

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  
VOLANTE,

Index No. E2022-0116CV

Petitioners,

-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.

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**PETITIONERS' RESPONSE MEMORANDUM IN OPPOSITION TO  
INTERVENTION REQUESTS BY (1) GAVIN WAX; (2) BENJAMIN  
CARLISLE, ET AL.; AND (3) GARY GREENBERG**

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### **PRELIMINARY STATEMENT & ARGUMENT**

Consistent with Petitioners' position on belated interventions throughout these proceedings, *see* Affirmation Of Misha Tseytlin In Opposition To Proposed Intervenors Request To Intervene Before The Appellate Division, Email Filed With The Fourth Department (Apr. 14, 2022), attached as **Exhibit A**, Petitioners respectfully submit that this Court should deny all three intervention motions currently pending before this Court as untimely, CPLR §§ 1012, 1013. If any of the proposed intervenors wanted to participate as parties in the Special Proceedings that Petitioners filed on February 3, they should have sought to intervene three months ago. As for the intervention motions filed by Proposed Intervenors Gavin Wax, NYSCEF Nos.316–19, and Gary Greenberg, NYSCEF Nos.346–49, in particular, Petitioners have, throughout this case, explained that while they did not seek any relief against the Assembly districts, if any other citizen(s) brought their own petition, the 2022 Assembly map would likewise need to be invalidated as violating the New York Constitution's exclusive procedure for redistricting, *see* Amended Petition, NYSCEF No.18 at 5 n.6 ("To be sure, this same procedural basis for invalidation applies equally to the state Assembly map. However, the Petitioners do not challenge that map in this lawsuit. Of course, any other elector, N.Y. Const. art. III, § 5; Unconsolidated Laws § 4221, can challenge the Assembly map if that elector chooses."); Brief For Petitioners-Respondents, App. Div. 4th Dep't CAE 22-00506 NYSCEF No.43 at 61–62 ("Of course, if this Court and/or the Court of Appeals agree with Petitioners' argument that the Legislature violated the Constitution's procedural requirements in enacting the 2022 congressional map, the 2022 Assembly map would likewise need to be invalidated for the same reason, upon the suit of any other voter.").

### **CONCLUSION**

For the reasons set forth above, Petitioners respectfully request that the Court deny as untimely all of the motions to intervene.

Dated: New York, New York

May 9, 2022

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Respectfully submitted,

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**CERTIFICATION**

I hereby certify that the foregoing memorandum complies with the bookmarking requirement and word count limitations set forth in Rule 202.8-b of the Uniform Rules of Supreme and County Courts. *See* 22 NYCRR § 202.8-b. This memorandum contains 309 words, excluding parts of the document exempted by Rule 202.8-b(b).

Dated: New York, New York  
May 9, 2022

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