

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF STEUBEN

---

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

Petitioners,

-against-

Index No.  
**E2022-0116CV**

**AFFIDAVIT OF  
KRISTEN ZEBROWSKI  
STAVISKY**

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  
REAPPORTIONMENT,

Respondents.

---

KRISTEN ZEBROWSKI STAVISKY being duly sworn does depose and say:

1. I am the co-executive director of the New York State Board of Elections and as such am familiar with the facts and circumstances of this matter, and I make this affidavit on personal knowledge.

## I. New York's Independent Nomination Petitioning Process

2. For an independent candidate (i.e., one supported by an organization or group that is not a “party”) to secure nomination and access to the November General Election ballot, the requisite number of valid signatures of registered New York voters who reside in the political unit for which the nomination is sought must be collected, within a limited period of six weeks, on an independent nominating petition, which must then be filed with either the State Board of Elections or in some cases local boards. N.Y. Election Law §§ 138(4), 144. The form of the independent nominating petition is prescribed by Election Law § 6-140. It identifies the candidate(s), public office(s) and relevant political subdivisions as well as the “independent body” ballot label under which the candidate will seek office. See <https://www.elections.ny.gov/NYSBOE/download/law/IndependentNominatingPetition.pdf> which is the form of independent nominating petition prescribed by Election Law § 6-140. The Libertarian Party of New York has been such an “independent body” for candidates in many past New York elections.

3. Some of the intervenors in this action claim to seek candidacy for statewide office in New York. To be nominated for such a statewide office, 45,000 valid signatures are required on an independent nominating petition from among the 12,982,819 registered voters in New York State, with at least 500 from each of half of New York's Congressional districts. See <https://www.elections.ny.gov/EnrollmentCounty.html>; N.Y. Election Law § 6-142(1). All New York registered voters are eligible to sign a

statewide independent nominating petition, provided they have not already signed a valid petition for the same office for another candidate, pursuant to N.Y. Election Law § 6-140(1).

4. The nominating petition and the required number of signatures provides a means for proposed candidates to demonstrate sufficient support in the electorate to obtain ballot access, so that candidates that are politically viable are able to access the ballot and those without a modicum of support are not, thus avoiding a ballot that lists so many candidates that voters would become confused. New York's statewide signature requirement (which amounts to 0.35% of New York's registered voter population) is significantly lower than that of many other states, both in absolute numbers and percentage of registered voters, thus comparatively imposing much less of a burden on candidates and their supporters.

5. An independent nomination petition for a Congressional petition requires 3,500 valid signatures and a valid independent nomination petition for State Senate requires 3,000. These requirements are provided for in Election Law § 6-142.

6. The 6-week or 42-day collection period for signatures was adopted in 1946. *See* 1946 by N.Y. Sess. Laws, Ch. 17, § 137(4).

## **II. Political Calendar in 2022**

7. The independent nominating period pursuant to the Election Law for 2022 spanned from April 19 to May 31, with filings permitted between May 24 and May 31.

8. As a result of the invalidation of New York's congressional lines and state senate district lines on April 27, during the independent nominating period, and with new lines not to be promulgated until May 20, this court issued a new political calendar setting a full independent nominating period for congress and state senate to run from May 21, 2022 to July 5, 2022. (NYSCEF # 524).

9. The court expressly did not alter the political calendar for statewide or other independent candidates.

10. The Court observed at NYSCEF # 409 on May 5, 2022 that "this court does not intend to alter the time frame for gathering signatures for Independent Nominating Petitions for statewide elections. Election Law § 138 (4) sets a six-week time period for the gathering of signatures for Independent petitions .... Once the Congressional map has been established it will be up to the candidate to make sure he/she has the appropriate number of signatures from the appropriate number of different districts."

### **III. Pandemic Petition Circulation**

11. Currently there is no public health emergency in New York preventing petitioning, albeit indoor masking is strongly recommended in most places and required in some. Nothing in current New York law prevents persons circulating independent nominating petitions from calling voters by phone, emailing voters or using social media to solicit signature and then make comfortable arrangements for the actual signature collection.

12. The signature collection process can easily be accomplished applying social distancing. For example, the clip board or folder containing the petition sheet the voter needs to sign can be placed for the signer to pick up at a comfortable distance after the witness steps back, or the witness can hand the petition clipboard or folder to the signer at mutual arms' lengths. Social distancing concerns may add additional aspects to the signature collection process, but it does not render the collection process undoable.

13. No part of the petitioning process is uniquely difficult as compared to ordinary commercial interactions widely practiced by New Yorkers daily.

#### **IV. No Requirement For Petitioning Periods For All Office to Align**

14. Proposed intervenors posit that their inability to petition along with Congressional and State Senate candidates should permit a reduction of signatures and extension of time. Between 2012 and 2018, by design New York had a period for independent nominations for federal offices apart from state and local offices as a result of a series of federal court orders designed to move up the federal independent nominating period to ensure compliance with federal laws ensuring timely transmission of ballots. The current situation in 2022 is not dissimilar. While the parsing of the independent nominating period is not ideal, the reason it is required is because of the delays occasioned to come to new district lines for congress and state senate that meet constitutional muster. This burden is not one that reasonably diligent candidates cannot meet.

15. The burden is also greatly overstated. There is no requirement in law or equity that all petitioning processes must align in terms of time and filing.

#### **V. Distribution Table To Identify 500 Signatures In Each of One Half of New York's Congressional Districts**

16. The only part of the statewide petitioning process implicated by the decision in *Harkenrider* is the requirement to file a schedule indicating the pages of the petition on which at least 500 signatures from each of half of the congressional districts appear. There are 26 Congressional Districts so a statewide petition filer must demonstrate that there are at least 500 signatures from at least 13 Congressional Districts. This distribution requirement applies to *6,500 of the 45,000* required signatures (13 x 500). The congressional districts will be known, for certain, as of May 20, 2022 which is approximately eleven days from the end of the Independent petitioning period on May 31, 2022.

17. The proposed intervenors have alleged a profound burden figuring out which Congressional District their signatures apply to in eleven days. These averments imply it is necessary to lookup each voter to determine their congressional district.

18. It is not necessary to look up each voter.

19. When petition sheets are signed, the “town or city” in which each voter resides is provided next to the voter’s signature and address—except in New York city where the County is provided. Ascertaining the Congressional District in which a town is

situated (there are very few towns divided between Congressional Districts) allows ready ascertainment of the congressional district to which a signature relates. Typically, all of the signers on a given page are from the same town, allowing in most instances entire pages to be readily assigned to a congressional district. This process is slightly more complicated in larger counties or in New York City, but given the entire state is only divided into 26 Congressional Districts, a glancing familiarity with the geography of even a large county with respect to its Congressional Districts would allow the determination of the Congressional District applicable to any given page expeditiously.

20. The intervenors will have 11 days to create their distribution schedule as part of the page numbering and bindery of the petitions. This is not insurmountable nor particularly difficult and certainly not a burden a reasonably diligent slate of candidates for statewide office cannot meet. The requirement is that the independent nominating petition filer identify what sheets of the petition contain collectively, for each of half of the congressional districts, at least 500 signatures. If a sheet has any signature for a congressional district the page can be listed for that district even if it has signatures from another Congressional District thereon. The page number can likewise be listed for the other Congressional Districts appearing thereon as well.

21. It must also be noted that the new Congressional map proposed on May 16, 2022 contains only 15 divided counties, compared to 34 under the prior legislative map. Accordingly, ascertaining a voter's county from the town indicated on the petition also allows the immediate discernment of the Congressional District with respect to 47 of

New York's 62 counties. Finally, it is difficult to image a scenario where an effort to geographically disburse signature collection under the prior map would not provide adequate under the new one, again being cognizant that the distribution requirement only applies to 6,500 of the required signatures.

Dated: May 18, 2022

  
KRISTEN ZEBROWSKI STAVISKY

*Sworn to before me this  
18<sup>th</sup> day of May 2022*



NOTARY PUBLIC

*Nicholas R. Cartagean, Esq.  
Notary Public, State of New York  
Commission #: 02CA6408982  
Qualified in Albany County  
My Commission Expires: September 14, 2024*