

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

- - - - - X

Anthony S. Hoffmann et al.

*Petitioners,*

-against-

Index No. 904972-22

Hon. Peter A. Lynch

The New York State Independent Redistricting  
Commission et al.,

**VERIFIED ANSWER OF  
RESPONDENTS DAVID  
IMAMURA, IVELISSE  
CUEVAS-MOLINA, AND  
ELAINE FRAZIER**

*Respondents.*

Respondents DAVID IMAMURA, IVELISSE CUEVAS-MOLINA, and ELAINE FRAZIER (“Undersigned Respondents), by their attorneys Jenner & Block LLP, as and for their answer to the Amended Verified Petition for Writ of Mandamus (Dkt. 47) (the “Amended Petition”), respectfully answer the allegations of each paragraph of the Amended Petition as follows:

1. Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.
2. Admitted.
3. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

4. Admitted that “the Redistricting Amendments provided for the creation of an independent redistricting commission (the ‘IRC’)” and that “[t]he Redistricting Amendments require the IRC to submit proposed redistricting plans for consideration by the Legislature.” The remaining allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

5. Admitted, except that to the extent the allegations contained in this paragraph purport to describe the contents of Article III, Section 4 of the New York Constitution, the contents speak for themselves and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to Article III, Section 4 of the New York Constitution for the best evidence of its content.

6. Admitted, except denied that “each delegation submitted a proposed map in January 2022.” Two proposed congressional redistricting plans were submitted by the IRC, not by any particular delegation. The submitted plans are incorporated herein by reference. *See* N.Y. State Indep. Redistricting Comm’n, *Plans*, <https://www.nyirc.gov/plans> (last visited Aug. 24, 2022).

7. Admitted, except denied that “the IRC abandoned its constitutional duty.” Undersigned Respondents demanded a meeting to vote on a second round of maps to submit to the Legislature; however, other Commissioners refused to meet, which denied the IRC a quorum to hold a vote. Undersigned Respondents thereafter acted in accord with their understanding of the applicable constitutional and statutory procedures and their duties under the circumstances, which preceded any judicial interpretation of the relevant constitutional and statutory provisions.

8. The allegations contained in this paragraph purport to describe the content of the 2021 Legislation, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the 2021 Legislation for the best evidence of its content.

9. Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.

10. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals' decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the New York Court of Appeals' decision in *Harkenrider v. Hochul* for the best evidence of its content.

11. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals' decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the New York Court of Appeals' decision in *Harkenrider v. Hochul* for the best evidence of its content.

12. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content. Undersigned Respondents otherwise lack sufficient knowledge about this allegation to admit or deny.

13. Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.

14. To the extent this allegation requests relief from the Court, no response is required. Undersigned Respondents otherwise lack sufficient knowledge about this allegation to admit or deny.

15. Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.

16. Undersigned Respondents lack present awareness sufficient to admit or deny the allegation. The records of who spoke at different hearings and the contents of their positions, as well as the contents of public comment submissions to the IRC, are reflected in public records which speak for themselves. *See* N.Y. State Indep. Redistricting Comm'n, *Meetings*, <https://www.nyirc.gov/meetings> (last visited Aug. 24, 2022); *see also* N.Y. State Indep. Redistricting Comm'n, *Submissions*, <https://nyirc.gov/submissions> (last visited Aug. 24, 2022). The record of the hearings and submissions is incorporated herein.

17. Undersigned Respondents lack present awareness sufficient to admit or deny the allegation. The records of who spoke at different hearings and the contents of their positions, as well as the contents of public comment submissions to the IRC, are reflected in public records which speak for themselves. *See* N.Y. State Indep. Redistricting Comm'n, *Meetings*, <https://www.nyirc.gov/meetings> (last visited Aug. 24, 2022); *see also* N.Y. State Indep. Redistricting Comm'n, *Submissions*, <https://nyirc.gov/submissions> (last visited Aug. 24, 2022). The record of the hearings and submissions is incorporated herein.

18. Undersigned Respondents lack present awareness sufficient to admit or deny the allegation. The records of who spoke at different hearings and the contents of their positions, as well as public comment submissions to the IRC, are reflected in public records which speak for themselves. *See* N.Y. State Indep. Redistricting Comm'n, *Meetings*,

<https://www.nyirc.gov/meetings> (last visited Aug. 24, 2022); *see also* N.Y. State Indep.

Redistricting Comm'n, *Submissions*, <https://nyirc.gov/submissions> (last visited Aug. 24, 2022).

The record of the hearings and submissions is incorporated herein.

19. Undersigned Respondents lack present awareness sufficient to admit or deny the allegation. The records of who spoke at different hearings and the contents of their positions, as well as public comment submissions to the IRC, are reflected in public records which speak for themselves. *See* N.Y. State Indep. Redistricting Comm'n, *Meetings*,

<https://www.nyirc.gov/meetings> (last visited Aug. 24, 2022); *see also* N.Y. State Indep.

Redistricting Comm'n, *Submissions*, <https://nyirc.gov/submissions> (last visited Aug. 24, 2022).

The record of the hearings and submissions is incorporated herein.

20. Denied that “Chairman David Imamura, Commissioner Ross Brady, Commissioner John Conway III, Commissioner Ivelisse Cuevas-Molina, Commissioner Elaine Frazier, Commissioner Lisa Harris, Commissioner Charles Nesbitt, and Commissioner Willis H. Stephens” comprise the entire New York State Independent Redistricting Commission. The remaining allegations in this paragraph are a legal conclusion to which no response is required. To the extent a response is required, Undersigned Respondents stand ready to propose a second set of congressional redistricting plans to the Legislature.

21. Admitted.

22. Certain of the allegations contained in this paragraph purport to describe the content of Article III, Section 4 of the New York Constitution, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents respectfully refer to Article III, Section 4 of the New York Constitution for the best

evidence of its contents. Admitted that “[i]n 2014 New York voters amended the state constitution, establishing new procedural and substantive requirements for redistricting.”

23. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

24. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

25. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

26. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

27. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

28. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

29. The allegations contained in this paragraph purport to describe the content of the 2021 Legislation, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the 2021 Legislation for the best evidence of its content.

30. Certain of the allegations contained in this paragraph purport to describe the content of the 2021 Legislation, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the 2021 Legislation for the best evidence of its content. Undersigned Respondents lack sufficient knowledge to admit or deny the allegation “presumably to ensure that the Legislature could benefit from the IRC record in adopting new redistricting plans.”

31. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

32. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

33. The allegations contained in this paragraph purport to describe the contents of the Redistricting Amendments, the contents of which speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the Redistricting Amendments for the best evidence of their content.

34. Admitted.

35. Admitted.

36. Denied that “the IRC refused to submit a second set of congressional plans and the necessary implementing legislation.” Undersigned Respondents attempted to submit one or more second set of congressional plans to the Legislature, and requested a meeting to vote on proposed second sets of plans. However, other Commissioners refused to attend such a meeting, denying the IRC a quorum to conduct business. *See* N.Y. Const. Art III § 5-b(f) (“a minimum of seven members shall constitute a quorum” when the Commission is fully constituted). Admitted that the IRC did not submit a second set of congressional plans or implementing legislation to the Legislature. To the extent the allegations contained in this paragraph purport to describe the contents of Article III, Section 4(b) of the New York Constitution, the contents speak for themselves, and no further response is required. To the extent a response is required, Undersigned Respondents respectfully refer to the cited portion of the New York Constitution for the best evidence of its content.

37. Admitted.

38. Admitted.

39. Admitted that the IRC did not submit a second congressional redistricting plan or set of plans to the Legislature by January 25, 2022 or February 28, 2022. The remaining allegations contained in this paragraph purport to describe the content of the 2021 Legislation,



the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the 2021 Legislation for the best evidence of its content.

40. Admitted that the Legislature passed a congressional map on February 3, 2022 and Governor Kathy Hochul signed the plan into law later than day. As to the remaining allegations, Undersigned Respondents lack sufficient knowledge about these allegations to admit or deny.

41. The allegations contained in this paragraph purport to describe the content of the filings, hearings, and/or rulings in the *Harkenrider v. Hochul* action, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the filings, hearings, and rulings in the *Harkenrider v. Hochul* action for the best evidence of their content.

42. The allegations contained in this paragraph purport to describe the content of the filings, hearings, and/or rulings in the *Harkenrider v. Hochul* action, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the filings, hearings, and rulings in the *Harkenrider v. Hochul* action for the best evidence of their content.

43. The allegations contained in this paragraph purport to describe the content of the Supreme Court's decision and order in the *Harkenrider v. Hochul* action, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the Supreme Court's decision and order in the *Harkenrider v. Hochul* action for the best evidence of its content.

44. The allegations contained in this paragraph purport to describe the content of the Supreme Court's decision and order in the *Harkenrider v. Hochul* action, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the Supreme Court's decision and order in the *Harkenrider v. Hochul* action for the best evidence of its content.

45. The allegations contained in this paragraph purport to describe the content of the Fourth Department's rulings in the *Harkenrider v. Hochul* action, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the Fourth Department's rulings in the *Harkenrider v. Hochul* action for the best evidence of their content.

46. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals' decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the New York Court of Appeals' decision in *Harkenrider v. Hochul* for the best evidence of its content.

47. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals' decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the New York Court of Appeals' decision in *Harkenrider v. Hochul* for the best evidence of its content.

48. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals' decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned

Respondents refer to the New York Court of Appeals' decision in *Harkenrider v. Hochul* for the best evidence of its content.

49. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals' decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the New York Court of Appeals' decision in *Harkenrider v. Hochul* for the best evidence of its content.

50. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals' decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the New York Court of Appeals' decision in *Harkenrider v. Hochul* for the best evidence of its content.

51. The allegations contained in this paragraph purport to describe the content of the Supreme Court's decision and order in the *Harkenrider v. Hochul* action, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the Supreme Court's decision and order in the *Harkenrider v. Hochul* action for the best evidence of its content.

52. Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.

53. Certain of the allegations contained in this paragraph purport to describe the content of Article III, Section 5-b(c) of the New York Constitution, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents respectfully refer to Article III, Section 5-b(c) of the New York Constitution for the

best evidence of its contents. Undersigned Respondents otherwise lack sufficient knowledge about this allegation to admit or deny the remaining allegations in this paragraph.

54. Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.

55. Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.

56. Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.

57. The allegations in this paragraph are a legal conclusion to which no response is required. To the extent a response is required, Undersigned Respondents lack sufficient knowledge about this allegation to admit or deny.

58. Undersigned Respondents allege that no response is necessary to Petitioners' reallegation of prior paragraphs of the Amended Petition.

59. The allegations contained in this paragraph purport to describe the content of CPLR § 7803(1), the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to CPLR § 7803(1) for the best evidence of its content.

60. Certain of the allegations contained in this paragraph purport to describe the content of Article III, Section 4(b) of the New York Constitution, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents respectfully refer to Article III, Section 4(b) of the New York Constitution for the best evidence of its contents. Undersigned Respondents otherwise admit the allegations in this paragraph.

61. Denied that “[a]fter the Legislature rejected the IRC’s first set of congressional plans, the IRC refused to prepare and submit a second set of plans.” Admitted that the IRC did not submit a second set of plans to the Legislature, because Commissioners other than the Undersigned Respondents prevented the submission of second set of plans by refusing to attend an official meeting to vote on a second set of plans. That refusal to meet denied the IRC a quorum to conduct official business, including voting on and submitting a second set of plans to the Legislature.

62. The allegations contained in this paragraph purport to describe the content of the 2021 Legislation, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the 2021 Legislation for the best evidence of its content.

63. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals’ decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the New York Court of Appeals’ decision in *Harkenrider v. Hochul* for the best evidence of its content.

64. The allegations contained in this paragraph purport to describe the content of the New York Court of Appeals’ decision in *Harkenrider v. Hochul*, the contents of which speak for themselves, and no response is required. To the extent a response is required, Undersigned Respondents refer to the New York Court of Appeals’ decision in *Harkenrider v. Hochul* for the best evidence of its content.

65. The allegations in this paragraph are a legal conclusion to which no response is required. To the extent a response is required, Undersigned Respondents stand ready to

complete the duty to submit a second set of congressional plans to the Legislature for consideration.

WHEREFORE Respondents DAVID IMAMURA, IVELISSE CUEVAS-MOLINA, and ELAINE FRAZIER do not oppose the relief identified in the first paragraph of Petitioners' prayer for relief as set forth in the Amended Petition.

DATED: August 26, 2022  
New York, New York

Respectfully Submitted,

By: /s/ Jeremy H. Ershow

Jeremy H. Ershow  
Allison N. Douglis  
JENNER & BLOCK LLP  
1155 Avenue of the Americas  
New York, NY 10036  
Telephone: (212) 891-1600  
Facsimile: (212) 891-1699  
jershow@jenner.com  
adouglis@jenner.com

Jessica Ring Amunson (*pro hac vice*  
pending)  
Sam Hirsch (*pro hac vice* pending)  
JENNER & BLOCK LLP  
1099 New York Avenue, NW  
Suite 900  
Washington, DC 20001  
Telephone: (202) 639-6000  
Facsimile: (202) 639-6066  
jamunson@jenner.com  
shirsch@jenner.com

*Attorneys for Respondents David  
Imamura, Ivelisse Cuevas-Molina,  
and Elaine Frazier*

TO: EMERY CELLI BRINCKERHOFF & ABADY, LLP  
Matthew D. Brinckerhoff  
Andrew G. Celli  
600 Fifth Avenue, 10th Floor  
New York, NY 10020

DREYER BOYAJIAN LLP  
James R. Peluso  
75 Columbia Street  
Albany, NY 12210

ELIAS LAW GROUP LLP  
Aria C. Branch  
Harleen K. Gambhir  
Aaron M. Mukerjee  
10 G Street NE  
Suite 600  
Washington, DC 20002

Jonathan P. Hawley  
1700 Seventh Avenue  
Suite 2100  
Seattle, Washington 98101

*Counsel for Petitioners*

MESSINA PERILLO HILL LLP  
Lisa A. Perillo  
Timothy Hill  
Vincent J. Messina, Jr.  
285 West Main Street  
Suite 203  
Sayville, New York 11782

*Counsel for Respondents Ross Brady, John Conway III, Lisa Harris, Charles Nesbitt, and Willis H. Stephens*

Above parties served by NYSCEF

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

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Anthony S. Hoffman et al.

*Petitioners,*

-against-

Index No. 904972-22

Hon. Peter A. Lynch

The New York State Independent Redistricting  
Commission et al.,

**VERIFICATION**  
**PURSUANT TO CPLR**  
**§ 3020(d)(2)**

*Respondents.*

COUNTY OF WESTCHESTER )


STATE OF NEW YORK ) SS:

DAVID IMAMURA, of full age, being duly sworn, hereby deposes and says as follows:

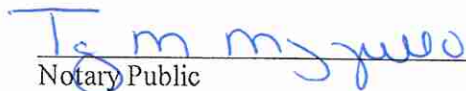
1. I am the chairperson of the New York State Independent Redistricting Commission and am an attorney admitted to practice before the Courts of New York State.
2. I have read the foregoing Verified Answer, and know the contents thereof, and the same is true except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.
3. I am familiar with the facts and circumstances at hand herein based upon my personal experience as Chairperson of the New York State Independent Redistricting Commission and based on a review of books, papers, and records maintained by the respondents.
4. This verification is made as to the foregoing Respondents under CPLR § 3020(d) because the foregoing Respondents are united in interest and I am acquainted with the facts.



DATED: August 26, 2022  
Kapolei, Hawaii

  
\_\_\_\_\_  
David Imamura

Sworn to before me this  
26 Day of August, 2022

  
\_\_\_\_\_  
Notary Public

TAMMY MARIE MAZZULLO  
NOTARY PUBLIC, STATE OF NEW YORK  
Registration No. 01MA6301698  
Qualified in Westchester County  
Commission Expires April 21, 2026