

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF STEUBEN

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TIM HARKENRIDER, GUY C. BROUGHT,
LAWRENCE CANNING, PATRICIA CLARINO,
GEORGE DOOHER, JR., STEPHEN EVANS, LINDA
FANTON, JERRY FISHMAN, JAY FRANTZ,
LAWRANCE GARVEY, ALAN NEPHEW, SUSAN
ROWLEY, JOSEPHINE THOMAS, AND MARIANNE
VIOLANTE,

Index No.: E2022-0116CV

**AFFIDAVIT OF
CHARLES NESBITT**

Petitioners,

- against -

GOVERNOR KATHY HOCHUL, LIEUTENANT
GOVERNOR AND PRESIDENT OF THE SENATE
BRIAN A. BENJAMIN, SENATE MAJORITY LEADER
AND PRESIDENT PRO TEMPORE OF THE SENATE
ANDREA STEWART-COUSINS, SPEAKER OF THE
ASSEMBLY CARL HEASTIE, NEW YORK STATE
BOARD OF ELECTIONS, AND THE NEW YORK
STATE LEGISLATIVE TASK FORCE ON
DEMOGRAPHIC RESEARCH AND
REAPPOINTMENT,

Respondents.

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

Charles Nesbitt, being duly sworn, deposes and says that:

1. I am one of the Commissioners on the New York State Independent Redistricting Commission ("IRC"), having been appointed on January 30, 2020.
2. I offer this affidavit in order to provide certain information and factual clarifications that may assist the Court, the Special Master, and the parties herein in attending to this matter of great public importance.

3. I understand that the Court of Appeals' April 27, 2022 Opinion includes the following description in its recitation of the factual background of the matter:

“According to the IRC members appointed by the minority party, after agreement had been reached on many of the district lines, the majority party delegation of the IRC declined to continue negotiations on a consensus map, insisting they would proceed with discussions only if further negotiations were based on their preferred redistricting maps.”

Opinion at p.5.

4. That is a fair and accurate description of what transpired within the IRC.
5. With the two delegations of the IRC having reached consensus on approximately 80 to 90 percent of the map, there remained certain punch-list items to reach agreement on in order to arrive at a final and singular consensus plan.
6. Regrettably, those items were never closed out, and no consensus map was agreed upon or submitted to the legislature.
7. To be clear, however, “Plan B” as submitted by the Republican delegation to the legislature on January 3, 2022 included and reflected all of the compromises and concessions we had made with the majority delegation. It was not remotely the plan we viewed as optimal from a constitutional, philosophical, or political perspective.
8. As a practical matter, we understood that for a consensus plan to advance out of the IRC, it would require at least seven votes and thus the approval of commissioners from both delegations. We were also mindful that any such IRC plan ultimately needed the approval of the Democratic-majority in both houses of the legislature.
9. By way of specific example, the separate congressional maps submitted to the legislature by the two delegations on January 3, 2022, contain substantially similar proposals for

Congressional District 22 or what was frequently referred to in our deliberations as the “University District.”

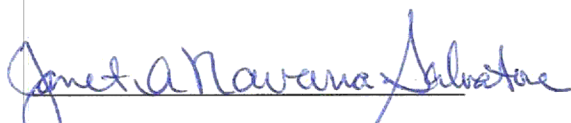
10. The “University District,” however, was not something the Republican delegation conceived of, advocated for, or preferred. To the contrary, it was proposed by the Democratic delegation. While ultimately agreed to over the course of our strained negotiations, the unprecedented district had several shortcomings that were of concern to my delegation. Namely, it lacked compactness and failed to maintain the cores of existing districts by, among other things, splitting counties and dividing communities of interest—all of which run counter to the directives set forth in §4(c)(5) of the State Constitution and our mandate as the Independent Redistricting Commission.

11. The proposed Congressional District 22 as contained in the Republican plan largely represents a concession by the Republican delegation to a district that was proposed and promoted by the Democratic delegation. We made this and other concessions while negotiating for and securing what we believed to be improvements (in the sense of more completely complying with our constitutional mandate) in adjacent upstate districts and elsewhere in the state.

Dated: May 3, 2022


Charles Nesbitt

Sworn to before me this
3rd day of May, 2022


Notary Public

Janet A. Navarra-Salvatore
Notary Public, State of New York
No. 01NA5081040
Qualified in Orleans County
My Commission Expires June 30, 2023