

May 2, 2022

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**By NYSCEF Filing and Electronic Mail**

Honorable Patrick F. McAllister  
Supreme Court, Steuben County  
3 East Pulteney Square  
Bath, New York 14810

Special Master Jonathan Cervas  
Institute for Politics and Strategy  
Carnegie Mellon University  
Posner Hall 386  
5000 Forbes Avenue  
Pittsburgh, Pennsylvania 15213

Re: *Harkenrider v. Hochul*, Index No. E2022-0116CV

Dear Justice McAllister and Special Master Cervas:

We represent Common Cause/New York, the New York state chapter of Common Cause, Inc. (“Common Cause”). Common Cause is a non-profit nonpartisan democracy organization with more than 1.5 million members and local organizations in 30 states, including 65,000 members and supporters in New York located in all 62 New York counties.

In advance of the hearings scheduled for this Friday, May 6, before Special Master Cervas, we respectfully submit herewith for the Court’s and the Special Master’s consideration a proposed statewide congressional redistricting map, together with a district-by-district explanation of the map and demographic data of each of districts. Shapefile data and block assignment data, which cannot be uploaded, can be accessed and downloaded at <https://dechert.box.com/s/ve3xs4j92roshbiz03n948jj41p70g9>. In the event the Court deems it necessary, we are prepared promptly to move by Order to Show Cause to supplement the record with these proposed congressional maps. In the interest of time, however, consistent with the schedule set forth for the submission of proposed Senate and community of interest maps in the Court’s Order dated April 29, 2022, and to provide parties and other interested persons with an opportunity to review and consider Common Cause’s proposed congressional map in advance of the May 6 hearing, we believed it appropriate to submit these maps as soon as they were available. We respectfully submit that additional motion practice should not be required and the maps should be considered on their substance and merits.<sup>1</sup>

Since its founding by John Gardner in 1970, Common Cause has been dedicated to fair elections and making government at all levels more representative, open, and responsive to the interests of ordinary

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<sup>1</sup> We acknowledge that the April 29 order authorized the filing of supplemental Senate and community of interest maps, but did not expressly authorize the submission of additional proposed congressional maps. Nevertheless, the Special Master, who has extensive map-drawing experience, is not limited to choosing among the competing maps that have been submitted, and should be permitted to consider Common Cause’s proposed maps, any other maps submitted in advance of the hearing, and any testimony or arguments at the hearing in drawing the maps he will submit for the Court’s approval.

people. Common Cause also assists voters in navigating the elections process, provides resources for voters to determine their districts and their polling locations, and mobilizes voters to engage in political advocacy. Unfair and racially discriminatory redistricting directly frustrates and impedes Common Cause's core missions of making government more responsive to the interests of communities by diminishing the voices of the voters Common Cause works to engage and forces Common Cause to divert resources toward directly combatting the ill effects of unlawful redistricting.

In accordance with its core organizational purpose, Common Cause/New York has long been active in promoting non-partisan redistricting processes in New York that uniquely positions it to assist the Special Master and the Court here. First, in the last redistricting cycle, Common Cause was the only interested person to draw and submit non-partisan statewide maps. Both the special master in that litigation as well as the three-judge panel of the Eastern District of New York accepted the Common Cause map as fair and reasonable. In fact, the parties in that litigation were instructed by the Court to discuss whether the Court should simply adopt the proposed congressional map drawn by Common Cause/New York in the first round of briefing, and significant portions of the Common Cause map were ultimately incorporated into the map drawn by the special master and put into use.

Following the 2010 redistricting cycle, Common Cause/New York opposed the creation of the current Redistricting Commission because it was simply a bi-partisan commission to which redistricting responsibilities were delegated, and was neither independent nor non-partisan. Indeed, Common Cause/New York obtained a court order in 2014 prohibiting the state from describing the proposed redistricting commission to be established by the proposed constitutional amendment as "independent," because it is not.

More recently, Common Cause/New York provided extensive comments to the Redistricting Commission on its two sets of proposed maps, although it did not draw a statewide congressional map at that time in light of the need to balance expenditure of resources. Following the Court of Appeals decision on April 27, 2022, however, given the lack of a nonpartisan statewide map, Common Cause/New York decided it was necessary to use its unique expertise and draw a statewide congressional map on an emergency basis for the Court's and the Special Master's consideration. Common Cause/New York has acted as expeditiously as possible, and has drawn a complete proposed statewide, non-partisan congressional map in less than a week since the Court of Appeals issued its decision. And to make the proposed congressional map as usable as possible, Common Cause/New York has submitted both the map and the shape file to assist in the Special Master's drawing of his own maps.

Finally, including the Common Cause maps in the record in advance of the hearing will promote judicial efficiency and will not prejudice any party or other interested person. The April 29 order provides that any interested person may appear at the hearing on May 6 and voice opposition to, *inter alia*, any previously submitted proposed congressional map. Susan Lerner, the Executive Director of Common Cause/New York, intends to appear at the May 6 hearing and to testify in opposition to both parties' proposed congressional maps and to utilize Common Cause's proposed map to explain her opposition on the grounds that a fairer, non-partisan statewide map can be drawn. Supplementing the record in advance of the May 6 hearing to include Common Cause's proposed map will make such testimony more efficient for the Special Master and ensure a complete record in the event of further judicial proceedings. If the proposed map is not included in the record, the April 29 Order already permits Ms. Lerner the ability to voice opposition to

the other parties' proposed maps on the basis that the Common Cause map is non-partisan and is superior to the other maps on the relevant redistricting criteria. Allowing the record to be supplemented in advance will enable the parties and other interested persons to scrutinize and offer testimony or argument on the proposed Common Cause map at the May 6 hearing – a process that Common Cause/New York welcomes because its proposed non-partisan map is far superior to any other map that has been proposed.<sup>2</sup> And, because the Court has already authorized any interested person to voice opposition to the previously submitted maps regardless of whether such person has submitted an alternate map, Ms. Lerner will appear and testify at the May 6 hearing irrespective of whether the Common Cause map is accepted; including the Common Cause maps in the record will therefore not prejudice any party.

Respectfully submitted,

*/s/ Neil A. Steiner*

Neil A. Steiner

cc: All counsel of record (via NYSCEF)

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<sup>2</sup> For New York City, the proposed Common Cause map is very similar to the proposed Unity Map. Unlike the Unity Map, however, the Common Cause map is a complete statewide map that utilizes the nonpartisan redistricting standards set forth in the state constitution and reform nonpartisan redistricting principles to present a complete nonpartisan statewide map for Congress.

Index of Exhibits

Ex. A	CCNY Congress 5-1-22 – Statewide Pic
Ex. B	CCNY Congress 5-1-22 – NYC Pic
Ex. C	CCNY Congress 5-1-22 – Long Island Pic
Ex. D	CCNY Congress 5-1-22 – Downstate Pic
Ex. E	CCNY Congress 5-1-22 demographics
Ex. F	CCNY Congress Map District-by-District Explanations