

STATE OF NEW YORK SUPREME COURT  
APPELLATE DIVISION : THIRD DEPARTMENT

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ANTHONY S. HOFFMANN, MARCO  
CARRIÓN, COURTNEY GIBBONS, LAUREN  
FOLEY, MARY KAIN, KEVIN MEGGETT,  
CLINTON MILLER, SETH PEARCE, VERITY  
VAN TASSEL RICHARDS, and NANCY VAN  
TASSEL,

**AFFIRMATION IN  
SUPPORT OF  
MOTION FOR  
LEAVE TO FILE  
BRIEF AS AMICI  
CURIAE**

*Petitioners-Appellants,*

-against-

**No. CV-22-2265**

THE NEW YORK STATE INDEPENDENT  
REDISTRICTING COMMISSION,  
INDEPENDENT REDISTRICTING  
COMMISSION CHAIRPERSON KEN  
JENKINS, INDEPENDENT REDISTRICTING  
COMMISSIONER ROSS BRADY,  
INDEPENDENT REDISTRICTING  
COMMISSIONER JOHN CONWAY III,  
INDEPENDENT REDISTRICTING  
COMMISSIONER IVELISSE CUEVAS-  
MOLINA, INDEPENDENT REDISTRICTING  
COMMISSIONER ELAINE FRAZIER,  
INDEPENDENT REDISTRICTING  
COMMISSIONER LISA HARRIS,  
INDEPENDENT REDISTRICTING  
COMMISSIONER CHARLES NESBITT, and  
INDEPENDENT REDISTRICTING  
COMMISSIONER WILLIS H. STEPHENS,

*Respondents-Respondents,*

-and-

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,

*Intervenors-Respondents.*

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ANDREA W. TRENTO, an attorney licensed to practice in New York, hereby affirms the truth of the following, subject to the penalties of perjury:

1. I am an Assistant Solicitor General in the Appeals and Opinions Bureau of the Office of New York State Attorney General Letitia A. James.

2. I submit this affirmation in support of the Attorney General's and the Governor's motion for leave to appear as amici curiae in the appeal from the final order of the Supreme Court, Albany County (Lynch, J.) dated September 14, 2022. A copy of the subject order is attached hereto as Exhibit A. A copy of the proposed Brief of Amici Curiae the Governor and Attorney General of the State of New York is attached hereto as Exhibit B.

3. Under Third Department Rule 850.4(d)(2), a motion for permission to serve and file an amicus brief shall be noticed for a return date no later than 45 days prior to the first day of the term of Court for which the case is scheduled to be argued. On March 27, this Court scheduled the appeal for the May term, the first day of which is May 30. Forty-five days before May 30 is Saturday, April 15; and this motion is noticed with a return date the following business

day, Monday, April 17. Even if this return date is considered out-of-time under the Court's rule, we nonetheless request that the Court accept the brief for filing. We have proceeded expeditiously since the time we learned that the appeal was scheduled for the May term, and the limited additional time was required to prepare a brief that would be helpful to the Court.

4. At issue in the appeal is whether the remedial congressional district map drawn by the Supreme Court, Steuben County with the aid of a special master in advance of the 2022 elections in *Matter of Harkenrider v. Hochul*, Index No. E2022-0116CV, NYSCEF No. 670 (Decision & Order) (Supreme Ct., Steuben County May 21, 2022), must remain in effect for the congressional elections scheduled to take place in 2024, 2026, 2028, and 2030. The map in *Harkenrider* was drawn by the court, notwithstanding the roles prescribed by the Constitution for the independent redistricting commission and Legislature in the preparation of remedial maps, *see* N.Y. Const. art. III, §§ 5, 5-b(a), because the exigencies of the 2022 election calendar "required" such relief, *see id.* § 4(e). However, those exigencies are not present with regard to the next four elections. Therefore, those elections should be conducted with the benefit of a congressional district map that adheres to all constitutional requirements.

5. The Governor and Attorney General respectfully request

permission to submit an amicus brief in support of petitioners-appellants in this proceeding. The purpose of this application is to ensure that this Court has the benefit of the shared interpretation by the State's chief executive officer and its chief legal officer of the constitutional provisions governing congressional redistricting in our State, and in particular how they apply to the circumstances of this case. The Governor and Attorney General have duties, respectively, to "take care" that the laws are properly executed and to "prosecute and defend all actions and proceedings in which the state is interested." N.Y. Const. art. IV, § 3; N.Y. Exec. L. 63(1). Both amici have a strong interest in the proper interpretation and application of the relevant constitutional provisions to effectuate the goals of the amendments that brought them into being.

6. In view of the above, I respectfully seek leave to file the attached Brief of Amici Curiae the Governor and the Attorney General of the State of New York to aid the Court in its resolution of this appeal.

Dated: New York, New York  
April 7, 2023

  
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ANDREA W. TRENTO  
Assistant Solicitor General

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