

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF STEUBEN

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TIM HARKENRIDER, GUY C. BROUGHT,  
LAWRENCE CANNING, PATRICIA CLARINO,  
GEORGE DOOHER, JR., STEHPAN EVANS, LINDA  
FANTON, JERRY FISHMAN, JAY FRANTZ,  
LAWRENCE GARVEY, ALAN NEPHEW, SUSAN  
ROWLEY, JOSEPHINE THOMAS, and MARIANNE  
VIOLANTE,

Petitioners,

- against -

GOVERNOR KATHY HOCHUL, LIEUTENANT  
GOVERNOR AND PRESIDENT OF THE SENATE BRIAN  
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.

Index No. E2022-0116CV

**PROPOSED ANSWER TO  
AMENDED PETITION  
WITH ADDITIONAL CAUSE  
OF ACTION SEEKING TO  
MODIFY PROVISIONS FOR  
INDEPENDENT  
CONGRESSIONAL AND  
STATE SENATE  
CANDIDATES**

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Petitioner-Intervenor Mark Braiman (“Petitioner-Intervenor”), by his counsel, the Law Office of Gary L. Donoyan, for his Proposed Answer to the Amended Petition with Additional Cause of Action Seeking to Modify Provisions for Independent Congressional and State Senate Candidates, alleges as follows:

1. Admits paragraphs 1-11, 32-217, 219-223, 235-245, 247-255, 257-263, and 265-274.
2. Upon information and belief, admits paragraphs 12-26, 28-31, 218, and 224-233.
3. Denies paragraph 27.
4. Repeats and realleges his responses to the above paragraphs as appropriate, as his

response to paragraphs 234, 246, 256, and 264.

**NEW CAUSE TO MODIFY PROVISIONS OF THIS COURT'S MAY 11, 2022 DECISION  
AND ORDER WHICH SET CRITERIA FOR BALLOT QUALIFICATION FOR  
INDEPENDENT CONGRESSIONAL AND STATE SENATE CANDIDATES**

**(N.Y. Const. art. I, §8, U.S. Const. Amends. I and XIV;  
Facial Violation of Free Speech Rights)**

5. Petitioner-Intervenor incorporates each of the foregoing paragraphs as if fully set forth herein.

6. Article I, §8 of the New York Constitution provides that “Every citizen may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press.”

7. Enforcement of this Court’s May 11, 2022 Decision and Order which set criteria for ballot qualification for independent Congressional and State Senate candidates without modification would, as applied, severely burden petitioner-intervenor’s Free Speech rights under the New York Constitution, Art. I, §8, and the United States Constitution, First and Fourteenth Amendments.

8. As a result of the separation of the filing period for the petitions of independent Congressional and State Senate candidates (June 27 – July 5, 2022), from the filing period for the petitions of independent statewide candidates (May 24 – May 31, 2022), as well as the disqualification of all signatures previously collected by independent Congressional and State Senate candidates, and the maintenance of the same high signature requirements set by the Election Law despite the much greater difficulties now encountered by such candidates due both to the late promulgation of district lines and the restrictions and fears caused by Covid-19, all part of this Court’s May 11, 2022 Decision and Order, independent Congressional and State Senate candidates are prevented from fully exercising the core political speech of circulating petitions, and competing in the 2022 election.

9. As a whole, these elements of the May 11, 2022 Decision and Order, to be enforced by Respondent New York State Board of Elections, will be virtually impossible to comply with and consequently will result in a reduction or elimination of independent Congressional and State Senate

candidates for 2022.

10. In particular, failure to continue the longstanding and statutorily endorsed practice of providing for the combination of petition sheets for independent statewide candidates with those for independent Congressional and State Senate candidates, prejudices alike all independent candidates, and independent political parties (known as independent bodies) endeavoring to achieve recognized party status.

11. As such, the Court should remedy the harms caused by these insurmountable obstacles, as it has been mandated to do by the Court of Appeals in its decision of April 27, 2022.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner-Intervenor respectfully requests that this Court enter judgment and order against Respondents as follows:

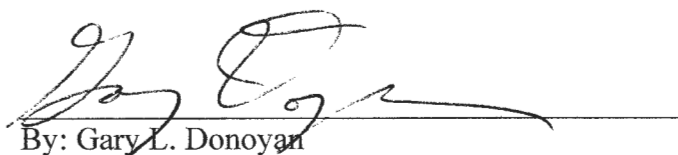
- A. Modifying the May 11, 2022 Decision and Order, which set “political calendar dates” for “the independent nominating process for Member of Congress and New York State Senate, for the November 8, 2022 General Election for State Senate and Member of [United States] House of Representatives,” so to set the same such dates for independent statewide and independent New York State Assembly candidates as well;
- B. Modifying the May 11, 2022 Decision and Order, which ordered “the signature requirements provided for by current law to be unchanged,” so to provide for a 50% reduction in signatures required for independent candidates for Congress from 3,500 to 1,750 signatures, and for independent candidates for State Senate from 3,000 to 1,500;
- C. Modifying the May 11, 2022 Decision and Order, which set May 21, 2022 as “First day to sign” for independent Congressional and State Senate candidates’ petitions, so to provide that valid signatures gathered on otherwise valid petitions between April 19 and April 27, by the same candidates of voters residing within the newly-created districts, as

the case may be, shall also count towards the required total number of signatures;

- D. Suspending or enjoining the operation of any other state laws or orders that would undermine this Court's ability to offer effective and complete relief to Petitioner-Intervenor for the November 2022 election;
- E. Awarding Petitioner-Intervenor all of his reasonable attorneys' fees and costs; and
- F. Awarding Petitioner-Intervenor such other and further relief as this Court deems just and proper.

Dated: May 16, 2022  
Manhasset, New York

THE LAW OFFICE OF GARY L. DONOYAN



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