

troutman.com

Misha Tseytlin

misha.tseytlin@troutman.com

January 23, 2023

VIA NYSCEF

Robert Mayberger, Clerk
Supreme Court of the State of New York
Appellate Division, Third Department
State Street, Room 511
Albany, New York 12223

**Re: Hoffman, et al. v. New York State Independent Redistricting Commission, et al.,
Case No. CV-22-2265**

Dear Clerk Mayberger:

I represent Intervenor-Respondents Timothy Harkenrider, Guy C. Brought, Lawrence Canning, Patricia Clarino, George Dooher Jr., Steven Evans, Linda Fanton, Jerry Fishman, Jay Franz, Larry Garvey, Alan Nephew, Susan Rowley, Josephine Thomas, and Marianne Violante in the above-captioned matter. Intervenor-Respondents are in receipt of Petitioners' letter application dated January 20, 2023, Case No. CV-22-2265, NYSCEF No.38 (3d Dep't Jan 20, 2023), requesting a calendar preference in this case.

Intervenor-Respondents agree with Commissioners Brady, Conway, Harris, Stephens, and Nesbitt that Petitioners' letter application is procedurally improper and substantively meritless. See Case No. CV-22-2265, NYSCEF No.39 (3d Dep't Jan 22, 2023). Petitioners have delayed at every step of the appellate process thus far, waiting until the very last day to file their Notice Of Appeal, and then waiting yet another three months before perfecting their appeal. They now, remarkably, ask the other parties in this case to brief this appeal, and this Court to hold oral argument and then issue a decision, all in significantly less time than they waited to file just their opening brief.

This conduct is, regrettably, par for the course for Petitioners' approach to this entire dispute. Petitioners inexplicably waited over six months to file this mandamus-based, Article 78 Petition after the Independent Redistricting Commission ("IRC") very publicly declared its decision to disregard its constitutional duties. Case No. 904972-22, NYSCEF No.144 at 18–21 (Albany Cnty. Sup. Ct. Sept. 2, 2022). In addition to supporting the denial of Petitioners' request for preference, Petitioners' serial delays throughout this case are an additional, powerful reason that their mandamus lawsuit, and thus their appeal, are utterly meritless. See *id.*

Sincerely,

/s/ Misha Tseytlin

Misha Tseytlin

cc: All Counsel of Record (via NYSCEF)