

**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,

Petitioner,

-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.

**Governor Hochul’s and
Lt. Governor Benjamin’s
Answer to Petition**

Index No. E2022-0116CV

McAllister, J.S.C.

Return Date:
March 3, 2022

The respondents, Governor of New York State Kathy Hochul and Lieutenant Governor and President of the Senate of New York State Brian A. Benjamin (the “Executive Respondents”) answer the Petition as follows:

1. Admit paragraphs 24, 25, 26, 27, 28, 29, 32, 33, 34, 35, 36, 44, 46, 47, 48, 49, 50, 52, 53, 54, 56, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 76, 98, 143, 144, 159, 205, and 206.
2. Upon information and belief, admit paragraphs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 75, 79, 80, 83, 85, 86, 90, 93, 97, 101, 103, 107, 142, 147, and 162.
3. Deny paragraphs 1, 6, 7, 8, 9, 38, 39, 42, 51, 57, 77, 104, 110, 111, 112, 114, 115, 118, 120, 122, 123, 124, 133, 134, 137, 138, 139, 140, 146, 148, 150, 153, 154, 158, 160, 165, 166,

174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 189, 190, 192, 193, 195, 196, 197, 202, 203, 204, 207, 212, 213, 215, 219, 220, 221, 222, 223, 224, 225, and 226.

4. Deny knowledge or information sufficient to form a belief as to truth of the allegations contained in paragraphs 81, 82, 84, 87, 88, 89, 91, 94, 95, 96, 99, 100, 102, 106, 108, 113, 116, 119, 125, 126, 127, 128, 129, 130, 132, 141, 145, 156, 157, 161, 169, 170, 171, 172, and 194 and therefore deny the same.

5. State paragraphs 30, 31, 41, 187, 188, 199, 200, 201, 209, 210, and 211 contain legal conclusions to which no response is required, but to the extent a response is required deny the same.

6. Regarding paragraph 2, deny “exclusive” and the final sentence in said paragraph and admit the remaining allegations.

7. Regarding paragraph 3 deny the State “bragged about these” and admit the remaining allegations.

8. Regarding paragraph 4, admit there was a proposed Constitutional amendment and deny the remaining allegations.

9. Regarding paragraph 5, deny “exclusive” and admit the remaining allegations.

10. Regarding paragraph 37, deny LATFOR is a partisan body that produced partisan maps and admit the remaining allegations.

11. Regarding paragraph 40, deny “significant leeway to gerrymander for partisan and incumbent gain” and admit the remaining allegations.

12. Regarding paragraph 43, deny “exclusive” and admit the remaining allegations.

13. Regarding paragraph 45, deny “against the Legislature’s continued gerrymandering practices” and admit the remaining allegations.

14. Regarding paragraph 55, deny “would have gutted the 2014 constitutional reforms” and admit the remaining allegations.

15. Regarding paragraph 58 deny “attempts to avoid the Constitution’s limitations” and “notwithstanding the expressed desires of the People of this State” and admit the remaining allegations.

16. Regarding paragraph 73, deny “exclusive” and admit the remaining allegations.

17. Regarding paragraph 78, deny the first sentence and admit the remaining allegations.

18. Regarding paragraph 92, deny “partisan” and upon information and belief admit the remaining allegations.

19. Regarding paragraph 105, deny “turning a blind eye to the mandatory and exclusive constitutional process for redistricting established in Article III, Section 4” and admit the remaining allegations.

20. Regarding paragraph 109, admit the enacting legislation had a “notwithstanding clause” and deny the remaining allegations.

21. Regarding paragraph 117, deny “partisan” and the last sentence and admit the remaining allegations.

22. Regarding paragraph 121, deny “capturing overwhelmingly Democrat-voting towns along the shore” and admit the remaining allegations.

23. Regarding paragraph 131, deny “thereby drastically changing the political composition of this district, providing the Democrats a drastically increased change of flipping it” and admit the remaining allegations.

24. Regarding paragraph 135, deny “Democratic strongholds” and “in order to ‘crack’

them out of Congressional District 18” and admit the remaining allegations.

25. Regarding paragraph 136, deny “awkwardly connected” and “neutralizing these Republican votes” and admit the remaining allegations.

26. Regarding paragraph 149, deny “Republican communities” and “to add Democrat voters” and admit the remaining allegations.

27. Regarding paragraph 151, deny “to pick up additional Democratic voters there” and admit the remaining allegations.

28. Regarding paragraph 152, deny “to pick up the Democrat-voting city of Utica” and admit the remaining allegations.

29. Regarding paragraph 155, deny “thereby packing additional Republican voters” and “eliminating their ability to make surrounding districts more competitive for Democratic candidates” and admit the remaining allegations.

30. Regarding paragraph 163, deny “while notably avoiding certain portions of Monroe and Ontario counties” and admit the remaining allegations.

31. Regarding paragraph 164, deny “with little or nothing in common” and admit the remaining allegations.

32. Regarding paragraph 167, deny “egregious gerrymandering” and “with only slight modifications not related to their gerrymandering efforts” and admit the remaining allegations.

33. Regarding paragraph 168, deny “egregious gerrymandering” and admit the remaining allegations.

34. Regarding paragraph 173, deny “thereby blessing her fellow Democrats’ blatant gerrymandering efforts” and admit the remaining allegations.

35. Regarding paragraph 191, deny “leaving the Legislature with no p=maps to act on within the scope of its limited constitutional role” and admit the remaining allegations.

36. Regarding paragraph 214, admit Governor Hochul signed the congressional map into law and respectfully refers the Court to the cited New York Times article for its content.

37. Regarding paragraph 217, admit that is what the Petitioner seeks but deny they are entitled to such relief.

38. Regarding paragraph 218, admit New York Courts must properly construe the New York Constitution and deny the remaining allegations.

39. State paragraphs 186, 198, 208, and 216 refer to other paragraphs in the Petition and answer said paragraphs as the referred to paragraphs were answered.

40. Deny every allegation not otherwise specifically addressed.

1st Affirmative Defense

41. The Court does not have personal jurisdiction over Governor Hochul or Lt. Governor Benjamin.

2nd Affirmative Defense

42. The 2022 enacted New York Congressional district maps are proper.

3rd Affirmative Defense

43. The 2022 enacted New York Congressional district maps were properly enacted.

4th Affirmative Defense

44. The Governor and Lt. Governor are entitled to immunity under the NY Constitution’s speech and debate clause and common law.

5th Affirmative Defense

45. This matter is nonjusticiable.

6th Affirmative Defense

46. The Petition fails to state a claim upon which relief can be granted.

The Return

47. The Executive Respondents submit the Return in this matter, which consists of the Affirmation of Heather McKay, Esq., sworn to February 24, 2022, with exhibits, in opposition to the Petition and in support of the Executive Respondents' Motion to Dismiss, and the Executive Respondents' Memorandum of Law in opposition to the Petition and in support of the Executive Respondents' Motion to Dismiss, copies of which will be filed with the New York State Courts Electronic Filing System, and said documents are incorporated by reference herein and made a part hereof.

48. The Executive Respondents further join in and adopt all arguments made by co-Respondents in this action.

WHEREFORE, the Executive Respondents pray that judgment be entered dismissing the Petition in all respects and that the Executive Respondents be awarded reasonable costs and attorney fees and for such further relief as is proper and equitable.

Dated: February 24, 2022

LETITIA JAMES
Attorney General for the State of New York
Attorney for Respondents Governor Kathy Hochul and Lieutenant Governor and President of the Senate Brian A. Benjamin

s/ Matthew D. Brown

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