

At a _____ of the Supreme Court of the State of New York, held in and for the County of Steuben, at Three East Pulteney Square, Bath, New York, on the ____ day of May 2022.

PRESENT: HON. PATRICK F. MCALLISTER, J.S.C.

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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.

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UPON the emergency motion of Mark Braiman to intervene in this action on the ground that his interests are or may be inadequately represented and that he may be bound by the judgment entered herein; the annexed affidavits of Mark Braiman, Cody Anderson, and Jonathan Howe; the Proposed Answer to Amended Petition with Additional Cause of Action Seeking to Modify Provisions for Independent Congressional and State Senate Candidates; and the accompanying Memorandum of Law of Gary L. Donoyan, Esq, Petitioners and Respondents are hereby

ORDERED TO SHOW CAUSE, on the ____ day of May 2022, at _____ or as soon

Index No. E2022-0116CV

ORDER TO SHOW CAUSE REGARDING MARK BRAIMAN'S EMERGENCY MOTION FOR LEAVE TO INTERVENE

thereafter as counsel can be heard, at Part _____ [Room _____] at the Courthouse located at Three East Pulteney Square, Bath, New York 14810, under CPLR 1012 and 1013,

- (a) WHY PETITIONER-INTERVENOR should not be allowed to intervene to protect his rights as a voter and independent Congressional candidate, and
- (b) WHY AN ORDER should not be issued modifying this Court's 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; and
- (c) WHY AN ORDER should not be issued 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; and
- (d) WHY AN ORDER should not be issued 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; and
- (e) WHY THIS COURT should not grant such other and further relief as is just and equitable, and it is further

ORDERED that service of a copy of this Order and accompanying documents be made on counsel for all parties by NYSCEF, on or before the ____ day of May 2022, and that such service be deemed sufficient, and it is further

ORDERED that Petitioners and Respondents, including Respondent New York State Board of Elections, shall file with this Court, by NYSCEF, a copy of their opposition papers, if any, in connection with the above motion to intervene and/or any of the accompanying requests for relief, on or before May _____, 2022.

Dated: Bath, New York

May _____, 2022

ENTER:

Hon. Patrick F. McAllister, J.S.C.

4. I seek to intervene as of right in this action, on the ground that my interests are not adequately represented by the present parties and since I may be bound by any judgment rendered herein. CPLR §1012(a)(2) (“Upon timely motion, any person shall be permitted to intervene in any action ... when the representation of the person’s interest by the parties is or may be inadequate and the person is or may be bound by the judgment.”)

5. In the alternative, I seek to intervene by permission in this action, on the ground that my claim and the main action “have a common question of law or fact.” CPLR §1013.

6. The Legislature’s unconstitutional redistricting has harmed voters’ and candidates’ interests in fair representation. In addition, this Court’s Decision and Order of May 11, 2022 also harms the interests and rights of independent Congressional and State Senate candidates. Pursuant to that order, Respondent New York State Board of Elections will now require independent Congressional and State Senate candidates to start collecting signatures no sooner than May 21, 2022, and file their petitions six weeks thereafter, by July 5, 2022. None of the signatures collected between April 19, 2022 and April 27, 2022, even if within the new districts for the same candidates, will be considered valid (though previously-collected signatures for recognized party candidates for the same offices will count to permit some of those candidates to qualify for the ballot without any further petitioning at all). The number of signatures required has not changed from the statutory requirement, which is 3,500 signatures for each independent Congressional candidate, and 3,000 signatures for each independent State Senate candidate. However, none of the independent Congressional and State Senate candidates will be able to gather signatures on joint petitions with any independent statewide candidates, because the two sets of petitions must be filed separately, which is absolutely not the statutory structure intended by the Legislature. Those independent statewide petitions must still be filed by May 31, 2022, while the independent Congressional and State Senate petitions may not be filed before June 27, 2022, eliminating the possibility of joint

filings with joint petitions.

7. The redrawing of Congressional and State Senate district lines has resulted in a likelihood that the signatures gathered by independent Congressional and State Senate candidates will not meet the statutory requirements, and sufficient signatures cannot be gathered between the new starting date for petitioning of May 21, 2022, and the deadline for filing on July 5, 2022. Between April 19, 2022, when independent Congressional and State Senate candidates began petitioning to qualify for the ballot using the old district lines, and April 27, 2022, when the Court of Appeals affirmed (against the predictions of many) this Court's March 31, 2022 voiding of those old lines, I and many other such candidates spent countless hours collecting signatures and organizing volunteers and paid petitioners, in the expectation that our completed petitions could be filed six weeks later, on May 31, 2022. In addition, I made, and other independent Congressional and State Senate candidates typically made, arrangements in our professional and personal lives to set aside those six weeks for the all-important petitioning drive, arrangements many of which could not be undone, and many of which can not be made again.

8. In addition, I will be losing a big motivational factor for collecting signatures, and organizing others to collect signatures, because I will not be able to collect also for my favorite Governor candidate, Libertarian Larry Sharpe. While I can circulate his petitions (which are combined with four other statewide Libertarian candidates, for Lieutenant Governor, Attorney General, Comptroller, and US Senator), together with my new petitions between May 21 and May 31 (the last day to file the statewide petitions), for the remaining weeks, until the last day to file the Congressional and State Senate petitions which is July 5, I will be petitioning only for myself, while my Libertarian statewide candidate friends (if they have managed to qualify for the ballot at all), in turn, will have less incentive to assist my efforts. When you add on the recent and recurring difficulties caused by constantly-evolving new strains of COVID-19 and related restrictions and

common fears, which reduce the availability of signers and efficiency of petition witnesses, this must be the most difficult year in New York history for independent candidates for office.

9. I am requesting three forms of relief in this action: (1) that the deadline for independent statewide and State Assembly candidates to file their petitions be extended from May 31, 2022 to July 5, 2022, so as to be coordinate with the new deadline set (on May 11, 2022) for independent Congressional and State Senate candidates to file their petitions, permitting the circulation of joint petitions; (2) that the signature requirements for independent Congressional and State Senate candidates be reduced from the statutory requirement of 3,500 signature and 3,000 signatures, respectively, by at least 50%, in light of the burdens caused by the previous petitioning efforts which cannot be undone and which will cause more burdens in the future, the difficulties caused by constantly-evolving new strains of COVID-19 and associated restrictions and fears, and in the event the statewide filing deadline is not extended, by the lack of assistance and coordination with statewide candidates whose names would otherwise be on the same petitions; and (3) that the signatures collected by independent Congressional and State Senate candidates between April 19 and April 27, 2022, from qualified signers residing within the new district they seek to qualify in, be included in and counted towards their total signatures collected in the new district.

10. I have not made any prior application for the relief requested herein, in this or any court.

Mark S Braiman 5/15/22
Mark Braiman

Sworn to before me this
15 day of May 2022

Yongsin Kang
NOTARY PUBLIC



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 MARGARET
VOLANTE,

AFFIDAVIT IN SUPPORT

Index No. E2022-0116CV

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.

-----X
STATE OF NEW YORK)
) ss.:
COUNTY OF SCHOHARIE)

I, William Cody Anderson, being duly sworn, depose and say:

1. I am Chair and de facto President of the Libertarian Party of New York ("LPNY"), an independent body and unincorporated association.
2. I, on behalf of the LPNY, submit this affidavit in support of the motion of proposed intervenor Mark Braiman, who is the LPNY's candidate for Member of the U.S. House of Representatives ("Congress") from the (former) 22nd District of New York, to intervene in the above-captioned action. I am fully familiar with the facts and circumstances stated herein.
3. In 2018 the LPNY's Governor candidate crossed the vote threshold required for the

LPNY to obtain recognized party status, the first time in its fifty year history it had achieved such status. However, the Legislature passed a new election law in 2020, which truncated the period of the status enjoyed by all recognized parties into two years rather than four. Under the new law, in addition to the Governor candidates, the President candidates are also required to meet a certain vote threshold, and in addition, that vote threshold was set at a number more than double what it had been for decades. Sure enough, in November 2020, and also due to the limited campaigning that was a result of New York's Covid-19 travel restrictions, the LPNY's President candidate did not meet the new vote threshold, and the LPNY was reduced to independent body status again.

4. The LPNY's current Governor candidate, Larry Sharpe, now provides the only opportunity for the LPNY to regain its recognized party status, and it must gather a minimum of 45,000 valid signatures in order even to appear on the 2022 ballot.

5. In past years, in every even numbered year from the 1980s up to and including 2018, LPNY candidates for Congress and New York State Senate (as well as for New York State Assembly) were always actively recruited, particularly for those districts across New York for which their petitions would be filed with Respondent New York State Board of Elections ("NYSBOE").¹ One important value of such candidates for the LPNY, in the years in which it is an independent body, is that such petitions can be and typically are combined with that of the LPNY's statewide candidates, which have qualified for the ballot every two years since the 1980s, thus providing an assist both to our statewide candidates, and to our Congress and State Senate candidates. But even local candidates whose petitions are not combined with the statewide candidates' petition provide assistance, by commonly circulating both petitions and seeking to obtain signatures on each one. One exception to that pattern was in 2020,

¹ Candidates running in districts wholly within a county, or within New York City, will file their petitions with the board of elections for that county, or for New York City, respectively. Candidates running in districts that encompass parts of more than one county, other than those wholly within New York City, will file their petitions with Respondent NYSBOE.

when our President candidate qualified for the ballot by election at a national party convention, because as noted, that year the LPNY was a recognized party. The enthusiasm of those local candidates and their familiarity with their communities and local political activists always provides a substantial boost to our statewide candidates' efforts to qualify for the ballot, whether or not each Congress or State Senate candidate him or herself qualifies for the ballot, because all collected signatures will count towards the statewide total regardless.

6. In 2022, the LPNY and/or its local county affiliates endorsed four Congress candidates, two State Senate candidates, and three State Assembly candidates, as follows:

- Howard Rabin, for Member of the U.S. House of Representatives (1st District)
- Michael Rakebrandt, for Member of the U.S. House of Representatives (2nd District)
- Jonathan Howe, for Member of the U.S. House of Representatives (14th District)
- Mark Braiman, for Member of the U.S. House of Representatives (22nd District)
- James Coll, for State Senate (6th District)
- Blay Tarnoff, for State Senate (7th District)
- Joseph Maffia, for State Assembly (75th District)
- Pietro Geraci, for State Assembly (104th District)
- Matthew Schieber, for State Assembly (144th District)

A copy of each of those candidates' petition sheets is annexed hereto as **Exhibit 1**.

7. To my knowledge, all nine of those candidates had petitions prepared and plans made to circulate them, as of April 19, 2022, which was the start of the petitioning period for all independent candidates, according to the Election Law. Those candidates who were eligible to, combined their petitions with our statewide candidates' petition, and those who were not, obtained both petitions so as to circulate their own petitions as well as our statewide candidates' petition, a more cumbersome but still helpful process.

8. Eight days later, on April 27, 2022, the Court of Appeals handed down its decision affirming this Court's ruling, which came as a surprise to many of us. It was a happy surprise in some respects, because I and most of my colleagues in the LPNY thought it was the right decision, but it also caused immediate difficulties for all of our candidates. Our four Congressional and two State Senate

candidates now had no districts to run in, and it soon became apparent that further petitioning for their own races would likely be of no use. Our statewide candidates also no longer had any ability to keep track of which Congress districts their signatures were being collected in, which made it impossible to ensure they would meet the state law requirement that their petition include 500 signatures in each of half of the Congress districts.

9. LPNY Governor candidate Larry Sharpe and the LPNY, as well as independent US Senate candidate Diane Sare, began to explore our legal options, and retained attorney Jonathan O'Brien, Esq., to prepare papers and file an order to show cause, seeking to intervene in this action on our behalf, for relief from the extreme difficulties suffered by all statewide independent candidates caused by the elimination of Congress and State Senate district lines, as affirmed by the Court of Appeals on April 27, 2022. Our proposed order to show cause was filed on May 12, 2022, and the order was signed on May 13, 2022, setting the return date of our motion for May 19, 2022.

10. Meanwhile, on May 11, 2022, the order of this Court was issued setting out the new requirements for qualification for the ballot, for all Congress and State Senate candidates, in anticipation of the proclamation of new district lines on or before May 20, 2022. The May 11 order harms the interests and rights of independent Congress and State Senate candidates. Pursuant to that order, Respondent New York State Board of Elections will now require independent Congress and State Senate candidates to start collecting signatures no sooner than May 21, 2022, and file their petitions six weeks thereafter, by July 5, 2022. None of the signatures collected between April 19, 2022 and April 27, 2022, even if within the new districts for the same candidates, will be considered valid (though previously-collected signatures for recognized party candidates for the same offices will count to permit some of those candidates to qualify for the ballot without any further petitioning at all). The number of signatures required has not changed from the statutory requirement, which is 3,500 signatures for each independent Congress candidate, and 3,000 signatures for each independent State Senate candidate.

However, none of the independent Congress and State Senate candidates will be able to gather signatures on joint petitions with any independent statewide candidates, because the two sets of petitions must be filed separately, which is absolutely not the statutory structure intended by the Legislature. Those independent statewide (and State Assembly) petitions must still be filed by May 31, 2022, while the independent Congress and State Senate petitions may not be filed before June 27, 2022, eliminating the possibility of joint filings with joint petitions.

11. The terms of the May 11 order have resulted in a likelihood that the signatures gathered by independent Congress and State Senate candidates will not meet the statutory requirements, and sufficient signatures cannot be gathered between the new starting date for petitioning of May 21, 2022, and the deadline for filing on July 5, 2022. Between April 19, 2022, when independent Congress and State Senate candidates began petitioning to qualify for the ballot using the old district lines, and April 27, 2022, when the Court of Appeals affirmed (against the predictions of many) this Court's March 31, 2022 voiding of those old lines, movant-candidate Mark Braiman and the other five LPNY Congress and State Senate candidates spent countless hours collecting signatures and organizing volunteers and paid petitioners, in the expectation that their completed petitions could be filed six weeks later, on May 31, 2022. In addition, movant-candidate Mark Braiman and the other five LPNY Congress and State Senate candidates made arrangements in their professional and personal lives to set aside those six weeks for the all-important petitioning drive, arrangements many of which could not be undone, and many of which can not be made again.

12. In addition, during the new six-week period proclaimed in the May 11 order during which all six Congress and State Senate LPNY candidates may collect signatures, each of them will have lost a big motivational factor for collecting signatures, and organizing others to collect signatures, because they will not be able to collect also for our Governor candidate, Libertarian Larry Sharpe. While they may circulate his petitions (which are combined with four other statewide Libertarian

candidates, for Lieutenant Governor, Attorney General, Comptroller, and US Senator), together with their new petitions between May 21 and May 31 (the last day to file the statewide petitions), for the remaining weeks, until the last day to file the independent Congress and State Senate petitions which is July 5, each of those six LPNY candidates will be petitioning only for themselves, while our LPNY statewide candidates (if they have managed to qualify for the ballot at all), in turn, will have less incentive to assist the efforts of those six of our candidates. When you add on the recent and recurring difficulties caused by constantly-evolving new strains of COVID-19 and related restrictions and common fears, which reduce the availability of signers and efficiency of petition witnesses, this must be the most difficult year in New York history for independent candidates for office.

13. Furthermore, two of our State Assembly candidates (those campaigning for the 104th and 144th Districts) whose petitions must be filed with Respondent NYSBOE (and whose petitions are thus joint with our statewide candidates), and all other such independent State Assembly candidates, would be harmed and likely unable to qualify for the ballot at all, should their filing deadline not also be extended to July 5, 2022, if this Court extends the filing deadline for independent statewide candidates to July 5, as it should. That is because their petition sheets would have to be withheld from filing until after May 31, if those joint petition sheets are to be included in the whole petition to be filed on behalf of the statewide candidates, on July 5, and there would be little time after such a ruling, for such independent State Assembly candidates to create new separate petition sheets and then meet the signature requirement in the remaining time. And to be fair to those independent State Assembly candidates who do not file their petitions with Respondent NYSBOE, their deadline for filing should also be extended to July 5, 2022, in line with that of all other independent candidates, in that event.

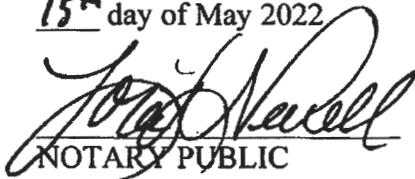
14. I urge this court to consider the harm that will likely result to every truly independent political party and candidate in New York State, as well as to every New York voter, myself included, should the relief requested by movant-candidate Mark Braiman not be granted, not just this year but for

several years into the future, as a failure to qualify a Governor candidate for the ballot prevents it not only from having an opportunity to keep or regain its recognized party status, but also eliminates all of its enrolled members from the rolls of Respondent NYSBOE, as those rolls are maintained only for "Other" independent bodies that have run a Governor (and now also, apparently, a President) candidate in the last election. There are no parties presently appearing in this action who represent or have advocated for the interests of independent bodies and candidates in this state, at all. For all those reasons and many others, I urge this Court to grant the relief sought by movant-candidate Mark Braiman, and I thank the Court for its consideration of these issues.



William Cody Anderson

Sworn to before me this
15th day of May 2022


NOTARY PUBLIC

LORA L. NEWELL
NOTARY PUBLIC-STATE OF NEW YORK
No. 01202020000
Qualified in Schoharie County
My Commission Expires October 01, 2024

EXHIBIT 1

Independent Nominating Petition



I, the undersigned, do hereby state that I am a registered voter of the political unit for which a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto, and that I do hereby nominate the following named persons as candidates for election to public offices to be voted for at the election to be held on the 8th day of November, 2022, and that I select the name Libertarian Party as the name of the independent body making the nominations and the image to the right as the emblem of such body.

<u>Name of Candidate</u>	<u>Public Office</u>	<u>Place of Residence</u> (also Post Office address if not identical)
Larry Sharpe	Governor of New York	23-14 24 th Ave., Astoria, NY 11102
Andrew C. Hollister	Lieutenant Governor of New York	710 Janes Road, Rochester, NY 14612
Sean C. Hayes	Attorney General of New York	200 Rector Place Apt. 19L, New York, NY 10280
William K. Schmidt	Comptroller of New York	1874 Crompond Rd., Apt. 3 B7, Peekskill, NY 10566
Thomas D. Quiter	U.S. Senator from New York	1789 State Highway 8, Mount Upton, NY 13809
Howard Rabin	U.S. Congressman, District 1	88 Virginia Ave., Plainview, NY 11803

I do hereby appoint:

William Cody Anderson	P.O. Box 910, Middleburgh, NY 12122	Robert M. Arrigo	24 Preserve Way, Saratoga Springs, NY 12866
Anthony D'Orazio	122 West Filbert Street, East Rochester, NY 14445	Gabrielle S. Cordova	65-60 Wetherole Street, Apt. 4A, Rego Park, NY 11374
Duane J. Whitmer	5806 East Lane, Lakeview, NY 14085	Pietro S. Geraci	26 Rockwood Drive, Newburgh, NY 12550
Andrew M. Kolstec	35 Fairfield Avenue, Jamestown, NY 14701	Paul M. Grindle	157 Starr Street, Apt. 4R, Brooklyn, NY 11237
Lora L. Newell	P.O. Box 321, Middleburgh, NY 12122	Richard F. Purtell	4 Holmes Avenue, Apalachin, NY 13732

as a committee to fill vacancies in accordance with the provisions of the election law.
 In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

	Date	Name of Signer (printed name may be added)	Residence	Town or City Except in NYC, County
1	/ /2022 X			
	printed name:			
2	/ /2022 X			
	printed name:			
3	/ /2022 X			
	printed name:			
4	/ /2022 X			
	printed name:			
5	/ /2022 X			
	printed name:			
6	/ /2022 X			
	printed name:			
7	/ /2022 X			
	printed name:			
8	/ /2022 X			
	printed name:			
9	/ /2022 X			
	printed name:			
10	/ /2022 X			
	printed name:			

STATEMENT OF WITNESS

I, _____ (name of witness) state: I am a duly qualified voter of the State of New York and now reside at _____ (residence address).

Each of the individuals whose names are subscribed to this petition sheet containing _____ (fill in number) signatures, subscribed the same in my presence on the dates above indicated and identified himself or herself to be the individual who signed this sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date _____ Signature of Witness _____

WITNESS IDENTIFICATION INFORMATION: The following information must be completed prior to filing with the board of elections in order for this petition sheet to be valid.

Town or City: _____ County: _____

Sheet No. _____

Independent Nominating Petition



I, the undersigned, do hereby state that I am a registered voter of the political unit for which a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto, and that I do hereby nominate the following named persons as candidates for election to public offices to be voted for at the election to be held on the 8th day of November, 2022, and that I select the name Libertarian Party as the name of the independent body making the nominations and the image to the right as the emblem of such body.

<u>Name of Candidate</u>	<u>Public Office</u>	<u>Place of Residence</u> (also Post Office address if not identical)
Larry Sharpe	Governor of New York	23-14 24 th Ave., Astoria, NY 11102
Andrew C. Hollister	Lieutenant Governor of New York	710 Janes Road, Rochester, NY 14612
Sean C. Hayes	Attorney General of New York	200 Rector Place Apt. 19L, New York, NY 10280
William K. Schmidt	Comptroller of New York	1874 Crompond Rd., Apt. 3 B7, Peckskill, NY 10566
Thomas D. Quiter	U.S. Senator from New York	1789 State Highway 8, Mount Upton, NY 13809
Mike Rakebrandt	U.S. Congressman, District 2	125 Ballad Circle, Holbrook, NY 11741

I do hereby appoint:

William Cody Anderson	P.O. Box 910, Middleburgh, NY 12122	Robert M. Arrigo	24 Preserve Way, Saratoga Springs, NY 12866
Anthony D'Orazio	122 West Filbert Street, East Rochester, NY 14445	Gabrielle S. Cordova	65-60 Wetherole Street, Apt. 4A, Rego Park, NY 11374
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Lora L. Newell	P.O. Box 321, Middleburgh, NY 12122	Richard F. Purtell	4 Holmes Avenue, Apalachin, NY 13732

as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

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1	/ /2022 X printed name:		
2	/ /2022 X printed name:		
3	/ /2022 X printed name:		
4	/ /2022 X printed name:		
5	/ /2022 X printed name:		
6	/ /2022 X printed name:		
7	/ /2022 X printed name:		
8	/ /2022 X printed name:		
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10	/ /2022 X printed name:		

STATEMENT OF WITNESS

I, _____ (name of witness) state: I am a duly qualified voter of the State of New York and now reside at _____ (residence address).

Each of the individuals whose names are subscribed to this petition sheet containing _____ (fill in number) signatures, subscribed the same in my presence on the dates above indicated and identified himself or herself to be the individual who signed this sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Date Signature of Witness

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Independent Nominating Petition



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Thomas D. Quiter	U.S. Senator from New York	1789 State Highway 8, Mount Upton, NY 13809
Mark S. Braiman	Representative in Congress, 22 nd District	4775 East Lake Road, Cazenovia, NY 13035
I do hereby appoint:	William Cody Anderson P.O. Box 910, Middleburgh, NY 12122	Robert M. Arrigo 24 Preserve Way, Saratoga Springs, NY 12866
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as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

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4	/ /2022 X			
	Printed name:			
5	/ /2022 X			
	Printed name:			
6	/ /2022 X			
	Printed name:			
7	/ /2022 X			
	Printed name:			
8	/ /2022 X			
	Printed name:			

STATEMENT OF WITNESS

I, _____ (name of witness) state: I am a duly qualified voter of the State of New York and now reside at _____ (residence address).

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Date _____ Signature of Witness _____

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Town or City: _____ County: _____

Independent Nominating Petition



I, the undersigned, do hereby state that I am a registered voter of the political unit for which a nomination for public office is hereby being made, that my present place of residence is truly stated opposite my signature hereto, and that I do hereby nominate the following named persons as candidates for election to public offices to be voted for at the election to be held on the 8th day of November, 2022, and that I select the name Libertarian Party as the name of the independent body making the nominations and the image to the right as the emblem of such body.

Name of Candidate

Public Office

Place of Residence (also Post Office address if not identical)

James L. Coll

State Senate, District 6

579 Arlington Drive, Seaford, NY 11783

I do hereby appoint:

Jonathan Gunther
Blay Tarnoff

636 Stewart Ave., Bethpage, NY 11714
55 Bayview Ave., Port Washington, NY 11050

Howard Rabin

88 Virginia Ave., Plainview, NY 11803

as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

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<u>Name of Candidate</u>	<u>Public Office</u>	<u>Place of Residence</u> (also Post Office address if not identical)
Blay Tarnoff	State Senator, District 7	55 Bayview Ave., Port Washington, NY 11050

I do hereby appoint: Gary Donoyan 186 Bayview Road, Manhasset, NY 11030 Randyn Tarnoff 55 Bayview Ave., Port Washington, NY 11050
 Caryn Cohen Tarnoff 55 Bayview Ave., Port Washington, NY 11050

as a committee to fill vacancies in accordance with the provisions of the election law.

In witness whereof, I have hereunto set my hand, the day and year placed opposite my signature.

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Name of Candidate Public Office Place of Residence (also Post Office address if not identical)
Joseph A. Maffia **Member, New York Assembly, 75th Assembly District** 100 West 57th, #14J, New York, NY 10019

I do hereby appoint: Mary-Joan Maffia 100 West 57 Street, #14J, New York 10019 Poul Hornsleth 100 West 57 Street, #14P, New York 10019
 Debra Leible 9 West 64th Street New York, NY 10023

as a committee to fill vacancies in accordance with the provisions of the election law.

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Name of Candidate	Public Office	Place of Residence (also Post Office address if not identical)
Larry Sharpe	Governor of New York	23-14 24 th Ave., Astoria, NY 11102
Andrew C. Hollister	Lieutenant Governor of New York	710 Janes Road, Rochester, NY 14612
Sean C. Hayes	Attorney General of New York	200 Rector Place Apt. 19L, New York, NY 10280
William K. Schmidt	Comptroller of New York	1874 Crompond Rd., Apt. 3 B7, Peekskill, NY 10566
Thomas D. Quiter	U.S. Senator from New York	1789 State Highway 8, Mount Upton, NY 13809
Pietro S. Geraci	New York State Assembly, District 104	26 Rockwood Drive Newburgh, NY 12550

I do hereby appoint:

William Cody Anderson	P.O. Box 910, Middleburgh, NY 12122	Robert M. Arigo	24 Preserve Way, Saratoga Springs, NY 12866
Anthony D'Orazio	122 West Filbert Street, East Rochester, NY 14445	Gabrielle S. Cordova	65-60 Wetherole Street, Apt. 4A, Rego Park, NY 11374
Duane J. Whitmer	5806 East Lane, Lakeview, NY 14085	Pietro S. Geraci	26 Rockwood Drive, Newburgh, NY 12550
Andrew M. Kolstee	35 Fairfield Avenue, Jamestown, NY 14701	Paul M. Grindle	157 Starr Street, Apt. 4R, Brooklyn, NY 11237
Lora L. Newell	P.O. Box 321, Middleburgh, NY 12122	Richard F. Purtell	4 Holmes Avenue, Apalachin, NY 13732

as a committee to fill vacancies in accordance with the provisions of the election law.

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Thomas D. Quiter	U.S. Senator from New York	1789 State Highway 8, Mount Upton, NY 13809
Matthew M. Schieber	New York State Assembly, District 144	199 Two Rod Road, Alden, NY 14004

I do hereby appoint:

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Sheet No. _____

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF STEUBEN

-----X
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 MARGARET
VOLANTE,

AFFIDAVIT IN SUPPORT
Index No. E2022-0116CV

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.

-----X
STATE OF NEW YORK)
) ss.:
COUNTY OF QUEENS)

I, Jonathan Howe, being duly sworn, depose and say:

1. I am a candidate for Member of the United States House of Representatives, formerly running in the 14th District of New York, having been endorsed by the Libertarian Party of New York, an independent body.
2. I submit this affidavit in support of Mark Braiman’s emergency request to intervene in the above-captioned action. I am fully familiar with the facts and circumstances stated herein.

3. My candidacy has also been significantly impacted by this Court's order, dated May 11, 2022, setting a new petitioning period for independent U.S. House of Representatives and N.Y. State Senate candidates. As a candidate for the United States House of Representatives, I am required to follow the New York State 2022 Official Political Calendar posted by Respondent New York State Board of Elections on their website in order to know when to collect signatures for ballot access, as well as other important dates relevant to the election. The election calendar dated April 1, 2022 has remained on the Board's website since that date, and continues to be hosted there and presented as the current election calendar.¹ That calendar indicates that the petitioning period for Independent Nominating Petitions was to run from April 19th to May 31st.

4. I began collecting signatures on April 19th and continued to do so through the Court of Appeals decision which affirmed the invalidation of the newly drawn election districts on April 27th. After reading the Court of Appeals ruling, checking the NY State Board of Elections website for a new calendar, and consulting with other candidates, I was unable to find any guidance as to whether I could or should continue in the petitioning process. With no guidance and the clock ticking down, I chose to continue gathering signatures. In an effort to ensure that these signatures would be valid and from voters in my eventual district, I focused on petitioning in my immediate neighborhood, with the hope that those neighbors would be in the same new district, whenever those might be drawn. On May 11th, after reading the order from this Court which issued a new election calendar, I stopped petitioning, and asked my friends, family, and volunteers to do the same. As of the afternoon of May 11th when I received the Court's order, my campaign had collected just over 1000 signatures.

5. I have been working with my campaign team and various volunteers since September 2021 to plan for the petitioning period. We all knew that petitioning for signatures

¹ <https://www.elections.ny.gov/NYSBOE/law/2022PoliticalCalendar.pdf>

during the Covid-19 pandemic would be a challenge. As soon as the NY State Board of Elections Political Calendar was published in early 2022 I used it to schedule four days off from work in late April and seven days off throughout the month of May. I thought it was important to do as much of the petitioning for my campaign myself, both due to limited resources and in order to help introduce myself to members of my community, and I knew I couldn't get it all done just on weekends and weeknights after work. My aim was to complete petitioning by May 24th, so all those days off were scheduled prior to May 20th, the Friday prior. I am a public defender in Bronx County Family Court and the process of taking time off requires scheduling hearings, conferences, and other court dates around those days many weeks or months ahead of time. As a result of scheduling time off in April and May, my court calendar from May 24th through the end of June is particularly busy, and I will not be able to take many, if any, additional days off to petition on my own.

6. In addition to scheduling time off from work to petition, I also made plans for friends and family members to help collect signatures. I scheduled events, petitioning groups, and even arranged for friends to come stay with me in my home from outside the district to help for days at a time. Many of these friends, family members, and volunteers also took time off from work and scheduled significant periods of time to come help petition, time they are not likely to be able to spare again in the near future. My mother-in-law, Xiaoxia Gu, works in education and was able to use time during her school's spring break and other scheduled days off to petition for me among the Mandarin speaking community in the district; she was able to gather over 100 signatures (which she surprised me with on Mother's Day, no less). She will not have the same availability in the new petitioning period, and is extremely discouraged and disheartened by how those signatures she already gathered are now invalid. Finally, in another

particularly poorly timed plan, I have a friend from outside New York City staying with me to help petition from May 14 until May 20; now, thanks to the new petitioning schedule, he will not be able to collect any signatures for my campaign, and it is far too late for him to change his own travel plans.

7. Requiring my campaign to start over will make it significantly more difficult to get signatures from those voters who already signed my petition, who believe they have already signed and are unaware that their earlier signatures are now invalid. Most of my petitioning, especially after the Court of Appeals decision on April 27th, took place within a mile or less of my home, and it is very likely that many of the same voters will be in whatever new district I end up in. In my experience, many people who would walk by and decline to sign my petition would explain that they had already signed for another candidate this year; most people seem to know you cannot sign for multiple candidates, not to mention multiple times for the same candidate. In the minds of the vast majority of voters who signed my petition already, they will assume they should **not** stop and sign again, and that doing so would be akin to cheating, like voting twice. I anticipate significant difficulty in getting any of those voters to sign my new petition starting May 21st.

8. One of the most severe harms caused by the change in my petitioning period is that I will not be able to petition alongside other candidates running as Libertarians in the November 2022 elections. Since April 19th, at least $\frac{1}{3}$ of the time I have spent petitioning has been with one candidate or another. I have gathered signatures and attended campaign events with Larry Sharpe, Thomas Quiter, Sean Hayes, and Bill Schmidt, all Libertarian state-wide candidates. Campaigning together has been far more effective than campaigning alone.

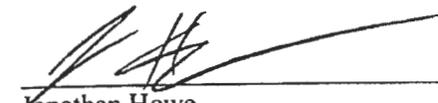
9. My campaign put so much value on campaigning together with other candidates

that in early March of 2022 I coordinated with Thomas Daniel Quiter, candidate for US Senate from New York, also endorsed by the Libertarian Party of New York, to have Mr. Quiter travel from his home in Mount Upton, New York and stay in a hotel near me for two weeks so that we could petition together. Mr. Quiter was born with osteogenesis imperfecta, brittle bone disease, and uses a custom made electric wheelchair and mobility van to get around. The process of having Mr. Quiter travel to the (former) 14th Congressional District involved having a campaign volunteer travel from New York City to Binghamton, NY by bus, then take a cab from Binghamton to his home in Mt. Upton, NY, and then drive both of them back to New York City in the mobility van. The process of campaigning with Mr. Quiter (on those days I took off specifically to do so, plus weekends) involved traveling from my home to his hotel, using a battery jump-box to jumpstart his van, loading and locking him into the van on a mechanical folding ramp, driving to an accessible location with good foot traffic, unlocking and unloading him from the van, and then finding a large enough spot to park his van for several hours in New York City. This process is then repeated on the way back after petitioning, and takes several hours that could have otherwise been spent gathering signatures. However, as we predicted, campaigning together brought us far more signatures and more than made up for the time spent in transit. Mr. Quiter will not be able to schedule or afford another trip to my new district once they are drawn, and all the clear benefit we gained from working together will be lost.

10. The above mentioned harms do not only affect my campaign and the rights of those voters who signed my petitions, they also affect my own rights as a voter. I am much less likely to be able to vote for myself, or for any independent US House or New York State Senate candidates in my eventual districts. Additionally, the fact that fewer of my volunteers (especially close friends and family members) are now interested in petitioning for Larry Sharpe, Thomas

Quiter, and other statewide candidates when they are not able to petition for me as well, makes it less likely that the statewide Libertarian ticket will achieve ballot access in this election, further limiting my rights as a voter to vote for candidates of my choice.

11. I am supporting Mr. Braiman's request for three forms of relief in this action: (1) that the deadline for independent statewide and State Assembly candidates to file their petitions be extended from May 31, 2022 to July 5, 2022, so as to be coordinate with the new deadline set (on May 11, 2022) for independent Congressional and State Senate candidates to file their petitions, permitting the circulation of joint petitions and joint campaigning; (2) that the signature requirements for independent Congressional and State Senate candidates be reduced from the statutory requirement of 3,500 signature and 3,000 signatures, respectively, by at least 50%, in light of the burdens caused by the previous petitioning efforts which cannot be undone and which will cause more burdens in the future, the difficulties caused by constantly-evolving new strains of COVID-19 and associated restrictions and fears, and in the event the statewide filing deadline is not extended, by the lack of assistance and coordination with statewide candidates whose names would otherwise be on the same petitions; and (3) that the signatures collected by independent Congressional and State Senate candidates between April 19 and the date of the Court of Appeals' order, from qualified signers residing within the new district they seek to qualify in, be included in and counted towards their total signatures collected in the new district.


Jonathan Howe

Sworn to before me this
15th day of May 2022


NOTARY PUBLIC

ZHENLING ZHANG
Notary Public, State of New York
Reg. No 02ZH6373150
Qualified in Queens County
Commission Expires April 2, 2026