph 3 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, the County and Legislature deny the allegations.

### **JURISDICTION AND VENUE**

4. The County and Legislature admit the allegations in Paragraph 4 of the Complaint.

5. The County and Legislature admit the allegations in Paragraph 5 of the Complaint.

### **PARTIES**

6. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 6 of the Complaint, and so deny.

7. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 7 of the Complaint, and so deny.

8. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 8 of the Complaint, and so deny.

9. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 9 of the Complaint, and so deny.

10. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 10 of the Complaint, and so deny.

11. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 11 of the Complaint, and so deny.

12. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 12 of the Complaint, and so deny.

13. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 13 of the Complaint, and so deny.

14. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 14 of the Complaint, and so deny.

15. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 15 of the Complaint, and so deny.

16. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 16 of the Complaint, and so deny.

17. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 17 of the Complaint, and so deny.

18. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 18 of the Complaint, and so deny.

19. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 19 of the Complaint, and so deny.

20. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 20 of the Complaint, and so deny.

21. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 21 of the Complaint, and so deny.

22. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 22 of the Complaint, and so deny.

23. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 23 of the Complaint, and so deny.

24. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 24 of the Complaint, and so deny.

25. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 25 of the Complaint, and so deny.

26. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 26 of the Complaint, and so deny.

27. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 27 of the Complaint, and so deny.

28. The County and Legislature admit the allegations in Paragraph 28 of the Complaint.

29. The County and Legislature admit the allegations in Paragraph 29 of the Complaint.

30. The County and Legislature admit the allegations in Paragraph 30 of the Complaint.

31. The County and Legislature admit the allegations in Paragraph 31 of the Complaint.

32. The County and Legislature admit the allegations in Paragraph 32 of the Complaint.

**BACKGROUND**

33. Paragraph 33 of the Complaint purports to describe the results of the 2020 Census. The 2020 Census is a document which speaks for itself, and the County and Legislature deny any allegations in Paragraph 33 that are inconsistent with or contrary to the contents of the document and refer thereto for the full text, terms, and meaning thereof.

34. Paragraph 34 of the Complaint purports to refer to the results of the 2020 Census and 2010 Census. The 2020 Census and 2010 Census are documents which speak for themselves, and the County and Legislature deny any allegations in Paragraph 34 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

35. Paragraph 35 of the Complaint purports to describe the results of the 2020 Census and 2010 Census. The 2020 Census and 2010 Census are documents which speak for themselves, and the County and Legislature deny any allegations in Paragraph 35 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

36. Paragraph 36 of the Complaint and its accompanying Table 1 purport to describe the results of the 2020 Census and 2010 Census. The 2020 Census and 2010 Census are documents which speak for themselves, and the County and Legislature deny any allegations in Paragraph 36 that are inconsistent with or contrary to the contents of the documents and refer thereto for the full text, terms, and meaning thereof.

37. Paragraph 37 of the Complaint purports to refer to certain data and reports prepared by the New York State Board of Elections. Such data and reports speak for themselves, and the County and Legislature deny any allegations in Paragraph 37 that are inconsistent with or contrary

to the contents of such data and reports and refer thereto for the full text, terms, and meaning thereof. The County and Legislature also lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 37 of the Complaint, and so deny.

38. Paragraph 38 of the Complaint and its accompanying Table 2 purport to refer to certain data and reports prepared by the New York State Board of Elections. Such data and reports speak for themselves, and the County and Legislature deny any allegations in Paragraph 38 that are inconsistent with or contrary to the contents of such data and reports and refer thereto for the full text, terms, and meaning thereof. The County and Legislature also lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 38 of the Complaint, and so deny.

39. Paragraph 39 of the Complaint and its accompanying Table 3 purport to refer to certain data and reports prepared by the New York State Board of Elections. Such data and reports speak for themselves, and the County and Legislature deny any allegations in Paragraph 39 that are inconsistent with or contrary to the contents of such data and reports and refer thereto for the full text, terms, and meaning thereof. The County and Legislature also lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 39 of the Complaint, and so deny.

40. The County and Legislature admit that the Nassau County Legislature consists of 19 members elected from single-member districts in partisan elections to serve two-year terms. The County and Legislature deny the remaining allegations in Paragraph 40 of the Complaint. Furthermore, the County and Legislature note that a recently enacted law, New York Senate Bill S3505B, amended certain portions of the Town Law, Village Law, County Law, and Municipal

Home Rule Law, moving various local elections to even-numbered years for elections occurring after 2025. *See* N.Y. S.B. S3505B.\*

41. The County and Legislature admit the allegations in Paragraph 41 of the Complaint.

42. The County and Legislature admit the allegations in Paragraph 42 of the Complaint.

43. Paragraph 43 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, the County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 43 of the Complaint, and so deny.

44. Paragraph 44 of the Complaint and its accompanying Table 4 purport to describe the results of the 2020 Census. The 2020 Census is a document which speaks for itself, and the County and Legislature deny any allegations in Paragraph 44 that are inconsistent with or contrary to the contents of the document and refer thereto for the full text, terms, and meaning thereof.

45. Paragraph 45 of the Complaint states legal conclusions to which no response is required. Paragraph 45 of the Complaint also purports to describe the contents of the New York Municipal Home Rule Law, which speaks for itself. The County and Legislature deny any allegations in Paragraph 45 that are inconsistent with or contrary to the contents of the New York Municipal Home Rule Law and refer thereto for the full text, terms, and meaning thereof.

46. Paragraph 46, and subparts (1) through (8) thereto, of the Complaint state legal conclusions to which no response is required. Paragraph 46 of the Complaint, and its subparts, also purport to describe the contents of the New York Municipal Home Rule Law, which speaks for itself. The County and Legislature deny any allegations in Paragraph 46 that are inconsistent

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\* Available at <https://legislation.nysenate.gov/pdf/bills/2023/S3505B>.

with or contrary to the contents of the New York Municipal Home Rule Law and refer thereto for the full text, terms, and meaning thereof.

47. Paragraph 47 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, the County and Legislature deny the allegations in Paragraph 47 of the Complaint.

48. Paragraph 48 of the Complaint states legal conclusions to which no response is required. Paragraph 48 of the Complaint also purports to describe the contents of the New York Municipal Home Rule Law, New York Constitution, and the Court of Appeals decision in *Harkenrider v. Hochul*, 38 N.Y.3d 494 (2022), which speak for themselves. The County and Legislature deny any allegations in Paragraph 48 that are inconsistent with or contrary to the contents of the New York Municipal Home Rule Law, New York Constitution, and the *Harkenrider* decision, and refer thereto for the full text, terms, and meaning thereof.

49. Paragraph 49 of the Complaint purports to describe the contents of the Nassau County Charter. The Nassau County Charter is a legal document which speaks for itself, and the County and Legislature deny any allegations in Paragraph 49 that are inconsistent with or contrary to the contents of the document and refer thereto for the full text, terms, and meaning thereof.

50. Paragraph 50 of the Complaint purports to describe the contents of the Nassau County Charter. The Nassau County Charter is a legal document which speaks for itself, and the County and Legislature deny any allegations in Paragraph 50 that are inconsistent with or contrary to the contents of the document and refer thereto for the full text, terms, and meaning thereof.

51. The County and Legislature admit the allegations in Paragraph 51 of the Complaint.

52. The County and Legislature admit that Chair Moroney presided over the redistricting process but deny the remaining allegations in Paragraph 52 of the Complaint.



53. The County and Legislature admit the allegations in Paragraph 53 of the Complaint.

54. The County and Legislature admit the allegations in Paragraph 54 of the Complaint.

55. The County and Legislature admit the allegations in Paragraph 55 of the Complaint.

56. The County and Legislature admit the allegations in Paragraph 56 of the Complaint.

57. The County and Legislature admit the allegations in Paragraph 57 of the Complaint.

58. The County and Legislature deny that Richard Nicoletto is currently the presiding officer of the Nassau County Legislature but admit the remaining allegations in Paragraph 58 of the Complaint.

59. The County and Legislature admit that Misha Tseytlin is an attorney with Troutman Pepper Hamilton Sanders LLP, that he distributed a memorandum before the February 16 hearing began, and that he testified at the February 16 hearing. Additional allegations in Paragraph 59 of the Complaint purport to describe the contents of a memorandum prepared by Troutman Pepper Hamilton Sanders LLP dated February 16, 2023 ("February 16 Memo"). The February 16 Memo is a document which speaks for itself, and the County and Legislature deny any allegations in Paragraph 59 that are inconsistent with or contrary to the contents of the document and refer thereto for the full text, terms, and meaning thereof. Paragraph 59 of the Complaint also purports to discuss testimony presented at the February 16 hearing, which testimony speaks for itself, and the County and Legislature deny any allegations in Paragraph 59 that are inconsistent with or contrary to the contents of that testimony and refer thereto for the full text, terms, and meaning thereof. The County and Legislature deny any remaining allegations in Paragraph 59 of the Complaint.

60. Paragraph 60 of the Complaint purports to describe certain testimony of Misha Tseytlin of Troutman Pepper Hamilton Sanders LLP. The testimony speaks for itself, and the County and Legislature deny any allegations in Paragraph 60 that are inconsistent with or contrary

to Mr. Tseytlin's testimony and refer to the transcript of that testimony for the full text, terms, and meaning thereof.

61. Paragraph 61 of the Complaint purports to describe certain statements made by Legislators at the February 16 hearing. These statements speak for themselves, and the County and Legislature deny any allegations in Paragraph 61 that are inconsistent with or contrary to those statements and refer to the transcript of those statements for the full text, terms, and meaning thereof.

62. The County and Legislature admit the allegations in Paragraph 62 of the Complaint.

63. The County and Legislature admit the allegations in Paragraph 63 of the Complaint.

64. The County and Legislature admit the allegations in Paragraph 64 of the Complaint.

65. Paragraph 65 of the Complaint purports to describe the contents of an expert analysis by an expert for the Democratic members of the Legislature. The expert analysis speaks for itself, and the County and Legislature deny any allegations in Paragraph 65 that are inconsistent with or contrary to the contents of the analysis and refer thereto for the full text, terms, and meaning thereof. The County and Legislature further deny that any analysis undertaken by the Democratic members of the Legislature's was "similar to the expert analysis accepted by the New York Court of Appeals as proof of partisan gerrymandering in *Harkenrider*" and further deny that the map proposed by the Presiding Officer was "an extreme partisan gerrymander" or evaluated by his counsel and expert based upon "the wrong set of elections." The County and Legislature deny any remaining allegations in Paragraph 65.

66. Paragraph 66 of the Complaint purports to describe certain statements made by Legislators at the February 27 hearing. These statements speak for themselves, and the County and Legislature deny any allegations in Paragraph 66 that are inconsistent with or contrary to those

statements and refer to the transcript of those statements for the full text, terms, and meaning thereof.

67. Paragraph 67 of the Complaint purports to describe certain statements made by Legislators at the February 27 hearing. These statements speak for themselves, and the County and Legislature deny any allegations in Paragraph 67 that are inconsistent with or contrary to those statements and refer to the transcript of those statements for the full text, terms, and meaning thereof.

68. Paragraph 68 of the Complaint purports to describe certain statements made by Legislators at the February 27 hearing. These statements speak for themselves, and the County and Legislature deny any allegations in Paragraph 68 that are inconsistent with or contrary to those statements and refer to the transcript of those statements for the full text, terms, and meaning thereof. The County and Legislature lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 68 of the Complaint and so deny.

69. The County and Legislature admit the allegations in Paragraph 69 of the Complaint.

70. The County and Legislature admit the allegations in Paragraph 70 of the Complaint.

71. The County and Legislature deny the allegations in Paragraph 71 of the Complaint.

72. The County and Legislature deny the allegations in Paragraph 72 of the Complaint.

73. The County and Legislature deny the allegations in Paragraph 73 of the Complaint.

74. The County and Legislature deny the allegations in Paragraph 74 of the Complaint.

### **CLAIM ONE**

75. Paragraph 75 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, the County and Legislature deny the allegations in Paragraph 75 of the Complaint.

**CLAIM TWO**

76. Paragraph 76 of the Complaint states legal conclusions to which no response is required.

**CLAIM THREE**

77. Paragraph 77 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, the County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 77 of the Complaint, and so deny.

78. Paragraph 78 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, the County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 78 of the Complaint, and so deny.

79. Paragraph 79 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, the County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 79 of the Complaint, and so deny.

80. Paragraph 80 of the Complaint states legal conclusions to which no response is required. To the extent a response is required, the County and Legislature lack knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 80 of the Complaint, and so deny.

81. The County and Legislature admit that Plaintiffs seek a declaratory judgment purportedly regarding the substantive requirements for redistricting under Section 34 of the New York Municipal Home Rule Law. The County and Legislature deny that Plaintiffs are entitled to

the relief that they seek, or any relief, and deny any remaining allegations in Paragraph 81 of the Complaint.

### **RELIEF**

The “WHEREFORE” paragraphs after Paragraph 81 of the Complaint state Plaintiffs’ prayer for relief, to which no response is required. To the extent a response is required, the County and Legislature deny that Plaintiffs are entitled to the relief stated, or to any other relief.

The County and Legislature deny any and all allegations in the Complaint not expressly admitted herein.

### **THE COUNTY AND LEGISLATURE’S AFFIRMATIVE DEFENSES**

The County and Legislature assert the following affirmative defenses. By pleading these defenses, the County and Legislature do not assume the burden of proving any fact, issue, or element of a cause of action where such burden belongs to Plaintiffs. Moreover, nothing stated herein is intended to or shall be construed as a concession that any particular issue or subject matter is relevant to Plaintiffs’ allegations.

1. **Failure to State a Claim.** Plaintiffs’ Complaint fails, in whole or in part, to state a claim against the County and Legislature upon which relief can be granted.
2. **Waiver, Estoppel, Laches.** Plaintiffs’ claims against the County and Legislature are barred by the doctrines of waiver, estoppel, and laches.

The County and Legislature have not knowingly or intentionally waived any applicable affirmative defenses and reserve the right to assert and rely upon such affirmative defenses as may become available or apparent during discovery. The County and Legislature further reserve the right to amend their Answer and Affirmative Defenses accordingly and to correct any errors and omissions.

WHEREFORE, the County and Legislature respectfully demand judgment as follows:

(a) a judgment in favor of the County and Legislature and against Plaintiffs dismissing the Complaint in its entirety; and (b) such other further relief as this Court deems just and proper.

Dated: New York, New York  
March 11, 2024

TROUTMAN PEPPER HAMILTON  
SANDERS LLP

By:   
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*Attorneys for Defendants Nassau County and  
the Nassau County Legislature*

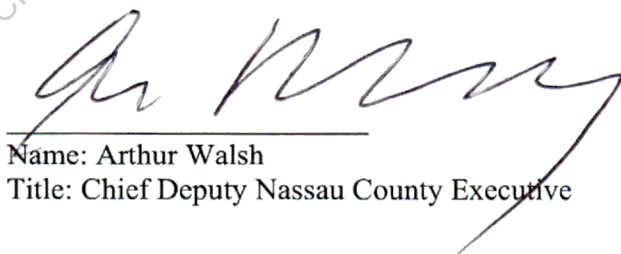
**VERIFICATION**

STATE OF NEW YORK    )  
                                  ) SS.:  
COUNTY OF NASSAU    )

Arthur Walsh, being duly sworn, deposes and says:

1. I am over 18 years of age, and am Chief Deputy Nassau County Executive. I am authorized to make this verification on behalf of Nassau County and the Nassau County Legislature.

2. I have read the foregoing Verified Answer and Affirmative Defenses and know the contents thereof, and that my responses are true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.

  
Name: Arthur Walsh  
Title: Chief Deputy Nassau County Executive

Sworn to before me this  
11<sup>th</sup> day of March, 2024

  
\_\_\_\_\_  
Notary Public

**MATTHEW ALAN BECKWITH**  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01BE6434270  
Qualified in Nassau County  
Commission Expires June 6, 2026