

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., STEPHEN EVANS,  
LINDA FANTON, JERRY FISHMAN, JAY  
FRANTZ, LAWRENCE GARVEY, ALAN  
NEPHEW, SUSAN ROWLEY, JOSEPHINE  
THOMAS, AND MARIANNE VIOLANTE,

Index No.: E2022-0116CV

**PROPOSED ANSWER TO  
AMENDED PETITION WITH  
ADDITIONAL CAUSE OF ACTION  
SEEKING TO MODIFY  
ELECTION LAW PROVISIONS  
FOR INDEPENDENT STATEWIDE  
CANDIDATES**

Petitioners,

v.

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.

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**PLEASE TAKE NOTICE** that Petitioner-Intervenors Larry Sharpe, Diane Sare and William Cody Anderson, as Chair and de facto President of the Libertarian Party of New York ("Petitioner- Intervenors") allege as follows and for their Proposed Answer to the Amended Petition with Additional Cause of Action Seeking to Modify Election Law Provisions For Independent Statewide candidates:

1. Admit paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 32-119, 121-217, 219-223, and 234-274.
2. Admit paragraph 10, but deny footnotes 6 and 7, as petitioner-intervenors acquiesce in other petitioner-intervenors efforts to invalidate Assembly Maps.

3. Admit paragraph 120, but deny footnote 23.
4. Deny paragraph 27.
5. Upon information and belief, admit paragraphs 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 218, and 224-233.

**NEW CAUSE TO MODIFY ELECTION LAW PROVISIONS FOR INDEPENDENT STATEWIDE CANDIDATES**

**(N.Y. Const. art. I, § 8; As Applied Violation of Free Speech)**

6. Petitioner-Intervenors incorporate each of the foregoing paragraphs as if fully set forth herein.

7. Article I, Section 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.”

8. Enforcement of certain election law provisions without modification would, as applied, severely burden Free Speech under the New York State Constitution, Art. 1, § 8 and the First Amendment of the US Constitution, as applied to the states under the 14<sup>th</sup> Amendment.

9. As a result of the voiding of congressional and state senate district maps, as applied enforcement without modification of Election Law 6-158(9), which requires independent nominating petitions to be filed not later than 23 weeks preceding the November election, or the 31st of May this year, would prevent independent statewide candidates from the core political speech of circulating petitions, and competing in the 2022 election.

10. Enforcement without modification of Election Law 6-142(1), which requires 500 signatures from each of at least half of all congressional districts, is now virtually impossible to comply with and consequently will result in a reduction or elimination of independent statewide candidates given the continuing absence of district lines and still fixed May 31 petitioning deadline pursuant to Election Law 6-158(9).

11. With down-ballot candidates unable to ascertain the parameters of their districts, and the statutorily fixed May 31, 2022 petitioning deadline, failure to satisfy the 45,000 signature requirement set Election Law 6-142(1) is all but assured, which prejudices alike both independent statewide candidates and political parties as independent bodies endeavoring to achieve recognized party status.

12. The New York State Board of Election's May 11, 2022 proposed order, now entered by this Court, is silent on independent statewide candidates and let stand the May 31, 2022 petitioning deadline.

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

**PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner-Intervenors respectfully request that this Court enter judgment and order against Respondents as follows:

- A. Enjoining Respondents, including the NEW YORK STATE BOARD OF ELECTIONS, from enforcing Election Law 6-158(9) with respect to the May 31, 2022 petitioning deadline;
- B. Enter Judgment Extending the petitioning period by 4 weeks from May 31;
- C. Enjoining Respondents from enforcing Election Law 6-142(1) with respect to the 45,000 signature threshold;
- D. Entering Judgment modifying Election Law 6-142(1) for the 2022 election and reduce the threshold to 30,000 or to the pre-2020 statutory requirement of 15,000.
- E. Enjoining Respondents from enforcing Election Law 6-142(1), which requires 500 signatures from each of at least half of now absent congressional districts.

F. Suspending or enjoining the operation of any other state laws that would undermine this Court's ability to offer effective and complete relief to Petitioner-Intervenors for the November 2022 elections and related primaries;

G. Awarding Petitioner-Intervenors all of their reasonable attorneys' fees and costs; and

H. Awarding such other and further relief as the Court may deem just and proper.

Respectfully submitted,

Dated: May 11, 2022  
New York, NY

  
Jonathan O'Brien, Esq  
LAW OFFICE OF Jonathan O'Brien  
200 Park Avenue-Suite 1700  
New York, NY 10166  
Telephone: (610) 368-2988  
Email: [jobrien@burnsobrienlaw.com](mailto:jobrien@burnsobrienlaw.com)

*Counsel for Petitioner-Intervenors Larry Sharpe, Diane Sare, and William Cody Anderson, as Chair and de facto President of the Libertarian Party of New York*