

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

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Michal Williams; José Ramírez-Garofalo; Aixa Torres; and
Melissa Carty,

Petitioners,

-against-

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,

-and-

Nicole Malliotakis; Edward L. Lai, Joel Medina, Solomon
B. Reeves, Angela Sisto, and Faith Togba,

Intervenors-Respondents,

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RESPONSE IN SUPPORT OF RESPONDENTS' MOTION FOR RECUSAL
(Counsel for Intervenor-Respondents' listed on the following page)

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Intervenor-Respondents Congresswoman Nicole Malliotakis and Individual Voters Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba agree with Respondents' Motion to Recuse ("Mot.") for the reasons set forth in that Motion. Intervenor-Respondents submit this Response to emphasize some additional considerations that support recusal in this manner. Namely, given the Court's substantial relationships with several Respondents who have targeted Representative Malliotakis' district in the past and have pledged to continue their gerrymandering efforts presently, the "better practice" for a court is "to disqualify itself in a special effort to maintain the appearance of impartiality." *People v. Moreno*, 70 N.Y.2d 403, 407 (1987). Intervenor-Respondents also submit this Response to note that, in undersigned counsel's experience, judges in New York have recently recused themselves to avoid any suggestion of partiality in cases involving redistricting over far less extensive relationships with counsel and parties than those disclosed here.

The conduct of Respondents with whom the Court appears to have had close professional relationships in the recent past heightens the need for recusal "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." *People v. Zappacosta*, 77 A.D.2d 928, 929 (2d Dep't 1980). Most problematically, Respondent Governor Hochul announced that she is "on board" with efforts to redraw New York's districts. NBC News, *Hochul says New York will consider redistricting at meeting with Texas Democrats* (Aug. 4, 2025).¹ In response to Texas' redistricting efforts, Respondent Hochul stated "[a]ll's fair in love and war" and that she and other legislative "leaders"—including, presumably, Respondent Senator Stewart-Cousins—were exploring "every

¹ Available at <https://www.nbcnews.com/video/hochul-says-new-york-will-consider-redistricting-in-response-to-texas-244309573737>.

option to redraw our state congressional lines as soon as possible.” *Id.* Respondent Hochul also promised to “fight fire with fire,” saying that she “refuse[s] to sit on the sidelines” while Republicans allegedly redraw boundaries in other States. Dkt.73 at 3. These statements did not escape notice as Democracy Docket (founded by Marc Elias, solely named partner of Petitioners’ chosen law firm) cited Respondent Hochul’s press conference as “signal[ing] her support for Democratic redistricting in response to Trump’s plan.” Affirmation of Bennet J. Moskowitz, dated December 8, 2025 (“Moskowitz Aff.”), Ex.A.

Notably, Respondents with whom the Court appears to have had close professional relationships in the recent past have targeted Representative Malliotakis’ district, in just the manner Petitioners seek to repeat through this lawsuit. Representative Malliotakis “has been the focus of Democratic mapmakers since the start of the last redistricting cycle.” Moskowitz Aff., Ex.B. In 2022, the congressional districting map resulted in “a land grab gerrymander, where Democrats took out Republican incumbents” noting that “Malliotakis’ 11th District [would] become significantly more liberal after her conservative district in and around Staten Island was paired with the more liberal Park Slope area.” Moskowitz Aff., Ex.C. This gerrymander’s targeting of the 11th Congressional District skipped over (previously included) moderate-to-conservative neighborhoods and “snake[d] along the northwest Brooklyn waterfront to take in the heavily liberal Democratic areas of Sunset Park and Park Slope.” Moskowitz Aff., Ex.D. Respondents Stewart-Cousins and Heastie led their respective chambers to approve, and Respondent Hochul signed, the map to further their “political ambitions to capture the 11th District, the only Republican-held seat in New York City and a top target nationwide this cycle.” Moskowitz Aff., Ex.E. The Court of Appeals struck the whole map down because it was “drawn with an unconstitutional partisan intent.” *Harkenrider v. Hochul*, 38 N.Y.3d 494, 502 (2022). The

unlawful map's revisions to the 11th Congressional District's boundaries made similar changes as to those that Petitioners have requested in this case. *See* Pet. ¶¶ 101–02.

Respondents Hochul and Stewart-Cousins' actions, combined with this Court's longstanding relationships with those Respondents, Mot.4–5, further support recusal here. At that time that these Respondents engaged in unconstitutional and partisan gerrymandering, including by targeting Representative Malliotakis' district in a similar way as Petitioners are attempting to accomplish here, this Court apparently served as Special Counsel to Respondent Governor Hochul. Dkt.67, Tr.5:24–6:3. This Court's close relationship with these Respondents significantly increases concerns that the public will believe the Court is “influenced by any personal interest in the case.” *People v. McDonald*, 167 N.Y.S.2d 394, 396–97 (Co. Ct. 1957).

Further, in undersigned counsel's recent experience litigating redistricting cases, New York judges routinely recuse as a matter of discretion in cases involving redistricting in much less clear-cut circumstances. For example, in *Clarke v. Town of Newburgh*, Index No.EF002460-2024 (Orange Cnty.), a case challenging the Town of Newburgh's use of an at-large voting system under the New York Voting Rights Act (“NYVRA”), Justice Maria S. Vasquez-Doles recognized one of the plaintiffs that she had not seen for years during opening arguments of trial and recused herself even though she could “still sit on this case.” *Moskowitz Aff.*, Ex.F, Tr.20:3–4. Her Honor explained that she had broken bread with members of the Latino Democratic Committee of Orange County (including the plaintiff and his wife) nearly a decade ago and before she became a Supreme Court Justice. *Id.* Tr.19:14–20:2. Thus, “[i]n order for there to be no appearance of impropriety, not even a vague one,” Justice Vasquez-Doles recused so that the parties would “feel comfortable going forward.” *Id.* Tr.23:24–24:4. On appeal in the same matter, Judge Michael J. Garcia and Judge Caitlin J. Halligan of the Court of Appeals also recused due to a personal relationship with

some parties. Moskowitz Aff., Exs.G & H. Judge Halligan similarly recused in another redistricting case, *Hoffmann v. New York State Independent Redistricting Commission*, APL-2023-00121 (N.Y.), because she wished “to avoid any potential appearance of impropriety” as she “ha[s] or had a close professional or personal relationship with a party or lawyer involved in this matter.” Moskowitz Aff., Exs.I & J.

Similarly, in *New York Communities for Changes v. County of Nassau*, Index No.602316/2024 (Nassau Cnty.), which also involved a redistricting challenge under the NYVRA, multiple justices recused themselves due to relationships with the parties or lawyers in the case. Justice Prager, for example, *sua sponte* recused herself “to avoid any potential appearance of impropriety based upon conflicts with certain practitioners and parties” to the case. Order, *N.Y. Cmty. for Change*, No.602316/2024, Dkt.22 (Nassau Cnty. Feb. 23, 2024). Justice Muraca likewise recused “on [her] own motion” because of “multiple conflicts with parties, practitioners, and witnesses.” Order, *N.Y. Cmty. for Change*, No.602316/2024, Dkt.21 (Nassau Cnty. Feb. 23, 2024). These *sua sponte* recusals demonstrate the “special effort” New York courts put into “maintain[ing] the appearance of impartiality,” *Moreno*, 70 N.Y.2d at 201–02, which is especially important in cases that garner the most public attention.

This Court disclosed substantial relationships with several Respondents and counsel. The Court agreed that it had one close social relationship that it had “the most concern with,” Dkt.67, Tr.8:3–11, but the recent representation of Respondent Hochul, and the Court’s longstanding relationships as Chief of Staff to then-Lieutenant Governor Hochul and Senator Stewart-Cousins raise even more concern. These kinds of relationships are certainly more direct and more recent than those that led Judge Vasquez-Doles to recuse in *Newburgh*. And even though the previously discussed jurists used standard recusal language, it is not probable that they had relationships that

were greater in-kind than what this Court has disclosed here. Although Intervenor-Respondents have no indication that the Court harbors actual bias in this matter, maintaining the appearance of impartiality of the judiciary is critical, and particularly so in a case of this public importance and attention. *See Zappacosta*, 77 A.D.2d at 929; *see also* Mot.9–10.

CONCLUSION

Intervenor-Respondents respectfully request that this Court should grant the Motion for Recusal.

Dated: New York, New York
December 8, 2025

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CERTIFICATION

I hereby certify that the foregoing memorandum of law complies with the word count limitations set forth in 22 NYCRR § 202.8-b(a). According to the word-processing system used to prepare this memorandum of law, it contains 1,271 words, excluding parts of the document exempted by Rule 202.8-b(b).

Dated: New York, New York
December 8, 2025

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