

**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
VOLANTE,

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 REAPPORTIONMENT,

Respondents.

**Affirmation in Opposition to
Motions to Intervene**

Index No. E2022-0116CV

McAllister, J.S.C.

Return Date:
May 10, 2022

Heather L. McKay, an attorney admitted to practice before the Courts of the State of New York, hereby states under penalties of perjury:

1. I am an Assistant Attorney General in the New York State Attorney General's Office, attorney for Respondents Governor Hochul and the Lt. Governor (the "Executive Respondents") in this matter.

2. I make this declaration in opposition to the three pending motions to intervene: (1) Petitioner-Intervenor Gavin Wax's motion by Order to Show Cause seeking to intervene to invalidate the New York State Assembly map (hereafter, "Assembly Map") (Motion # 11 via NYSCEF), *see* NYSCEF No. 325; (2) Petitioners-Intervenors Benjamin Carlisle, Emin Eddie Egriu, Michael Rakebrandt, Jonathan Howe, and Howard Rabin's motion to intervene to "protect their rights as candidates for Congress and New York State Senate" (Motion # 12 via NYSCEF),

see NYSCEF No. 339; and (3) Petitioner-Intervenor Gary Greenburg’s motion by Order to Show Cause seeking to intervene and obtain an order (a) declaring the Assembly Map invalid; (b) enjoining Respondents to adjourn the primary election date for the New York State Assembly from June 28, 2022 to August 23, 2022; (c) enjoining the deadline for military and overseas ballots to July 8, 2022, or a date that this Court otherwise deems appropriate; (d) applying the same remedial procedures this Court has ordered in this action with respect to Congressional and State Senate apportionment and redistricting to State Assembly apportionment and redistricting, including a new Assembly Map; (e) adopting appropriate measures and processes with respect to Congressional, State Assembly, State Senate, and state-wide office; and (f) suspending or enjoining the operation of any other state laws, . . . that would undermine this Court’s ability to offer effective and complete relief to Petitioner” (Motion # 13 via NYSCEF), *see* Docket No. 360.

3. Attached hereto and made a part hereof as **Exhibit 1** is a true and correct copy of the Appellate Division, Fourth Department’s Order, entered April 14, 2022, denying a prior motion to intervene in this special proceeding.

4. Attached hereto and made a part hereof as **Exhibit 2** is a true and correct copy of the Decision of Hon. Stephen K. Lindley, dated April 8, 2022, ordering a partial stay of the March 31, 2022 order by Hon. Patrick F. McAllister.

5. For the reasons detailed in their accompanying memorandum of law, the Executive Respondents oppose the motions to intervene and respectfully request that they be denied in their entirety.

Dated: May 9, 2022
Rochester, NY

s/ Heather L. McKay
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