

NEW YORK STATE SUPREME COURT
SARATOGA COUNTY

IN THE MATTER OF

RICH AMEDURE, ROBERT SMULLEN, WILLIAM FITZPATRICK, NICK LANGWORTHY, THE NEW YORK STATE REPUBLICAN PARTY, GERARD KASSAR, THE NEW YORK STATE CONSERVATIVE PARTY, CARL ZIELMAN, THE SARATOGA COUNTY REPUBLICAN PARTY, RALPH MOHR and ERIK HAIGHT,

Petitioners / Plaintiffs,

– against –

STATE OF NEW YORK, BOARD OF ELECTIONS OF THE STATE OF NEW YORK, GOVERNOR OF THE STATE OF NEW YORK, SENATE OF THE STATE OF NEW YORK, MAJORITY LEADER AND PRESIDENT PRO TEMPORE OF THE SENATE OF THE STATE OF NEW YORK, MINORITY LEADER OF THE SENATE OF THE STATE OF NEW YORK, ASSEMBLY OF THE STATE OF NEW YORK, MAJORITY LEADER OF THE ASSEMBLY OF THE STATE OF NEW YORK, MINORITY LEADER OF THE ASSEMBLY OF THE STATE OF NEW YORK, SPEAKER OF THE ASSEMBLY OF THE STATE OF NEW YORK,

Respondents / Defendants.

Index No. 2022-2145
RJI No.: 45-1-22-1029

Assigned Justice:
Hon. Dianne N. Freestone

VERIFIED ANSWER

Respondents, Assembly of the State of New York, Speaker of the Assembly of the State of New York, and Majority Leader of the Assembly of the State of New York, (collectively, “Assembly Majority Defendants”) by and through their attorneys, Hodgson Russ LLP, as and for

their Verified Answer to the First Amended Verified Petition/Complaint in the above-entitled proceeding respectfully allege as follows:

1. With respect to ¶1 of the Verified Petition, deny each and every allegation therein.
2. With respect to ¶2, deny each any every allegation therein.
3. With respect to ¶3, deny each any every allegation therein.
4. With respect to ¶4, deny each any every allegation therein.
5. With respect to ¶5, deny each any every allegation therein.
6. With respect to ¶6, deny each any every allegation therein.
7. With respect to ¶7, deny each any every allegation therein.
8. With respect to ¶8, deny knowledge or information sufficient to form a belief.
9. With respect to ¶9, deny knowledge or information sufficient to form a belief.
10. With respect to ¶10, deny knowledge or information sufficient to form a belief.
11. With respect to ¶11, deny knowledge or information sufficient to form a belief.
12. With respect to ¶12, deny knowledge or information sufficient to form a belief.
13. With respect to ¶13, deny knowledge or information sufficient to form a belief.
14. With respect to ¶14, deny knowledge or information sufficient to form a belief.
15. With respect to ¶15, deny knowledge or information sufficient to form a belief.
16. With respect to ¶16, deny knowledge or information sufficient to form a belief.
17. With respect to ¶17, deny knowledge or information sufficient to form a belief.
18. With respect to ¶18, deny knowledge or information sufficient to form a belief.
19. With respect to ¶19, deny knowledge or information sufficient to form a belief.
20. With respect to ¶20, deny knowledge or information sufficient to form a belief.

21. With respect to ¶21, deny knowledge or information sufficient to form a belief.
22. With respect to ¶22, deny knowledge or information sufficient to form a belief.
23. With respect to ¶23, admit the allegation therein that Kathy Hochul is the Governor of the State of New York with powers and duties prescribed by the Constitution and laws of the State, but otherwise deny.
24. With respect to ¶24, admit the State Senate is a house of the legislature with powers and duties prescribed by the Constitution and laws of the State, but otherwise deny.
25. With respect to ¶25, deny knowledge or information sufficient to form a belief.
26. With respect to ¶26, deny knowledge or information sufficient to form a belief.
27. With respect to ¶27, admit the State Assembly is a house of the legislature with powers and duties prescribed by the Constitution and laws of the State, but otherwise deny.
28. With respect to ¶28, admit the allegation therein that Speaker of the Assembly, Carl Heastie, is an officer and leader of the Assembly, elected by the majority party members of the Assembly, but otherwise deny.
29. With respect to ¶29, deny knowledge or information sufficient to form a belief.
30. With respect to ¶30, deny each and every allegation therein.
31. With respect to ¶31, deny each and every allegation therein.
32. With respect to ¶32, deny each and every allegation therein.
33. With respect to ¶33, deny each and every allegation therein.
34. With respect to ¶34, deny each and every allegation therein.
35. With respect to ¶35, deny each and every allegation therein.
36. With respect to ¶36, deny each and every allegation therein.

37. With respect to ¶37, deny each and every allegation therein.
38. With respect to ¶38, deny each and every allegation therein.
39. With respect to the allegations of ¶39, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.
40. With respect to ¶40, deny knowledge or information sufficient to form a belief.
41. With respect to the allegations of ¶41, Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.
42. With respect to the allegations of ¶42, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.
43. With respect to ¶42, citation is made to the law of New York, which speaks for itself; deny each and every allegation therein.
44. With respect to ¶43, deny each and every allegation therein.
45. With respect to ¶44, deny each and every allegation therein.

46. With respect to the allegations of ¶46, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

47. With respect to the allegations of ¶47, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

48. With respect to ¶48, deny each and every allegation therein.

49. With respect to the allegations of ¶49, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

50. With respect to the allegations of ¶50, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

51. With respect to the allegations of ¶51, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

52. With respect to the allegations of ¶52, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

53. With respect to ¶53, deny each and every allegation therein.

54. With respect to the allegations of ¶54, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

55. With respect to ¶55, deny each and every allegation therein.

56. With respect to ¶56, deny each and every allegation therein.

57. With respect to ¶57, deny each and every allegation therein.

58. With respect to ¶58, deny each and every allegation therein.

59. With respect to ¶59, deny each and every allegation therein.

60. With respect to ¶60, deny each and every allegation therein.

61. With respect to ¶61, deny each and every allegation therein.

62. With respect to the allegations of ¶62, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

63. With respect to ¶63, deny each and every allegation therein.

64. With respect to ¶64, deny each and every allegation therein.

65. With respect to ¶65, deny each and every allegation therein.

66. With respect to ¶66, deny each and every allegation therein.

67. With respect to ¶67, deny each and every allegation therein.

68. With respect to the allegations of ¶68, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

69. With respect to the allegations of ¶39, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

70. With respect to ¶70, deny each and every allegation therein.

71. With respect to the allegations of ¶71, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

72. With respect to ¶72, deny each and every allegation therein.

73. With respect to ¶73, deny each and every allegation therein

74. With respect to ¶74, deny each and every allegation therein.

75. With respect to ¶75, deny each and every allegation therein.

76. With respect to ¶76, deny each and every allegation therein.

77. With respect to ¶77, deny each and every allegation therein.

78. With respect to the allegations of ¶78, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

79. With respect to ¶79, deny each and every allegation therein.

80. With respect to ¶80, deny each and every allegation therein.

81. With respect to ¶81, deny each and every allegation therein.

82. With respect to ¶82, deny each and every allegation therein.

83. With respect to the allegations of ¶83, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law

referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

84. With respect to ¶84, deny each and every allegation therein.
85. With respect to ¶85, deny each and every allegation therein.
86. With respect to ¶86, deny each and every allegation therein.
87. With respect to ¶87, deny each and every allegation therein.
88. With respect to ¶88, deny each and every allegation therein.
89. With respect to ¶89, deny each and every allegation therein.
90. With respect to ¶90, deny each and every allegation therein.
91. With respect to ¶91, deny each and every allegation therein.
92. With respect to ¶92, deny each and every allegation therein.
93. With respect to ¶93, deny each and every allegation therein insofar as the implication is the challenged statute violates any constitutional provision.
94. With respect to ¶94, deny each and every allegation therein.
95. With respect to ¶95, deny each and every allegation therein.
96. With respect to ¶96, deny each and every allegation therein.
97. With respect to ¶97, deny each and every allegation therein.
98. With respect to ¶98, deny each and every allegation therein.
99. With respect to ¶99, deny each and every allegation therein.
100. With respect to ¶100, deny each and every allegation therein.
101. With respect to ¶101, deny each and every allegation therein.

102. With respect to ¶102, deny knowledge or information sufficient to form a belief.
103. With respect to ¶103, deny each and every allegation therein.
104. With respect to ¶104, deny each and every allegation therein.
105. With respect to ¶105, deny each and every allegation therein.
106. With respect to ¶106, deny each and every allegation therein.
107. With respect to ¶107, deny each and every allegation therein.
108. With respect to the allegations of ¶108, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.
109. With respect to the allegations of ¶109, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.
110. With respect to ¶110, which cites a law review article, no fact is plead requiring a response.
111. With respect to the allegations of ¶111, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph

does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

112. With respect to the allegations of ¶112, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

113. With respect to the allegations of ¶113, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

114. With respect to the allegations of ¶114, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

115. With respect to the allegations of ¶115, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

116. With respect to the allegations of ¶116, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

117. With respect to the allegations of ¶117, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

118. With respect to ¶118, deny each and every allegation therein.

119. With respect to ¶119, deny each and every allegation therein.

120. With respect to ¶120, deny each and every allegation therein.

121. With respect to ¶121, deny each and every allegation therein.

122. With respect to ¶122, deny each and every allegation therein.

123. With respect to ¶123, deny each and every allegation therein.

124. With respect to ¶124, deny each and every allegation therein.

125. With respect to ¶125, deny each and every allegation therein.

126. With respect to the allegations of ¶126, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph

does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

127. With respect to ¶127, deny each and every allegation therein.

128. With respect to ¶128, deny each and every allegation therein.

129. With respect to ¶129, deny each and every allegation therein.

130. With respect to ¶130, deny each and every allegation therein.

131. With respect to ¶131, deny each and every allegation therein.

132. With respect to ¶132, deny each and every allegation therein.

133. With respect to ¶133, deny each and every allegation therein.

134. With respect to ¶134, deny each and every allegation therein.

135. With respect to ¶135, deny each and every allegation therein.

136. With respect to ¶136, deny each and every allegation therein.

137. With respect to ¶137, deny each and every allegation therein.

138. With respect to ¶138, deny each and every allegation therein.

139. With respect to ¶139, deny each and every allegation therein.

140. With respect to ¶140, deny each and every allegation therein.

141. With respect to ¶141, deny each and every allegation therein.

142. With respect to ¶142, deny each and every allegation therein.

143. With respect to ¶143, deny each and every allegation therein.

144. With respect to ¶144, deny each and every allegation therein.

145. With respect to the allegations of ¶145, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law

referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

146. With respect to the allegations of ¶146, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

147. With respect to the allegations of ¶147, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

148. With respect to the allegations of ¶148, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.

149. With respect to ¶149, deny each and every allegation therein.

150. With respect to ¶150, deny each and every allegation therein.

151. With respect to ¶151, deny each and every allegation therein.

152. With respect to ¶152, deny each and every allegation therein.

153. With respect to ¶153, deny each and every allegation therein.
154. With respect to ¶154, deny each and every allegation therein.
155. With respect to the allegations of ¶155, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.
156. With respect to ¶156, deny each and every allegation therein.
157. With respect to ¶157, deny each and every allegation therein.
158. With respect to ¶158, deny each and every allegation therein.
159. With respect to ¶159, deny each and every allegation therein.
160. With respect to ¶160, deny each and every allegation therein.
161. With respect to ¶161, deny each and every allegation therein.
162. With respect to ¶162, deny each and every allegation therein.
163. With respect to ¶163, deny each and every allegation therein.
164. With respect to ¶164, deny each and every allegation therein.
165. With respect to ¶165, deny each and every allegation therein.
166. With respect to ¶166, deny each and every allegation therein.
167. With respect to ¶167, deny each and every allegation therein.
168. With respect to ¶168, deny each and every allegation therein.
169. With respect to ¶169, deny each and every allegation therein.
170. With respect to ¶170, deny each and every allegation therein.

171. With respect to ¶171, deny each and every allegation therein.
172. With respect to ¶172, deny each and every allegation therein.
173. With respect to ¶173, deny each and every allegation therein.
174. With respect to ¶174, deny each and every allegation therein.
175. With respect to ¶175, deny each and every allegation therein.
176. With respect to ¶176, deny each and every allegation therein.
177. With respect to the allegations of ¶177, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.
178. With respect to the allegations of ¶178, the Assembly Majority Respondents respectfully refer the Court to the constitutional, statutory, regulatory, or other provisions of law referenced in such paragraph of the Petition/Complaint, and respectfully assert that this paragraph does not require a response, but to the extent that a response is deemed necessary, the Assembly Majority Respondents deny all allegations and characterizations asserted in this paragraph.
179. With respect to ¶179, deny each and every allegation therein.
180. With respect to ¶180, deny each and every allegation therein.
181. With respect to ¶181, deny each and every allegation therein.
182. With respect to ¶182, deny each and every allegation therein.
183. With respect to ¶183, deny each and every allegation therein.
184. With respect to ¶184, deny each and every allegation therein.

185. With respect to ¶185, deny each and every allegation therein.
186. With respect to ¶186, deny each and every allegation therein.
187. With respect to ¶187, deny each and every allegation therein.
188. With respect to ¶188, deny each and every allegation therein.

**OBJECTION ONE IN POINT OF LAW
(Failure to State A Cause of Action)**

189. Petitioners/Plaintiffs fail to state a cause of action.

**OBJECTION TWO IN POINT OF LAW
(Failure to State A Cause of Action)**

190. In order to obtain a declaratory judgment, a petitioner must show that there is a justiciable controversy between the parties. *See* CPLR 3001. A hypothetical issue, particularly one that involves future events which may or may not occur, is nonjusticiable. *See Cuomo v Long Is. Light. Co.*, 71 NY2d 349, 354 (1988).

191. Petitioners have not alleged an actual concrete controversy.

**OBJECTION THREE IN POINT OF LAW
(Article 16 Does Not Apply to Petitioners' Claims)**

192. Article 16 of the Election Law does not apply to the claims alleged in this action and the Court has no jurisdiction or authority to grant relief under Article 16.

**OBJECTION FOUR IN POINT OF LAW
(Court Lacks Jurisdiction Over Any Article 16 Claims Attacking Statutory Provisions of Election Law)**

193. The Court has no power to alter the statutory requirements of the Election Law for the reasons held in *Gross v Albany County Board of Elections*, 3 N.Y.3d 251 (2004):

We have previously recognized in the context of the Election Law that where, as here, the Legislature “erects a rigid framework of

regulation, detailing . . . specific particulars,” there is no invitation for the courts to exercise flexibility in statutory interpretation (*Matter of Higby v Mahoney*, 48 NY2d 15, 20 n 2 [1979]). Rather, when elective processes are at issue, “the role of the legislative branch must be recognized as paramount” (id. at 21).

**OBJECTION FIVE IN POINT OF LAW
(Failure to State A Cause of Action)**

194. Petitioners have pleaded no cognizable injury that is not purely speculative and such speculative injury is supported by no plead facts.

**OBJECTION SIX IN POINT OF LAW
(Petitioners’ Claims With Respect to the
2022 General Election Are Barred By Laches)**

195. Laches is “an equitable bar, based on a lengthy neglect or omission to assert a right and the resulting prejudice to an adverse party.” *Saratoga County Chamber of Commerce v Pataki*, 100 NY2d 801, 816 (2003), *cert denied* 540 US 1017 (2003).
196. The challenged statute, Chapter 763 of the Laws of 2021 (“Chapter 763”), provides for the canvassing of absentee ballots, including a cure process which must be administered timely to be meaningful (to provide voters time to cure the defects and secure their franchise).
197. Chapter 763 was signed into law on December 22, 2021 and took effect on April 1, 2022.
198. Chapter 763 was used at the June and August primaries and at seven Special Elections held since January 2022.
199. Chapter 763 has proven workable and effective.

200. By having waited to commence the instant litigation until September 27, 2022, four days after military, special federal and other overseas ballots were sent pursuant to a state law and federal law deadline, Petitioners are guilty of laches.

201. Petitioners' actions and special proceedings should be dismissed on the basis of laches.

**OBJECTION SEVEN IN POINT OF LAW
(Failure to Join Necessary Parties)**

202. "Necessary parties are those 'who ought to be parties if complete relief is to be accorded between the persons who are parties to the action or who might be inequitably affected by a judgment in the action.'" *Matter of Morgan v de Blasio*, 29 NY3d 559, 560 (2017), citing CPLR § 1001 (a).

203. Under New York Election Law, the board of elections processes absentee ballot applications, receives returned absentee ballots, and canvasses such ballots.

204. As defined under Election Law § 1-104 (26), the term "board of elections" includes "the board of elections of any county in the state of New York."

205. In canvassing litigation, county boards of elections are necessary parties under controlling state law.

206. Petitioners challenge the process for canvassing absentee, military, special, and affidavit ballots pursuant to Chapter 763.

207. No county board of elections is a party to this litigation.

208. The instant proceeding must be dismissed for failure to name necessary parties.

**OBJECTION EIGHT IN POINT OF LAW
(Fraud Has Not Been Pleaded With Particularity)**

209. The instant petition alleges fraud without having identified any particular instance, specifically or categorically, of such alleged fraud.
210. Petitioners have identified not one wrongfully cast ballot on account of the new Canvassing Law at any of the past nine elections at which it has been in effect.
211. For failure to particularize allegations of fraud, the instant petition must be dismissed.

**OBJECTION NINE IN POINT OF LAW
(Petitioners Do Not Have Standing)**

212. To satisfy standing, an individual must have an injury-in-fact—that is, “an actual legal stake in the matter being adjudicated”—and be within the zone of interests sought to be promoted or protected by the provision at issue. *Society of Plastics Indus. v County of Suffolk*, 77 NY2d 761, 772-773 (1991).
213. Petitioners do not allege any actual, cognizable harm caused by Chapter 763. Petitioners’ purported harms are hypothetical and conclusory at best.

**OBJECTION TEN IN POINT OF LAW
(Constitutional Presumption In Favor of Statute)**


214. “A strong presumption of validity attaches to statutes and that the burden of proving invalidity is upon those who challenge their constitutionality to establish this beyond a reasonable doubt.” *People v Scott*, 26 NY 2d 286, 291 (1970).
215. Petitioners have not shown beyond a reasonable doubt or clearly and convincingly that the challenged statutes are unconstitutional.

WHEREFORE, the instant petition should be dismissed.

October 27, 2022
Albany, New York

Dated:

HODGSON RUSS LLP
Attorneys for Respondents/Defendants
Assembly of the State of New York, Speaker of the
Assembly of the State of New York, and Majority
Leader of the Assembly of the State of New York

By: 
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Albany, New York 12207
(518) 433-2432

TO: Counsel for Petitioners
Counsel for Objector-Respondents
Courtesy Copy to Court

NEW YORK STATE SUPREME COURT
SARATOGA COUNTY

IN THE MATTER OF

RICH AMEDURE, ROBERT SMULLEN, WILLIAM FITZPATRICK, NICK LANGWORTHY, THE NEW YORK STATE REPUBLICAN PARTY, GERARD KASSAR, THE NEW YORK STATE CONSERVATIVE PARTY, CARL ZIELMAN, THE SARATOGA COUNTY REPUBLICAN PARTY, RALPH MOHR and ERIK HAIGHT,

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Respondents / Defendants.

Index No. 2022-2145
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Assigned Justice:
Hon. Dianne N. Freestone

VERIFICATION

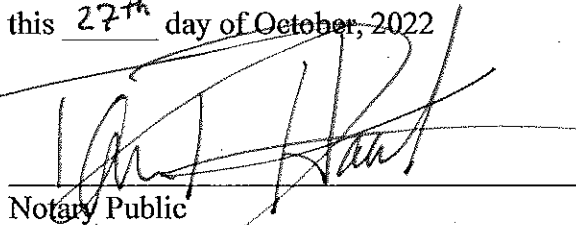
STATE OF NEW YORK)
)
COUNTY OF ALBANY) ss.:

CARL HEASTIE, being duly sworn, deposes and says that he is the Speaker of the Assembly of the State of New York, a Respondent in this proceeding; that the Speaker of the Assembly of the State of New York and the other Respondents in this proceeding are united in interest; that he has read the foregoing Verified Answer and knows the contents thereof; that the same is true to his own knowledge, except as to matters stated upon information and belief, and as to those matters, he believes them to be true.



CARL HEASTIE

Subscribed and sworn to before me
this 27th day of October, 2022


Notary Public

BRIAN R. HAAK
Notary Public, State of New York
Qual. in ~~Albany~~ Co. No. 01HA4956617
Commission Expires Sept. 25, 2025