

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

-----X

STEVEN M. NEUHAUS, Individually, and as a voter  
and in his capacity as Orange County Executive,  
THE COUNTY OF ORANGE, THE ORANGE  
COUNTY LEGISLATURE, ORANGE COUNTY  
LEGISLATORS, KATHERINE E. BONELLI,  
THOMAS J. FAGGIONE, JANET SUTHERLAND,  
PAUL RUSZKIEWICZ, PETER V. TUOHY,  
BARRY J. CHENEY, RONALD M. FELLER,  
GLENN R. EHLERS, KATHY STEGENGA,  
KEVIN W. HINES, JOSEPH J. MINUTA, LEIGH J. BENTON,  
ROBERT C. SASSI, and JAMES D. O'DONNELL,  
Individually and as voters,

Index No:

**SUMMONS**

Plaintiffs,

-against-

KATHLEEN HOCHUL, in her capacity as Governor of the  
State of New York, THE STATE OF NEW YORK,  
ORANGE COUNTY REPUBLICAN COMMITTEE,  
ORANGE COUNTY DEMOCRATIC COMMITTEE,  
CONSERVATIVE PARTY OF NEW YORK STATE, and  
NEW YORK WORKING FAMILIES PARTY,

Defendants.

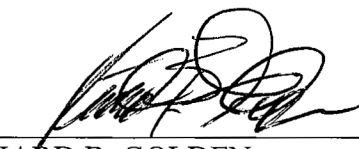
-----X

To the above-named Defendants:

**YOU ARE HEREBY SUMMONED** to answer the Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiffs' attorney within twenty (20) days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if the Summons was served on you by delivering it to an official of the state authorized to receive service on your behalf or if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Plaintiffs designate Onondaga County as the place for trial.

Dated: Goshen, New York  
April 9, 2024



---

RICHARD B. GOLDEN  
County Attorney  
Orange County Attorney's Office  
*Attorneys for Plaintiffs*  
Orange County Government Center  
255-275 Main Street  
Goshen, New York 10924  
Phone: (845) 291-3150

RETRIEVED FROM DEMOCRACYDOCKET.COM

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

-----X

STEVEN M. NEUHAUS, Individually, and as a voter  
and in his capacity as Orange County Executive,  
THE COUNTY OF ORANGE, THE ORANGE  
COUNTY LEGISLATURE, ORANGE COUNTY  
LEGISLATORS, KATHERINE E. BONELLI,  
THOMAS J. FAGGIONE, JANET SUTHERLAND,  
PAUL RUSZKIEWICZ, PETER V. TUOHY,  
BARRY J. CHENEY, RONALD M. FELLER,  
GLENN R. EHLERS, KATHY STEGENGA,  
KEVIN W. HINES, JOSEPH J. MINUTA, LEIGH J. BENTON,  
ROBERT C. SASSI, and JAMES D. O'DONNELL,  
Individually and as voters,

Index No:

**VERIFIED COMPLAINT**

Plaintiffs,

-against-

KATHLEEN HOCHUL, in her capacity as Governor of the  
State of New York, THE STATE OF NEW YORK,  
ORANGE COUNTY REPUBLICAN COMMITTEE,  
ORANGE COUNTY DEMOCRATIC COMMITTEE,  
CONSERVATIVE PARTY OF NEW YORK STATE, and  
NEW YORK WORKING FAMILIES PARTY,

Defendants.

-----X

Plaintiffs, STEVEN M. NEUHAUS, individually, and as a voter and in his capacity as  
Orange County Executive, THE COUNTY OF ORANGE ("Orange County"), THE ORANGE  
COUNTY LEGISLATURE, ORANGE COUNTY LEGISLATORS, KATHERINE E. BONELLI,  
THOMAS J. FAGGIONE, JANET SUTHERLAND, PAUL RUSZKIEWICZ, PETER V. TUOHY,  
BARRY J. CHENEY, RONALD M. FELLER, GLENN R. EHLERS, KATHY STEGENGA,  
KEVIN W. HINES, JOSEPH J. MINUTA, LEIGH J. BENTON, ROBERT C. SASSI, and JAMES  
D. O'DONNELL, individually and as voters, by and through their attorneys, RICHARD B.  
GOLDEN, as and for their Complaint, upon information and belief, allege as follows:

### NATURE OF THE CASE

1. In this declaratory judgment action, Plaintiffs seek to declare unconstitutional Chapter 741 of the Laws of 2023 of the State of New York, called “AN ACT to amend the town law, the village law, the county law, and the municipal home rule law, in relation to moving certain elections to even-numbered years” (the “Even Year Election Law”), which was enacted by the New York State Legislature in June 2023 and thereafter signed into law by New York State Governor Kathy Hochul on December 22, 2023.

2. The Even Year Election Law is a violation of Article IX of the New York State Constitution, which grants expansive home rule rights and powers to local governments, including the County, which inures to the benefit of Plaintiffs.

3. Article IX § 1(b) of the New York State Constitution protects the rights of local officials to be elected by the people of their local government. It provides that “[a]ll officers of every local government whose election or appointment is not provided for by this constitution shall be elected by the people of the local government, or of some division thereof, or appointed by such officers of the local government as may be provided by law.”

4. Article IX § 1(h)(1) of the New York State Constitution also provides that counties are empowered to prepare, adopt, amend, or repeal alternative forms of government, and Plaintiff Orange County has adopted such an alternative form of government.

5. These rights of alternative forms of governance necessarily include the right to determine when elections for local officials are held and to determine the terms of office of local officials.

6. In accordance with its home rule rights protected by Article IX of the New York State Constitution, Orange County in 1970 adopted a County Charter and Administrative Code as its alternative form of government.

7. Orange County's Charter and Administrative Code provide that elections for county legislators, and county executive are both for a four-year term, each of which are mandated to be held in odd-numbered years.

8. Despite the expansive home rule rights granted to Orange County in Article IX of the New York State Constitution to govern itself on such matters unfettered by the State government, the Even Year Election Law unconstitutionally requires that elections for Orange County Legislators and County Executive are to be held in even-numbered years. It accomplishes this by reducing the terms of office for the first Orange County Legislators and County Executive to be elected following its enactment from four years to three years.

9. Therefore, this Court should declare the Even Year Election Law unconstitutional, as it is beyond a reasonable doubt that it irreconcilably conflicts with the New York State Constitution, and also declare that Orange County's Charter and Administrative Code are valid and controlling regarding the elections for the County Executive and County Legislators in establishing terms of four years and elections in odd-numbered years, notwithstanding the Even Year Election Law.

#### PARTIES

10. Plaintiff, STEVEN M. NEUHAUS, resides in Orange County and was and is an elector of Orange County in the State of New York

11. Plaintiff, STEVEN M. NEUHAUS, was and is the duly elected County Executive for the County of Orange at all relevant times and is seeking re-election in 2025.

12. Plaintiff, THE COUNTY OF ORANGE, is a municipal corporation duly formed by the laws of the State of New York, with a principal office in Orange County, New York.

13. Plaintiff, THE ORANGE COUNTY LEGISLATURE, is the legislative body of Orange County, whose individual legislators are all electors of Orange County in the State of New York.

14. Plaintiffs, duly elected ORANGE COUNTY LEGISLATORS, KATHERINE E. BONELLI, THOMAS J. FAGGIONE, JANET SUTHERLAND, PAUL RUSZKIEWICZ, PETER V. TUOHY, BARRY J. CHENEY, RONALD M. FELLER, GLENN R. EHLERS, KATHY STEGENGA, KEVIN W. HINES, JOSEPH J. MINUTA, LEIGH J. BENTON, ROBERT C. SASSI, and JAMES D. O'DONNELL, Individually, reside in Orange County and were and are electors of Orange County in the State of New York, and are seeking re-election in 2025.

15. Defendant, KATHLEEN HOCHUL, is the duly elected Governor of the State of New York with her principal office located at the State Capitol in Albany, New York. She is being sued in her official capacity.

16. Defendant, THE STATE OF NEW YORK, is the state government constituted by the New York State Constitution.

17. Defendant, ORANGE COUNTY REPUBLICAN COMMITTEE, named herein as a potential necessary party, is a corporation aiding and promoting its party's candidates in Orange County elections, with a mailing address of P.O. Box 810, Goshen, New York 10924.

18. Defendant, ORANGE COUNTY DEMOCRATIC COMMITTEE, named herein as a potential necessary party, is a corporation aiding and promoting its party's candidates in Orange County elections, with a mailing address of P.O. Box 117, Goshen, New York 10924.

19. Defendant, CONSERVATIVE PARTY OF NEW YORK STATE, named herein as a potential necessary party, is a corporation aiding and promoting its party's candidates in Orange County elections, with a mailing address of 486 78<sup>th</sup> Street, Brooklyn, New York 11209.

20. Defendant, NEW YORK WORKING FAMILIES PARTY, named herein as a potential necessary party, is a corporation aiding and promoting its party's candidates in Orange County elections, with a mailing address of 77 Sands Street #6, Brooklyn, New York 11201.

### **CAPACITY TO SUE AND STANDING**

21. This action was duly authorized by a resolution of the Orange County Legislature dated April 5, 2024.

22. This action was further authorized by the Orange County Executive, STEVEN M. NEUHAUS.

23. Plaintiffs collectively have standing in that they are challenging the constitutionality of a statute that infringes upon the Orange County's "Home Rule" powers constitutionally guaranteed under Article IX of the New York State Constitution, and which inure to the benefit of Plaintiffs.

### **JURISDICTION**

24. The Court has jurisdiction over this matter because Plaintiffs challenge the constitutionality of a State legislative enactment under the New York State Constitution. *See* New York Constitution, Article VI, § 7(a); CPLR 3001.

25. Plaintiff, ORANGE COUNTY has standing in that it has a right to determine when and how its officials are elected.

26. Plaintiffs STEVEN M. NEUHAUS and ORANGE COUNTY LEGISLATORS KATHERINE E. BONELLI, THOMAS J. FAGGIONE, JANET SUTHERLAND, PAUL

RUSZKIEWICZ, PETER V. TUOHY, BARRY J. CHENEY, RONALD M. FELLER, GLENN R. EHLERS, KATHY STEGENGA, KEVIN W. HINES, JOSEPH J. MINUTA, LEIGH J. BENTON, ROBERT C. SASSI, and JAMES D. O'DONNELL, personally and in their respective capacities as Orange County Executive and Orange County Legislators, have standing based on their interests in: preventing ballot confusion; the diminishment of their elections as a result of being down-ballot to State and Federal races, such as the election for United States President; the increased expense of running local campaigns in the same year as Presidential, Gubernatorial, or other federal or statewide office elections; and the diminishment of their constitutional right to four-year terms.

### FACTS

#### **I. The County's Charter**

27. The Orange County Charter and associated Administrative Code (the "Charter") was adopted by the Orange County Board of Supervisors on August 26, 1968, approved by referendum on November 5, 1968, and effective January 1, 1970.

28. Article III of the Charter established the Orange County-wide elected position of County Executive to, among other duties, administer the executive branch of the Orange County government. The Charter, by and through Article II of the Charter and Article 2 of the Administrative Code, established the district-wide elected positions of Orange County Legislators to, among other duties, be the legislative, appropriating and policy determining body of Orange County government.

29. Section 3.01 of the Charter provides that the County Executive is elected for a term of four years beginning the first day of January next following his election. Each election has occurred in an odd-numbered year. Section 2-1 of the Administrative Code provides that County Legislators be elected for a term of four years at an odd-numbered year election.



30. This procedure has been followed every four years pursuant to the Charter since the first election for a County Executive and County Legislators in 1969. A true and correct copy of the Charter currently in effect is attached as Exhibit "A" and is also available on Orange County's website at [https://library.municode.com/ny/orange\\_county/codes/code\\_of\\_ordinances](https://library.municode.com/ny/orange_county/codes/code_of_ordinances).

31. Section 1.03 of the Charter sets forth that within the limits of Article 4 of the Municipal Home Rule Law "wherever and whenever any State law, general, special or local in effect, is inconsistent with this Charter or an administrative code, such law shall be deemed to the extent of such inconsistency to be superseded by this Charter insofar as the County of Orange and its government are affected."

## II. Article IX and the Municipal Home Rule Law

32. Article IX of the New York State Constitution was amended in 1963, effective January 1, 1964, to establish a bill of rights for local governments and set forth the powers and duties of the New York State Legislature.

33. No substantive changes have been made to Article IX since the 1963 amendments.

34. Article IX of the New York State Constitution secures Orange County the right of local self-government.

35. Article IX as amended in 1963 provides, as part of the bill of rights for local governments, that "[e]very local government, except a county wholly included within a city, shall have a legislative body elective by the people thereof." Article IX § 1(a).

36. Article IX also provides: "Counties, other than those wholly included within a city, shall be empowered by general law, or by special law enacted upon county request pursuant to section two of this article, to adopt, amend or repeal alternative forms of county government

provided by the legislature or to prepare, adopt, amend or repeal alternative forms of their own.”

Article IX § 1(h)(1).

37. To become effective, an alternative form of government must be “approved on referendum by a majority of the votes cast thereon in the area of the county outside of cities, and in the cities of the county, if any, considered as one unit.” Article IX § 1(h)(1). Orange County’s alternative form of government was so approved. See Paragraph “2” *supra*.

38. Article IX provides that the New York State Legislature “[s]hall have the power to act in relation to the property, affairs or government of any local government only by general law, or by special law only (a) on request of two-thirds of the total membership of its legislative body or on request of its chief executive officer concurred in by a majority of such membership, or (b) except in the case of the city of New York, on certificate of necessity from the governor...with the concurrence of two-thirds of the members elected to each house of the legislature.” Article IX § 2(b)(2) (emphasis added).

39. Section 3 of Article IX defines a general law as one “which in terms and in effect applies alike to all counties, all counties other than those wholly included within a city, all cities, all towns or all villages” and a special law as one “which in terms and in effect applies to one or more, but not all, counties, counties other than those wholly included within a city, cities, towns or villages.” Article IX § 3(d)(1), (4).

40. Article IX dictates that the “[r]ights, powers, privileges and immunities granted to local governments by this article shall be liberally construed.” Article IX § 3(c); *see also* Municipal Home Rule Law (“MHRL”) § 35(3) (“This county charter law shall be construed liberally”)

41. In or around April 1963, the Legislature passed the new Municipal Home Rule Law (“MHRL”).

42. The MHRL provides the implementing legislation that gives effect to the constitutional provisions in Article IX regarding local governments' power to adopt and amend local laws.

43. MHRL § 33 gives counties the “power to prepare, adopt, amend or repeal a county charter.”

44. MHRL § 33 provides that “[a] county charter shall set forth the structure of the county government and the manner in which it is to function” and requires a county charter to provide for, *inter alia*, the “agencies or officers responsible for the performance of the functions, powers and duties of the county...and the manner of election or appointment, terms of office, if any, and removal of such officers.” MHRL § 33(2), (3)(b).

45. MHRL § 34 contains certain limitations on the power of counties to prepare, adopt, and amend county charters and charter laws regarding areas of constitutional and state concerns, none of which are applicable herein.

### III. The Even Year Election Law

46. In June 2023, the New York State Legislature passed a bill requiring that certain local elections held outside of New York City be held in an even-numbered year. 2023 Sess. Law News of N.Y. Ch. 741 (A. 4282-B) (McKinney’s).

47. Govern Hochul signed the bill into law on December 22, 2023.

48. The Even Year Election Law amended, in relevant part, Section 400 of the County Law and Section 34 of the MHRL.

49. With the enactment of the Even Year Election Law, County Law § 400(8) provides:

Notwithstanding any provision of any general, special or local law, charter, code, ordinance, resolution, rule or regulation to the contrary, all elections

for any position of a county elected official shall occur on the Tuesday next succeeding the first Monday in November and shall occur in an even-numbered year; provided however, this subdivision shall not apply to an election for the office of sheriff, county clerk, district attorney, family court judge, county court judge, surrogate court judge, or any offices with a three-year term prior to January first, two thousand twenty-five.

50. New subsection MHRL § 34(2)(h) provides:

Except in accordance with or consistent with laws enacted by the legislature, a county charter or charter law shall not contain provisions relating to:...(h) Insofar as it relates to requirements for counties, other than counties in the city of New York, to hold elections in even-numbered years for any position of a county elected official, other than the office of sheriff, county clerk, district attorney, family court judge, county court judge, surrogate court judge, or any county offices with a three-year term prior to January first, two thousand twenty-five.

51. The Even Year Election Law, implicates a number of significant matters of local concern, including but not limited to: voter turnout for local elections; the right to determine when and how local officials are elected; ballot confusion; diminishing the importance of local issues and down-ballot elections in a crowded political campaign season such as the election for United States President; the increased expense of running local campaigns in the same year as presidential, gubernatorial, or other federal or statewide office elections; and attracting qualified candidates to run for local office.

52. The position of the defendants, THE STATE OF NEW YORK and KATHLEEN HOCHUL, in enacting the Even Year Election Law cannot be substantially justified, and there exists no special circumstances that would make any award against them unjust.

**AS AND FOR A FIRST CAUSE OF ACTION**  
**(Violation of the New York State Constitution, Article IX, Section 1)**

53. Plaintiffs repeat and reallege herein the previous paragraphs as if set forth fully herein.

54. Article IX of the New York State Constitution protects the right of Orange County as a local government to have a local elected County Executive and County Legislators. Necessarily included in this right, is the right to determine the timing and term of office of elected members and officials, which inures to the benefit of Plaintiffs.

55. Orange County's right to set terms of office is confirmed by MHRL § 33, which provides that a county charter "shall provide" for, *inter alia*, the "agencies or officers responsible for the performance of the functions, powers and duties of the county...and the manner of election or appointment, *terms of office*, if any, and removal of such officers." MHRL § 33(3)(b) (emphasis added).

56. Setting the term of office for an officer necessarily requires setting the first and last day of a term, and consequently, when an election of that office is to be held, including whether it is held in even- or odd-numbered years.

57. The Even Year Election Law violates Article IX and the rights granted to Orange County therein because the law necessarily requires it to alter the four-year terms of its County Executive and County Legislators, respectively, by shortening such terms by one year in the first elective term following its enactment.

58. This shortening of terms of office invalidly conflicts with Orange County's prerogative to determine its own form of government and the election of its local government officials as enshrined in Article IX § 1.

**AS AND FOR A SECOND CAUSE OF ACTION**  
**(Violation of the New York State Constitution, Article IX, Section 2)**

59. Plaintiffs repeat and reallege herein the previous paragraphs as if set forth fully herein.

60. The Even Year Election Law also violates Article IX because the New York State Legislature exceeded its authority to act in relation to the property, affairs or government of Orange County in violation of Section 2 of Article IX.

61. The Even Year Election Law and most specifically, County Law § 400(8), which requires elections for “any position of a county elected official” to occur in even-numbered years, is a law which acts in relation to the property, affairs, or government of Orange County because determining terms of office and when elections for local offices are to be held is quintessentially a matter of the Orange County’s property, affairs, and government.

62. Orange County did not request a special law relating to even-year elections.

63. There has been no certificate of necessity from the Governor with the requisite concurrence of the New York State Legislature regarding the Even Year Election Law.

64. Therefore, pursuant to Article IX § 2(b)(2), the New York State Legislature only had the authority to act with respect to elections for local officials by general law.

65. The New York State Legislature exceeded its authority under Article IX § 2(b)(2) because it did not act by general law.

66. County Law § 400(8) is not a general law because it does not, in terms or in effect, apply to all counties.

67. For example, County Law § 400(8) only applies to counties that have an elective executive, rather than a non-elected executive, and it exempts certain countywide offices and any offices with a three-year term of office.

68. Therefore, the New York State Legislature did not act either by general law or by special law in the circumstances allowed by Article IX; thus, the Even Year Election Law violates the Constitution.

69. The New York State Legislature's authority to act in relation to the "property, affairs or government of any local government" is also "subject to the bill of rights of local governments and other applicable provisions of the constitution." Article IX § 2(b).

70. Because the bill of rights of local governments found in Article IX § 1 protects Orange County's right to set the terms of office and time of election for its officials, the New York State Legislature cannot rely on Section 2(b)(2) as its basis of authority to pass the legislation.

71. Moreover, even if County Law § 400(8) were deemed to be a general law, Orange County's Charter need not be consistent with general state laws, and is not otherwise preempted, resulting in the Charter's provisions regarding odd-year elections for County Executive and County Legislators being valid.

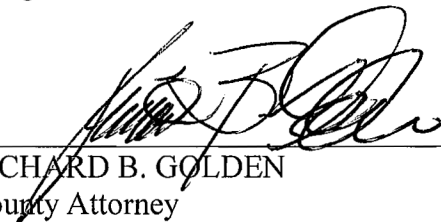
72. Because the Even Year Election Law violates Orange County's rights protected by Article IX, it is void as unconstitutional.

**WHEREFORE**, Plaintiffs respectfully demand judgment as follows:

- A. A declaratory judgment pursuant to CPLR 3001 declaring that the Even Year Election Law is void as violative of the New York State Constitution;  
and

B. A judgment awarding Plaintiffs such other and further relief that the Court deems just, proper, and equitable, including but not limited to reasonable attorneys' fees and other relief pursuant to Article 86 of the CPLR, upon a proper post-judgment application therefor, and costs, disbursements, and other allowances of this proceeding.

Dated: Goshen, New York  
April 9, 2024



---

RICHARD B. GOLDEN  
County Attorney  
Orange County Attorney's Office  
*Attorneys for Plaintiffs*  
Orange County Government Center  
255-275 Main Street  
Goshen, New York 10924  
Phone: (845) 291-3150

RETRIEVED FROM DEMOCRACYDOCS.COM

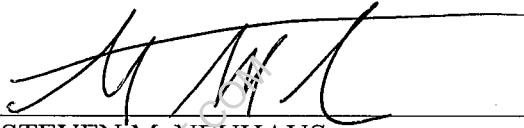


**VERIFICATION**

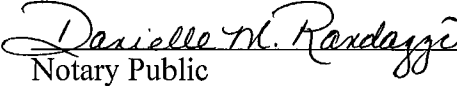
STATE OF NEW YORK     )  
  )ss:  
COUNTY OF ORANGE     )

STEVEN M. NEUHAUS, being duly sworn, deposes and says:

I am the Executive of the County of Orange. I have read the annexed Verified Complaint herein, know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters, I believe them to be true.

  
\_\_\_\_\_  
STEVEN M. NEUHAUS  
Executive of County of Orange

Sworn to before me this  
9<sup>th</sup> day of April 2024

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

**DANIELLE M. RANDAZZO**  
Notary Public, State of New York  
Qualified in Orange County  
Registration No. 01RA611327E  
Commission Expires September 11, 2024

RETRIEVED FROM DEMOCRACYDOCS.COM