

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF STEUBEN

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TIM HARKENRIDER, GUY C. BROUGHT,  
LA WREN CE CANNING, PATRICIA CLARINO,  
GEORGE DOOHER, JR., STEVEN EVANS, LINDA  
FANTON, JERRY FISHMAN, JAY FRANTZ,  
LAWRENCE GARVEY, ALAN NEWPHEW,  
SUSAN ROWLEY, JOSEPHINE THOMAS, and  
MARIANNE VOLANTE,

Index No. E2022-0116CV

*Petitioners,*

-against-

**AFFIRMATION OF  
JAMES OSTROWSKI**

GOVERNOR KA THY HOCHUL, LIEUTENANT  
GOVERNOR AND PRESIDENT OF THE SENA TE  
BRIAN A. BENJAMIN, SENATE MAJORITY LEADER  
AND PRESIDENT PRO TEMPORE OF THE SENA TE  
ANDREA STEWART-COUSINS, SPEAKER OF THE  
ASSEMBLY CARL HEASTIE, NEW YORK ST ATE  
BOARD OF ELECTIONS, and THE NEW YORK ST A TE  
LEGISLATIVE TASK FORCE ON DEMOGRAPHIC  
RESEARCH AND REAPPORTIONMENT,

*Respondents.*

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JAMES OSTROWSKI, an attorney admitted to practice in this State, affirms as follows under penalties of perjury:

1. I represent the proposed intervenors and make this affirmation in support of their motion for permission to intervene.
2. The proposed intervenors are each candidates for office whose campaigns were suddenly terminated due to the Respondents' failure to produce constitutionally-compliant maps for Congress and State Senate.
3. The intervenors are as follows:
  - A. Benjamin Carlisle, former candidate for the Democratic nomination for State Senate in the 60th District.
  - B. Emin Eddie Egriu, former candidate for the Democratic nomination for House of Representatives in the 26th District.
  - C. Michael Rakebrandt, former candidate for the Libertarian nomination for Congress in the 2nd District.
  - D. Jonathan Howe, former candidate for the Libertarian nomination for Congress in the 14th District, and
  - E. Howard Rabin, former candidate for the Libertarian nomination for Congress in the 1st District.

4. I am fully familiar with the facts of this matter as I have done legal work for Messrs. Carlisle and Egru in connection with their current campaigns and I am attorney for the New York State Libertarian Party, which supports the candidacies of Messrs. Rakebrandt, Howe and Rabin.
5. Messrs. Carlisle and Egru also reserve the right to seek an independent line on the ballot as well as compete in the Democratic Primary election.
6. Proposed intervenors seek to intervene as of right and, alternatively, by permission. CPLR 1012 and 1013.
7. Each proposed intervenor has been running an active campaign in their former districts. Messrs. Carlisle and Egru have already filed designating petitions.
8. Messrs. Rakebrandt, Howe and Rabin had been actively gathering signatures for independent nominating petitions for their respective districts.
9. Each intends to campaign in the most appropriate new districts once the new maps are finalized by this Court.
10. Their primary interest is protecting their state constitutional and statutory rights to compete in primary elections (Messrs. Carlisle and Egru), and or file petitions for independent nominations (all proposed intervenors). NY

Constitution, Art. I, §§ 1, 6, 8, 9, 11; Election Law, ARTICLE 6—  
DESIGNATION AND NOMINATION OF CANDIDATES.

11. Although the Court of Appeals alluded to these rights in its decision of April 27, 2022, p. 30, few details were provided and proposed intervenors believe they have the right to participate in the remainder of this proceeding to protect those rights.
12. It would be ironic if a lawsuit filed to increase the competitiveness of elections in this state, prevented candidates who are the very agents of such competitiveness from obtaining ballot status.
13. An additional ground for their motion is the focus of the petitioners on the illegality of the prior maps, and the need for new and constitutional maps to be produced, but the silence of their petition on any details concerning protecting the rights of prior candidates whose campaigns were effectively ended by this proceeding. See, Petition pars. 197, 207, 215, 226; Prayer for Relief, p. 65, et seq.; § 1012(2) (“when the representation of the person's interest by the parties is or may be inadequate and the person is or may be bound by the judgment.”)
14. Intervention by permission is justified because of the existence of “common questions of law or fact” and the absence of prejudice or delay. CPLR 1013.

15. Our proposed pleading is attached as Exhibit “A”.
16. The proposed intervenors have been apprised of any potential conflicts of interests among them and deny any such conflicts exist, and, in any event, waive any theoretical conflicts that might be imagined.

WHEREFORE, the proposed intervenors respectfully request that the Court grant their motion to intervene as of right, or in the alternative, by permission, and to grant such other and further relief as they Court may deem just and proper.

Dated: Buffalo, New York  
May 2, 2022

/s/ James Ostrowski  
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