

SUPREME COURT OF THE STATE OF NEW YORK  
YORK COUNTY OF NEW YORK

Michael Williams, José Ramírez-Garofalo, Aixa Torres,  
and Melissa Carty,

*Petitioners,*

vs.

Board of Elections of the State of New York; Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board of Elections of the State of New York; Raymond J. Riley, III, in his official capacity as Co-Executive Director of the Board of Elections of the State of New York; Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York; Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York; Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York; Kathy Hochul, in her official capacity as Governor of New York; Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President Pro Tempore of the New York State Senate; Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly; and Letitia James, in her official capacity as Attorney General of New York,

*Respondents.*

Index No.: 164002/2025

Hon. Jeffrey H. Pearlman

**MEMORANDUM OF LAW IN SUPPORT OF  
RESPONDENTS' MOTION FOR RECUSAL**

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**TABLE OF CONTENTS**

PRELIMINARY STATEMENT..... 1

STATEMENT OF FACTS ..... 2

    I. This Proceeding ..... 2

    II. Your Honor’s relationships with parties to this proceeding..... 3

ARGUMENT ..... 6

    I. Recusal is required based on the mere appearance of partiality. .... 6

    II. Your Honor’s extensive relationships and prior representations warrant recusal. .... 8

        A. An ordinary person would reasonably question Your Honor’s impartiality ..... 8

        B. Disqualification is required because Your Honor represented Governor Hochul during  
the enactment of the NYVRA..... 11

CONCLUSION..... 12

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TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page(s)</u>
<i>1347 Hancock St LLC v Palacious</i> 2025 WL 1489867 [Sup Ct, Kings County 2025, Index No. 512329/2025] [Order, dated May 19, 2025].....	10
<i>Christophe v Christophe,</i> 2024 WL 4816081 [Sup Ct, Kings County 2024, Index No. 512765/23] .....	10
<i>Ahmed v Brucha Mtge. Bankers Corp.,</i> 82 Misc 3d 1230(A) [Sup Ct, Kings County 2024].....	8-9
<i>Concord Assoc., L.P. v EPT Concord, LLC,</i> 130 AD3d 1404 [3d Dept 2015] .....	7, 8, 9
<i>Corradino v Corradino,</i> 48 NY2d 894 [1979].....	7
<i>In re Feinberg,</i> 5 NY3d 206 [2005].....	6
<i>In re Milbauer,</i> 2015 N.Y. Slip Op. 31300[U] [Sur Ct, Nassau County 2015] .....	8
<i>Johnson v Hornblass,</i> 93 AD2d 732 [1st Dept 1983] .....	8
<i>Matter of Doyle v State Comm'n on Jud. Conduct,</i> 23 NY3d 656 [2014].....	6
<i>Matter of Going,</i> 97 NY2d 121 [2001].....	6
<i>Matter of Murphy,</i> 82 NY2d 491 [1993].....	7
<i>Matter of Spector v. State Commn. on Jud. Conduct,</i> 47 N.Y.2d 462 [1979] .....	6
<i>Minckler v D'Ella, Inc.,</i> 223 AD3d 980 [3d Dept 2024] .....	8

*Panio v Sunderland*,  
4 NY3d 123 [2005]..... 3

*People v Moreno*,  
70 NY2d 403 [1987]..... 7

*People v Novak*,  
30 NY3d 222 [2017]..... 7

*People v Zappacosta*,  
77 AD2d 928 [2d Dept 1980] ..... 7

**State Statutes**

2022 Sess. Law News of N.Y. Ch. 226 (S. 1046-E) ..... 4

Judiciary Law § 14..... 11

New York Constitution Article III, Section 4(c)(1)..... 2

Public Authorities Law § 5 ..... 4

**State Regulations**

22 NYCRR 100.1 ..... 6

22 NYCRR 100.2..... 7

22 NYCRR 100.3..... 7, 9, 11

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### PRELIMINARY STATEMENT

Respondents Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York (“BOE”), Anthony J. Casale, in his official capacity as a Commissioner of the BOE, and Raymond J. Riley, III, in his official capacity as Co-Executive Director of the BOE (collectively, “Respondents”), respectfully submit this memorandum of law in support of their motion for recusal of the Honorable Jeffrey H. Pearlman, A.J.S.C.

This is a politically charged dispute. Petitioners ask Your Honor to redraw New York’s Eleventh Congressional District mid-cycle, pairing Staten Island with lower Manhattan in a manner that will alter the district’s partisan balance in favor of Democratic candidates. In a nationally watched redistricting matter, the appearance of strict neutrality is paramount.

But an appearance of impartiality cannot be achieved in this case. Your Honor disclosed recent and multifaceted professional, social, and political ties to six of the ten individual respondents. These connections are neither remote nor incidental. Your Honor represented Senate Majority Leader Andrea Stewart-Cousins in election law matters and worked as her Chief of Staff. Your Honor worked as Governor Hochul’s Chief of Staff and represented the Governor as special counsel. These relationships are not only substantial, but also relevant given the political nature of this proceeding. Any observer would reasonably question Your Honor’s impartiality in this context.

Under the Judiciary Law and the Rules Governing Judicial Conduct, a judge must avoid even the appearance of bias. Judges must step aside whenever their impartiality “might reasonably be questioned.” Compliance with this standard is especially important where, as here, Your Honor will determine both facts and law in a political dispute with significant public scrutiny. The Court

of Appeals urges judges to err on the side of recusal in close cases to preserve public confidence in the judiciary. The circumstances here present more than a close question.

For these reasons, detailed below, Respondents respectfully submit that Your Honor should recuse and direct that this case be assigned to another Justice of the Supreme Court.

## **STATEMENT OF FACTS**

### **I. This Proceeding**

This proceeding seeks judicial redrawing of New York's Eleventh Congressional District (CD-11). Petitioners allege that the Legislature's 2024 congressional map unlawfully dilutes Black and Latino voting strength in CD-11, in violation of Article III, Section 4(c)(1) of the New York Constitution, and they invoke the New York Voting Rights Act ("NYVRA") to frame the applicable standards and remedies. The relief sought is fundamentally political: Petitioners ask the Court to declare the enacted map invalid and to order the Legislature to pair Staten Island with lower Manhattan, thereby transforming a long-standing Republican-held district into a minority influence district more favorable to the Democrat Party's coalition.

The petition situates the case in the turbulent, politically charged history of New York's redistricting over the past two election cycles, and alleges racially polarized voting and socio-economic disparities on Staten Island. It asserts that despite demographic change and the growth of Black and Latino communities, CD-11's boundaries remain aligned with a political compromise struck in the early 1980s to consolidate Republican advantage, and it asks the Court to impose a remedy that would reconfigure partisan control in a nationally watched battleground.

The other individual Respondents in this proceeding are political appointees and elected officials: (1) Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board

of Elections of the State of New York; (2) Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York; (3) Kathy Hochul, in her official capacity as Governor of New York; (4) Andrea Stewart-Cousins, in her official capacity as New York State Senate Majority Leader and President *Pro Tempore* of the Senate; (5) Carl E. Heastie, in his official capacity as the Speaker of the New York State Assembly; and (6) Letitia James, in her official capacity as Attorney General of New York.

## II. Your Honor's relationships with parties to this proceeding

During the November 7, 2025 conference, Your Honor disclosed substantial personal, professional, political, and legal relationships with numerous parties. Those disclosures included that Your Honor:

1. Represented Senator Stewart-Cousins as elections counsel in 2004<sup>1</sup>;
2. Represented Senator Stewart-Cousins as elections counsel in 2006<sup>2</sup>;
3. Worked as Chief of Staff to Senator Stewart-Cousins from 2014 to 2015<sup>3</sup>;
4. Has known Brian Quail (counsel to Respondents Henry T. Berger, Essma Bagnuola, and Kristen Zebrowski Stavisky) since law school and “served in election capacity [together] over the years”<sup>4</sup>;

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<sup>1</sup> Affirmation of Nicholas J. Faso, dated November 26, 2025 (“Faso Aff”), Ex. A (Transcript (“Tr.”) at 6:4-5. This representation concerned the validity of paper ballots in a close election (*see e.g. Matter of Panio v Sunderland*, 4 NY3d 123, 126 [2005]). The litigation was politically charged with partisan positions, including those taken by Your Honor. As just one example, during the litigation, Your Honor publicly stated that “I think that the Republicans have always looked at this provision of the state constitution [Article III, section 9] as an opportunity to seat their candidate if their candidate was ahead . . . . And they have worked tirelessly to maintain that through litigation” (Faso Aff Ex. B (Len Maniace, *Senate likely to have an empty seat*, THE JOURNAL NEWS, January 1, 2005, pg. 1B). All references to “Ex.” refer to exhibits to the Faso Aff.

<sup>2</sup> Ex. A, Tr. at 6:5.

<sup>3</sup> Ex. A, Tr. at 6:8-9.

<sup>4</sup> Ex. A, Tr. at 7:11-16.

5. Has been acquainted with Respondent Anthony J. Casale since the 1990s<sup>5</sup>;
6. Has professional ties and a “close social relationship” with Respondent Henry T. Berger, including weekend trips with family in 2007 and 2014 and annual dinners<sup>6</sup>;
7. Worked as Chief of Staff to then-Lieutenant Governor Hochul<sup>7</sup>;
8. Represented then-Lieutenant Governor Hochul as counsel from 2015 to 2016<sup>8</sup>;
9. Represented Governor Hochul as special counsel in 2021 and 2022.<sup>9</sup>

In addition, though not part of the foregoing disclosures, in 2022, Governor Hochul appointed Your Honor as the Director of the Authorities Budget Office, an office within the Executive Branch. This appointment required “advice and consent of the senate,” which was at that time controlled by Senator Stewart-Cousins as President *Pro Tempore* and Majority Leader ([Public Authorities Law § 5](#)).

Of particular relevance here, it appears that Your Honor represented Governor Hochul as counsel when, on June 20, 2022, she signed into law the NYVRA.<sup>10</sup> It is unclear from Your Honor’s disclosures whether your representation included advice and counsel regarding the NYVRA, however, as counsel, you were necessarily affiliated with the other attorneys in the Governor’s office.<sup>11</sup>

Your Honor’s disclosures reveal deep ties to the parties to this proceeding and a history of partisan political activity at the highest levels in New York. When Governor Hochul appointed

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<sup>5</sup> Ex. A, Tr. at 7:20-8:2

<sup>6</sup> Ex. A, Tr. at 8:3-9:1.

<sup>7</sup> Ex. A, Tr. at 6:9.

<sup>8</sup> Ex. A, Tr. at 5:25-6:1.

<sup>9</sup> Ex. A, Tr. at 6:3.

<sup>10</sup> 2022 Sess. Law News of N.Y. Ch. 226 (S. 1046-E).

<sup>11</sup> Your Honor’s disclosures did not address any advice or communications with Governor Hochul regarding the NYVRA.

Your Honor as counsel, Crain’s New York Business described Your Honor as part of a “band of longtime aides and close loyalists.”<sup>12</sup> Crain’s further observed that Your Honor “is a political operative with deep ties to Albany.”<sup>13</sup> Similarly, the New York Times identified Your Honor as one of Governor Hochul’s closest confidants in the days leading up to her becoming Governor.<sup>14</sup> As far back as 2006, the Associated Press identified Your Honor as a “Democratic lawyer.”<sup>15</sup>

Your Honor’s extensive ties to Governor Hochul, Senator Stewart-Cousins, and New York State Democrats generally were recently reported by City & State New York in connection with this litigation. In an article headlined *Judge Assigned to redistricting case has deep ties to Hochul, Stewart-Cousins*, City & State observed that Your Honor’s “history with two of the named defendants in the new redistricting case could create the appearance of a conflict of interest and lead to calls for him to recuse himself from hearing the case.”<sup>16</sup> The article further observed that “Democratic bias in the court when it comes to redistricting emerged as a key criticism during the earlier redistricting fights between 2021 and 2023” and that “[t]his latest lawsuit is no less political.”<sup>17</sup>

Significantly, Governor Hochul has publicly supported the Democratic Party’s efforts to redistrict mid-cycle. The New York Times reported that “Gov. Kathy Hochul of New York, the official head of the state Democratic Party, pledged to ‘fight fire with fire,’ saying: ‘If they’re going

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<sup>12</sup> Ex. C, Brian Pascus, *Hochul will rely on these longtime allies; State’s first female governor pledges more consensus building and less combativeness*, CRAIN’S NEW YORK BUSINESS, August 30, 2021, pg. 1; Vol. 37.

<sup>13</sup> *Id.*

<sup>14</sup> Ex. D, Dana Rubinstein, *New York Will Have Its First Female Governor*,” THE NEW YORK TIMES, August 11, 2021, Section A, Column 0, National Desk, pg. 13.

<sup>15</sup> Ex. E, Jim Fitzgerald, *GOP challenging voters’ right to cast ballots in NY state Senate battleground*, THE ASSOCIATED PRESS, October 31, 2006.

<sup>16</sup> Ex. F, Rebecca C. Lewis, *Judge Assigned to redistricting case has deep ties to Hochul, Stewart-Cousins*, CITY & STATE NEW YORK, October 28, 2025.

<sup>17</sup> *Id.*

to rig the system, I refuse to sit on the sidelines and let our democracy further erode any more than it already has under the Trump administration.”<sup>18</sup>

## ARGUMENT

### **I. Recusal is required based on the mere appearance of partiality.**

Public confidence in the judiciary is the cornerstone of the courts’ legitimacy. The Rules Governing Judicial Conduct (the “Rules”) emphasize that “[a]n independent and honorable judiciary is indispensable to justice in our society” ([22 NYCRR 100.1](#)). To promote this end, the Rules direct individual judges to “participate in establishing, maintaining and enforcing high standards of conduct” and to “personally observe those standards so that the integrity and independence of the judiciary will be preserved” (*id.*).

Judges are held to the highest standards of conduct. As the Court of Appeals explained, “[a] judge’s conduct is under a sterner microscope than other members of the public, as ‘there is no higher order of fiduciary responsibility than that assumed by a Judge’” (*In re Feinberg*, [5 NY3d 206, 215-16 \[2005\]](#)), quoting *Matter of Spector v. State Commn. on Jud. Conduct*, [47 N.Y.2d 462, 469 \[1979\]](#); see also *Matter of Doyle v State Comm’n on Jud. Conduct*, [23 NY3d 656, 662 \[2014\]](#) [“Judges must be held to a higher standard of conduct than the public at large”], quoting *Matter of Going*, [97 NY2d 121, 127 \[2001\]](#)).

Judicial conduct standards are intended to safeguard the public’s trust that judicial decisions are rendered with integrity and impartiality, not only in fact but also in appearance. As such, the Rules direct that a “judge shall avoid impropriety and *the appearance of impropriety* in

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<sup>18</sup> Ex. G, Grace Ashford and Nick Corasaniti, *Lawsuit Plunges New York Into the National Gerrymandering Fight*, THE NEW YORK TIMES, October 27, 2025.

all of the judge’s activities” and “shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary” ([22 NYCRR 100.2](#) [emphasis added]). When circumstances create a reasonable question about a judge’s neutrality, recusal is required to preserve that confidence.

The Rules are designed to “purge actual bias and *the possibility of bias* from our courtrooms” ([People v Novak](#), 30 NY3d 222, 227 [2017]). Thus, the recusal inquiry is not limited to actual bias. Rather, even when there is “no evidence of partiality [], due process must still safeguard the appearance of impartiality to promote public confidence in the courts ([Novak](#), 30 NY3d 222, 227 [2017]; see also [People v Zappacosta](#), 77 AD2d 928, 929 [2d Dept 1980] [ordering new trial before another Justice of the Supreme Court and noting that “we must be constantly vigilant to avoid even the appearance of bias which may erode public confidence in the judicial system as quickly as would the damage caused by actual bias”]).

Accordingly, judges “shall” disqualify themselves where their “impartiality might reasonably be questioned” including but not limited to specific enumerated circumstances ([22 NYCRR 100.3](#) [E] [1]). Under this standard, self-disqualification is required where an objective observer could reasonably question the judge’s neutrality ([Concord Assoc., L.P. v EPT Concord, LLC](#), 130 AD3d 1404, 1406-07 [3d Dept 2015]).

Where, as here, there is any appearance of partiality, recusal is the prudent choice. The Court of Appeals urges judges to “err on the side of recusal in close cases” ([Matter of Murphy](#), 82 NY2d 491, 495 [1993], quoting [Corradino v Corradino](#), 48 NY2d 894, 895 [1979]; see also [People v Moreno](#), 70 NY2d 403, 406 [1987] [“Yet, this court has noted that it may be the better practice in some situations for a court to disqualify itself in a special effort to maintain the appearance of impartiality.”]). Likewise, the First Department cautioned that, even when not mandated, the

“appearance of justice’ might be better served” by recusal (*Johnson v Hornbliss*, 93 AD2d 732, 733 [1st Dept 1983]).

Most judges heed this advice. For example, in *Ahmed v Brucha Mortgage Bankers Corp.*, the presiding judge recused himself, *sua sponte*, because he provided legal advice to a party’s attorney over twenty years prior. The judge reasoned that, although he believed he could remain impartial, recusal was important to “maintain the appearance of impartiality . . . especially in the unique, special situation where one’s involvement with a lawsuit party’s attorney derived from a close political-client relationship” (*Ahmed v Brucha Mtge. Bankers Corp.*, 82 Misc 3d 1230(A), at \*8 [Sup Ct, Kings County 2024]; see also *In re Milbauer*, 2015 N.Y. Slip Op. 31300[U] [Sur Ct, Nassau County 2015] [“I have concluded that the best interests of these proceedings will be furthered by my recusal from the matter, lest there be even the slightest question, even without a substantive basis, concerning the integrity of this Court.”]).

While the decision to recuse lies within the judge’s discretion, “that discretion is not unlimited, and ‘judges must still recuse in cases where their impartiality ‘might be reasonably questioned’” (*Minckler v D’Ella, Inc.*, 223 AD3d 980, 981 [3d Dept 2024], quoting *Advisory Comm on Jud Ethics Op 19-76* [2019]; see also *Concord Assoc.*, 130 AD3d at 1406 [same]).

## **II. Your Honor’s extensive relationships and prior representations warrant recusal.**

### **A. An ordinary person would reasonably question Your Honor’s impartiality**

Your Honor’s myriad contacts with parties to this action—as an employee, counsel, political operative, and political appointee—would lead any objective observer to reasonably question Your Honor’s impartiality. Your Honor’s relationships with Governor Hochul and Senator Stewart-Cousins are deep, recent, and relevant to the subject matter of this proceeding. Your Honor served as counsel to Senator Stewart-Cousins in multiple, politicized election law matters,

including at least one that, like here, involved partisan disputes arising under the New York State Constitution. Your Honor also served as counsel to Governor Hochul in matters which, like here, related to her official roles as Lieutenant Governor and Governor. And, critically, Your Honor represented Governor Hochul when the NYVRA, the statute at the center of this case of first impression, was signed into law.

These are not distant or fleeting associations—they are substantial and directly relevant to the partisan political issues and public officials before the Court. The cumulative effect of these connections creates an unavoidable appearance of impropriety that necessitates recusal ([22 NYCRR 100.3 \[E\] \[1\]](#); [Concord Assoc., L.P., 130 AD3d at 1406-07](#) [“it seems to us that Acting Justice LaBuda should have recognized that this was a situation in which his ‘impartiality might reasonably be questioned’ (22 NYCRR 100.3 [E] [1]), and, therefore, we must conclude that his failure to recuse himself constituted a clear abuse of discretion”]; [Ahmed, 82 Misc 3d at \\*8](#) [recusing based on “a close political-client relationship”]).

On top of Your Honor’s longstanding, significant relationships with Senator Stewart-Cousins and Governor Hochul, Your Honor disclosed additional relationships or connections with four other respondents in this action; namely, Kristen Zebrowski Stavisky, Peter S. Kosinski, Henry T. Berger, and Anthony J. Casale.<sup>19</sup> Thus, Your Honor has relationships or connections with six of the ten individual respondents.

Under these overwhelming circumstances, it appears most judges would disqualify themselves *sua sponte*. Judges regularly recuse themselves based on far more attenuated relationships or connections to avoid any suggestion of impropriety or impartiality (*see e.g.* [Murphy v Three Vil. Cent. \[Sup Ct, Suffolk County 2014, Index No. 0645712013\]](#) [recusal on the

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<sup>19</sup> Ex. A, Tr. at 6-9.

court's own initiative]; *Baker v Talbot* [Sup Ct, Suffolk County 2014, Index No. 250982013] [same]; *Wright v Sokoloff* [Sup Ct, Suffolk County 2014, Index No. 245192010] [same]; *Wodzinski v E. L.I. Hosp.* [Sup Ct, Suffolk County 2014, Index No. 00227382010] [same]; *Cummings v Joseph MD* [Sup Ct, Suffolk County 2014, Index No. 0239432012 ] [same]; *Estate of Roberts* [Sur Ct, Bronx County 2014, Index No. 2009-532/B] [same]).

For example, in *Christophe v Christophe* (Sup Ct, Kings County 2024, Index No. 512765/23), Justice Aaron D. Maslow recused himself “to avoid the appearance of impropriety” because he had “litigated election law matters *against* an attorney for one or more parties” (Order, dated November 13, 2024, 2024 WL 4816081 [emphasis added]). In *1347 Hancock St LLC v Palacios* (Sup Ct, Kings County 2025, Index No. 512329/2025), Justice Dwetnie Paul recused himself merely because he had “a familiar relationship with an expert” (Order, dated May 19, 2025, 2025 WL 1489867). And, in *Irizarry v Zelaya* (Sup Ct, New York County 2024, Index No. 160011/2021), Justice Mary V. Rosado recused herself due to mere “personal knowledge of several of the parties involved” (Order, dated October 21, 2022).

Each of these recusals involved relationships more tangential than the personal, political, social, and legal relationships disclosed by Your Honor. They demonstrate a consistent practice among the judiciary to err on the side of caution and recuse based on even remote relationships to avoid any question of bias.

This is not a close case. The totality of the circumstances compels the conclusion that an ordinary, objective observer would reasonably question Your Honor's impartiality. Respondents respectfully submit that Your Honor should recuse.

**B. Disqualification is required because Your Honor represented Governor Hochul during the enactment of the NYVRA**

Disqualification is required when “(i) the judge served as a lawyer in the matter in controversy; or (ii) a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter” ([22 NYCRR 100.3 \[E\] \[1\] \[b\]](#); *see also* [Judiciary Law § 17](#)). “Disqualification on this basis is permanent and not subject to remittal, ‘regardless of whether the judge had actual knowledge of or involvement in a particular matter’” ([Advisory Comm on Jud Ethics Op 24-168 \[October 30, 2024\]](#) [citation omitted]).

Here, Governor Hochul signed the NYVRA into law while Your Honor served as her counsel. While it is unknown whether Your Honor specifically advised Governor Hochul or her staff on the NYVRA, the constitutionality of the NYVRA’s standards will be at issue in this proceeding. Even if Governor Hochul’s other counsel advised on the NYVRA, Your Honor practiced law with those counsel ([22 NYCRR 100.3 \[E\] \[1\] \[b\] \[ii\]](#); *see also* [Advisory Comm on Jud Ethics Op 24-168 \[October 30, 2024\]](#); [Advisory Comm on Jud Ethics Op 17-169/17-170 \[December 7, 2017\]](#)). This association, even in the absence of extra-judicial knowledge of the matter, is sufficient for disqualification ([Advisory Comm on Jud Ethics Op 23-231 \[February 1, 2024\]](#) [concluding that judge is disqualified from matter “in which the judge’s former law partner previously served as counsel while in partnership with the judge”]).

At a minimum, Your Honor’s representation of Governor Hochul at the time the NYVRA was signed into law creates an appearance of impropriety. Since the constitutionality of the NYVRA’s standards will be at issue in this proceeding, an objective observer could reasonably question whether Your Honor would be predisposed to uphold a law enacted by a former client. This prior representation, regardless of Your Honor’s actual involvement, further reinforces that recusal is warranted.

**CONCLUSION**

For the foregoing reasons, Respondents respectfully request that this Court grant their motion for recusal, direct that this case be assigned to another Justice of the Supreme Court, and grant such other and further relief as this Court deems just and equitable.

Dated: November 26, 2025  
Albany, New York

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**CERTIFICATE OF COMPLIANCE**

The undersigned counsel hereby certifies pursuant to Section 202.8-b of the Uniform Rules for the Supreme Court and the County Court that, with the exception of the caption, table of contents, table of authorities, and signature block, the foregoing memorandum contains 3,366 words, based on the calculation made by the word-processing system used to prepare this document.

I certify that no generative artificial intelligence program was used in the drafting of any affidavit, affirmation, or memorandum of law contained within the submission.

Dated: November 26, 2025  
Albany, New York

/s/ Nicholas J. Faso

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