To be Argued by:
ADAM FUSCO
(Time Requested: 15 Minutes)

APL-2024-00121
Saratoga County Clerk's Index No. 20232399
Appellate Division–Third Department Case No. CV-24-0891

Court of Appeals

of the

State of New York

RICH AMEDURE, GARTH SNIDE, ROBERT SMULLEN, EDWARD COX, NEW YORK STATE REPUBLICAN PARTY, GERARD KASSAR, NEW YORK STATE CONSERVATIVE PARTY, JOSEPH WHALEN, SARATOGA COUNTY REPUBLICAN PARTY, RALPH M. MOHR, ERIK HAIGHT and JOHN QUIGLEY,

Plaintiffs-Respondents-Appellants,

– against –

DEMOCRATIC CONGRESSIONAL CAMPAIGN COMMITTEE,

(*For Continuation of Caption See Inside Cover)*

REPLY BRIEF FOR PLAINTIFFS-RESPONDENTS-APPELLANTS

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

Defendants-Respondents,

– and –

SENATOR KIRSTEN GILLIBRAND, REPRESENTATIVE PAUL TONKO and DECLAN TAINTOR,

Intervenors-Defendants,

– and –

MINORITY LEADER OF THE SENATE OF THE STATE OF NEW YORK and MINORITY LEADER OF THE ASSEMBLY OF THE STATE OF NEW YORK,

Defendants-Appellants-Respondents,

– and –

GOVERNOR OF THE STATE OF NEW YORK,

Defendant.

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PRELIMINARY STATEMENT

This matter is a hybrid proceeding brought under Article Sixteen of the Election Law and the CPLR 3001 for, *inter alia*, a Declaratory Judgment determining Chapter 763 of the Laws of 2021 of the State of New York, and in particular, Election Law § 9-209 (2) (g), to be unconstitutional.

Appellants maintain that Election Law § 9-209 (2) (g) violates the bipartisan dictates of Article II, Section 8 of the New York State Constitution and Election Law § 3-212 (2) by allowing a unilateral act of one commissioner to dictate board of elections action, violating the controlling principle of equal representation. Further, the subject statute conflicts with Article VI, Section 7 of the New York State Constitution and Article 16 of the Election Law by precluding judicial review of administrative determinations by the central board of canvassers as to whether a ballot is valid, instead requiring such ballot to be cast and canvassed, without a majority vote.

Appellants urge this Court to reverse the 3-2 ruling of Appellate Division, Third Department, as the Court below erred in its determination to uphold Election Law § 9-209 (2) (g). The Court below erred in its holding that unilateral discretionary action by a single commissioner of a board of elections in deciding to cast and canvass an absentee ballot does not violate the bipartisan requirements found in Article II, Section 8 of the New York State Constitution. The Appellate

Court also erred in reversing the trial Court's finding that making judicial review "illusory at best" is a violation of Article VI, Section 7 of the State Constitution (R. 31), instead finding that precluding judicial review of one election official's determination as to whether a ballot should be cast and canvassed does not unconstitutionally intrude upon the judiciary's powers. (R. 1117).

Ultimately, the tie should not go to the voter, it should go to the Court. (cf Matter of Amedure v State, ___AD3d___, 2024 NY Slip Op 04295, [3d Dep't. 2024]; R. 1113). This action is not about *how* people vote, it is about *who* votes. This Court of Appeals should reverse the Decision and Order of the Appellate Division, Third Department, and declare unconstitutional the provisions of Chapter 763, Laws of 2021, including those amending Election Law § 9-209 (2) (g).

ARGUMENT

POINT I

The "Study" of Split Votes by Democratic County Elections Commissioners Has Not Been Preserved for Review and Should Be Precluded from Consideration

Respondent Attorney General submits that a split of the commissioners on a ballot's validity only occurs in 0.01% of all cases. (Respondent Attorney General's Brief at pp. 22, 35). This is a flawed analysis and an argument that has not been preserved for review by this Court. The Respondents' assertions are based upon 19 self-serving affidavits from a select partisan group of 19 Democratic county elections commissioners.[1]

These affiants did not provide expert testimony at any point during Amedure I (Matter of Amedure v State of NY, 77 Misc 3d 629 [Sup Ct, Saratoga County 2022]; Matter of Amedure v State of NY, 210 AD3d 1134 [3d Dept 2022]) or Amedure II (Matter of Amedure v State of NY, Index No. 2023-2399 [Sar. Co. Sup. Ct. May 8, 2024]; Matter of Amedure v State, ___AD3d___, 2024 NY Slip Op 04295 [3d Dept. 2024]). There was no opportunity to cross examine these

[1] The narrow sample size of 19 Democratic elections Commissioners includes: Kathleen A. Donovan, Michael J. McCormick, James E. Hare, Carly J. Hendricks, Mary R. Dyer, Brandon John Varin, Terry A. Bieniek, Sarah F. Bormann, Dustin Czarny, Catherine P. Croft, William Fruci, Carolyn Elkins, Carl Same, Jennie H. Bacon, James C. E. Wahls, Stephen M. DeWitt, Elizabeth L. McLaughlin, Jeffrey Curtis and Robert F. Brechko. (R. 431-468)

commissioners' assertions so as to ascertain the veracity of the statements made therein. Respondents' statistical conclusion, and the "study" upon which it is based, is highly prejudicial to your Appellants while adding minimal probative value to the case-in-chief.

Even more troubling, this issue has not been properly preserved for review by this Court of Appeals. This "survey" did not appear in any of the Respondents' appellate briefs at the Court below. In fact, this argument, outside of the affidavits filed with the trial Court, was brought up on appeal for the first time during rebuttal arguments at the Appellate Division, Third Department.[2] Your Appellants, Respondents at the Court below, were not afforded the opportunity to address this matter, as they were not permitted surrebuttal. This tactic is highly prejudicial to the Appellants, as this argument was not only was improperly introduced on rebuttal, beyond the scope of the arguments in-chief, but now has been impermissibly submitted to this Court in an effort to sway this Court's opinion of the offending statute. This maneuver cannot stand.

As Appellants have previously asserted, (see Appellants' Brief at pp. 28-29), contests over ballots routinely occur where there is a hotly contested and close

[2] In fact, this argument was raised, for the first time, impermissibly by the Attorney General and Counsel for the Senate Majority Leader(s) on rebuttal. When prompted by Justice Pritzker as to why this argument was not included in any briefs or at the presentation of the case in chief, Counsel for the Senate Majority succinctly acquiesced "I don't know."

race. Not surprisingly, these close contests are ones that are most vulnerable to fraud and improper practices. Your Appellants have offered actual evidence of fraud that evaded elections commissioners and called into question the validity of certain elections. (See, e.g. Pai Indictment, CV-24-0891, NYSCEF Doc. 43; CV-24-0891, NYSCEF Doc. 44, Queens Supreme Criminal Court, Case No.1388/2024; Rahman Indictment, Queens Supreme Criminal Court, Case No. IND-74636-23/001; Index No. 2023-2399, NYSCEF Doc. 121, pp.13-14; Doc. 122). But criminal prosecution - or even *quo warranto* actions - are post hoc remedies that cannot change the result of an election. These "safeguards" do nothing for the Appellants, comprised of party chairs, candidates and voters, who would now have no avenue of redress before the election. "It is section 9-209 (2) (g) — and, for all of the majority's discussion of other areas of the Election Law, only that provision — that is at issue here. There is no question that the provision is invalid." (R. 1119; Egan, J., Pritzger, J., dissenting).

One must consider that the population of election commissioners are well aware that they no longer have the power to have a ballot set aside for Court review by "splitting" with their counterpart. Why cast a dissenting vote if it is rendered meaningless by the law? It is no surprise that just about every one of Respondents' form affidavits at paragraph "8" states there have been zero split votes. This is exactly the resulting unilateral partisan action that Chapter 763

presents in violation of the State Constitutional. (see Article II, § 8 of the New York State Constitution). Respondents' arguments and self-serving affidavits highlight a low percentage of split determinations because all commissioners know a ballot cannot be set aside for Court review by "splitting" with their counterpart.

Aside from the invalidity of this "study", Appellants respectfully submit to this Court that just one split vote still resulting in the casting and canvassing of an invalid ballot by an unqualified voter necessitates invalidation of Election Law § 9-209 (2) (g).

For context, it is useful to look at how split votes were adjudicated before 2022. Prior to the Chapter 763's adoption in 2022, contests over ballots routinely occurred where there was a hotly contested and close race. These close contests are ones that lend themselves to fraud and improper practices. Also, not surprisingly, these are the races that are found to have teams of poll watchers appear at the Board of Elections to make objections during the canvass (at least prior to 2022's effective date of Chapter 763). The "tight races" are the ones that bring in teams of lawyers and ended up on the Courts' dockets.

Since 2000 this State has seen some of the closest of elections. For example, in 2000, the last race decided in the United States was in a Manhattan State Senate District, where Senator Roy M. Goodman was re-elected by a margin of 100 votes out of over 140,000 votes cast.

In 2004 the Court of Appeals passed on the qualifications of voters in Albany County Legislative races as the result of Court ordered rescheduled General Election. (see Matter of Gross v Albany County Bd. of Elections, 10 AD3d 476, 479 [3d Dept 2004], aff'd 3 N.Y.2d 251 [2004].

Also in 2004, in Westchester County, Senator Nicholas Spano was re-elected by 18 votes. The matter was finally decided in February, after Election Day by a final order of the Supreme Court which followed upon remand from this Court of Appeals.

In 2006 a race for Town Board in Wappingers was declared a tie when the Courts found a ballot with pizza sauce stains was valid and to be canvassed. (see Brilliant v. Gamache, 25 A.D.3d 605 [2nd Dept., 2006]).

In 2008 another tight State Senate race was decided by a few hundred votes out of the thousands cast. (see Ragusa v. Board of Elections, 57 A.D.3d 807 [2nd Dept., 2008]). That canvass was subject to painstaking judicial review.

Just a two years later this Court of Appeals reviewed the lower court decisions regarding a State Senate race which decided the Majority Party in that house of the Legislature in Johnson v. Martins. (15 N.Y.3d 584 [2010]). The Court of Appeals decision in that case came just before Christmas.

In 2009 the Nassau County Executive Election was decided by a mere 286 votes out of more than 260,000 ballots cast (see https://www.nytimes.com/2009/12/01/nyregion/

01nassau.html). The canvass was concluded with a Court Order after all issues were resolved.

In 2015 the New York State Court of Appeals decided Stewart v. Chautauqua County Board of Elections, (14 NY3d 115 [2015]) setting important precedent regarding the qualifications of a voter to vote in an election (invalidating certain ballots).

More recently a Niagara County Legislative Race was decided by a couple of votes. see Voccio v. Kennedy, 74 Misc. 3d 316 [Niagara Co. Sup. Ct. 2021]).

New York State saw a Congressional race during the 2020 Elections decided by a margin of 109 votes out of over 300,000 votes cast. (see Tenney v. Oswego Co. Board of Elections, 71 Misc. 3d 385 [Sup. Ct., Oswego Co, 2021]).

Indeed, New York's electoral history has repeatedly seen extremely close races in which the powers of the Courts were invoked to review the administrative determinations of the Boards of Elections. Based on the cases outlined above, it is evident that the sky was not falling before the adoption of Chapter 763. Before 2022, close races were afforded judicial intervention and accuracy trumped expediency when certifying election returns. Any one of the races cited above could have resulted in a different "winner" if Chapter 763 had been in place. It would be foolhardy to assume that there will be no races that are brought to a "photo finish" this November, or in elections to come. The Respondents citation to a 0.01% split by commissioners is an arbitrary number not backed by any live testimony or admissible data. Thus, this Court must reject any arguments

based upon generalizations predicated on the vast majority of elections which are not decided by small margins.

The history that Respondents attempt to debunk with this manufactured "study" demonstrates conclusively that the Courts are the election process safety net for our citizens. The confidence of the electorate in the election process is guaranteed by the Judiciary. The guarantee of judicial review is what assures us that the results of an election are accurate and have not been compromised.

POINT II

Article II, § 8 of the New York State Constitution Requires Bipartisan Action

Article II, § 8 of the New York State Constitution states: "All laws creating, regulating or affecting boards or officers charged with the duty of qualifying voters, or of distributing ballots to voters, or of receiving, recording or counting votes at elections, *shall secure equal representation of the two political parties* . . ." (N.Y. Const. Art. II, § 8 [emphasis added]).

Chapter 763 is not bipartisan – it does not allow equal representation of the two parties. The Supreme Court, before being reversed by the Appellate Division, correctly found that the unilateral act of validating ballots "is not a function of

safeguarding the equal representation rights of any party, rather it is in violation of the very essence of a function requiring equal representation". (R. 29). The Appellate Division, Third Department erred in reversing the trial Court on this point of law.

A. Bipartisan Representation Requires Bipartisan Action

The Merriam-Webster Dictionary defines representation as the *act or action of representing* … such as the *action* or fact of one person standing for another so as to have the rights and obligations of the person represented. (The Merriam-Webster Dictionary [Newest Ed.] [2022]. Merriam-Webster Incorporated [emphasis added]).

By definition, bipartisan action "requires that any decisions 'qualifying voters, or of distributing ballots to voters, or of receiving, recording or counting votes at elections' cannot be accomplished by a minority of the board", and that any actions must be made by majority vote pursuant to NY Const. Art II, § 8; Election Law § 3-212 (2). (R. 28.).

Respondents, collectively, argue that bipartisan board representation does not require bipartisan board action. This argument is inconsistent with the very definition of the word "representation". This Court of Appeals has recognized that ensuring bipartisan representation is essential and that "[r]ecognition of such a right ensures that attempts to disrupt the delicate balance required for the fair

administration of elections are not insulated from judicial review." (Graziano v. County of Albany, 3 N.Y.3d 475, 480-81 [2004] ["The constitutional and statutory equal representation guarantee encourages even-handed application of the Election Law and when this bipartisan balance is not maintained, the public interest is affected."]).

As the dissenting Opinion outlined at the Appellate Court below herein:

> "Election Law § 9-209 (2) (g), as recently amended, upended the longstanding expectation that there would be bipartisan agreement — and not just consultation — in resolving certain challenges to absentee ballots, creating a presumption that the ballot is valid even if there is dispute between election officials as to whether, most importantly, the signature on the ballot envelope matches that of the person who purportedly cast it. The ballot is then counted in a way that prevents any possibility of judicial review to resolve those concerns. The sole issue presented on this appeal is whether Election Law § 9-209 (2) (g) offends the NY Constitution and, because we conclude that it does, we respectfully dissent." (R. 1117-1118; Egan, J., Pritzger, J., dissenting).

There is no bipartisan representation without bipartisan action. It follows, consequently, that Election Law § 9-209 (2) (g) must be stricken as it violates Article II, § 8 of the New York State Constitution.

B. Discretionary Determinations by Boards of Election Require Bipartisan Action

Unilateral determinations of the validity of absentee, military, special, affidavit and early vote by mail ballots create an imbalance in the equal

representation rights of the political parties. This is especially true given the fact that a determination of the validity of a ballot is a discretionary (and not ministerial) act.

Respondent Attorney General relies on the People ex rel. Stapleton v. Bell, (119 N.Y. 175 [1890]) to support the argument that boards of election do not need bipartisan determinations and unilateral actions suffice so as to protect against voter disenfranchisement.

Stapleton involves a ministerial action (as does Chadbourne v. Voorhis, (236 N.Y. 437 [1923]), namely the required signing of an election return *after* the votes had been canvassed. In stark contrast with Stapleton, the facts of this case deal with discretionary determinations by commissioners when ruling on the qualifications of voters and the validity of ballots *before* they are to be counted and canvassed.

In any event, the board must exercise bipartisan action when making discretionary determinations. Election Law § 9-209 (2) (g) is an anomaly in this regard. At every step throughout the laborious process Chapter 763 has created, there is bipartisan action when making discretionary determinations – except for when deciding whether or not to cast and canvass a ballot. For instance, when the board issues absentee ballot applications and approves whether a voter a qualified,

there is bipartisan action. When determining whether the absentee application was signed and/or filled out correctly, there is bipartisan action.

The only stage of the canvassing process that allows unilateral partisan action to make a discretionary BOE determination is the statute's dictate "[i]f the central board of canvassers splits as to whether a ballot is valid, it shall prepare such ballot to be cast and canvassed pursuant to this subdivision." (Election Law § 9 – 209 [2][g]). This is a direct violation of the bipartisan mandates of Article II, § 8 of the New York State Constitution. The Legislature cannot trump the State Constitution with a statute.

Furthermore, the Stapleton Court showed a manifest concerned for potentially disenfranchising the electoral franchise if returns were not to be certified. Unlike those concerns raised in Stapleton, declaring Chapter 763 and/or Election Law § 9 – 209 (2)(g) unconstitutional will not disenfranchise a single voter. It will actually enfranchise voters and address the issue the Stapleton Court was most concerned with – "the vote of a citizen, duly qualified to cast it". (Stapleton, supra, at 179). Here, should the statute be stricken, duly qualified voters will face no issues in having the valid ballots cast and canvassed. Further, ballots cast by duly qualified voters will not be diluted by those who should not be permitted to have their votes casts and canvassed.

For these reasons, § 9 – 209 (2)(g) must be invalidated by this Court.

POINT III

This Court has a Duty to Decide the Matters of Law Presented

Appellants commenced this action more than one year before the 2024 general election, seeking, *inter alia,* a judgement declaring Chapter 763 of the Laws of 2021 unconstitutional as to the 2024 election cycle. By enactment of Chapter 763, Laws of 2021 the Legislature has completely abridged any person – be it a candidate, party chair, election commissioner or voter - from contesting a determination by the Board of Elections to canvass an illegal or improper ballot. Each day that passes causes new harm to the Appellants - comprised of party chairs, candidates and voters - whose constitutional rights are abridged by this statute.

Chapter 763's unconstitutional edicts cause injury to the Appellants that outweigh any inconvenience its invalidation would place upon the Respondents. Any perceived prejudice of a change in the canvassing law "midstream" is an unavailing argument against remedying an unconstitutional statute. (See Respondent Attorney General's Brief at p. 4; See Respondent Assembly Majority's Brief at p. 41). The Respondents' perceived threat to the public's confidence in elections is outweighed by the prejudice that exists in the trampling of constitutionally protected rights. It is the Appellants who are asking this Court to preserve the integrity and sanctity of New York's elections.

Before this Court are specific constitutional questions. Does unilateral discretionary action by a single commissioner of a board of elections in deciding to cast and canvass an absentee ballot violate the bipartisan requirements found in Article II, Section 8 of the New York State Constitution? Does Election Law of the State of New York § 9-209 (2) (g) violate Article VI, Section 7 of the New York State Constitution insofar as the same provides that if the central board of canvassers splits as to whether a ballot is valid, it shall prepare such ballot to be cast and canvassed without an opportunity to seek judicial review of the administrative determination?

This Court has both the power and the duty to remedy the constitutional infirmities that Chapter 763, New York Laws 2021, and more specifically, Election Law § 9-209 (2) (g), poses. This Court should order that there shall be judicial review of split administrative board determinations on the validity of ballots.

Matter of De Guzman v. State of N.Y. Civil Serv. Comm'n instructs that "statutory preclusion of all judicial review of the decisions rendered by an administrative agency in every circumstance would constitute grant of unlimited and potentially arbitrary power too great for the law to countenance." (129 A.D.3d 1189, 1191 [3rd Dept. 2015]); See Matter of Pan Am. World Airways v. New York State Human Rights Appeal Bd., 61 N.Y.2d 542, 548 [1984]; Matter of Baer v. Nyquist, 34 N.Y.2d 291, 298 [1974]). The Appellate Division erred in

sidestepping the aforementioned case law in so finding that precluding judicial review of one election official's determination as to whether a ballot should be cast and canvassed does not unconstitutionally intrude upon the judiciary's powers. (R. 1117).

For over 200 years, since Marbury v. Madison, courts have recognized that "where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded." (5 U.S. 137, 153 [1803]). The Appellants maintain that Chapter 763, *inter alia*, violates the constitutionally protected right of substantive and procedural Due Process, violates the doctrine of Separation of Powers and abridges the Appellants' rights to a legal remedy by precluding judicial redress of a flawed administrative review. The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. (See Marbury v. Madison, 5 U.S. 137, 153 [1803]). One of the first duties of government is to afford that protection. (Id.).

Whether or not these constitutional questions are decided before November 5, 2024, there will be an election right around the corner. If it's not the general election, then there may be a village election, or a school board election, or a

special election or an election for a fire district. The list goes on and on. No matter what, this Court has a duty to resolve these questions of law.[3]

At the heart of Appellants' challenge is that Chapter 763 of the Laws of 2021 violates the New York State Constitution by repealing judicial review of board of election determinations regarding absentee ballots. At the Appellate Division, Appellants herein (Respondents at the Court below) invited the Court to strike the entirety of the statute. (See, e.g., Hecker v State, 20 NY3d 1087 [2013]).

All of the parts of the Legislature's pernicious, unconstitutional plan are inextricably interwoven and the entire chapter must be stricken.

Simply put, there is no severability clause in Chapter 763 of the Laws of 2021. That fact requires that if any part of the enactment is stricken as unconstitutional, the entire Chapter must be invalidated as a matter of law.

This Court of Appeals has examined statutes where there were found to be unconstitutional provisions, but the Legislature had not decided to include a severability clause, and held the entire statute to be stricken. (See Assn. of Surrogate and Supreme Court Reporters v. State, 79 N.Y.2d 39 [1992]).

As this Court explained:

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[3] Unlike the Appellate Division, Third Department, in Amedure I, wherein the Court dismissed the petition, but the matter's dismissal rested on *laches* (timeliness) as opposed to the underlying merits. (Matter of Amedure v State of NY, 210 A.D.3d 1134 [3d Dep't 2022]). There, the Court failed to answer the constitution questions before it, namely the constitutionality of Chapter 763 of the Laws of 2021. And upon hearing Amedure II, the Appellate Court erred in its determination on the merits.

> "[t]he standard for determining severability was stated in People ex rel. Alpha Portland Cement Co. v Knapp (230 NY 48, 60 [Cardozo, J.]): The question is in every case whether the legislature, if partial invalidity had been foreseen, would have wished the statute to be enforced with the invalid part exscinded, or rejected altogether. The answer must be reached pragmatically, by the exercise of good sense and sound judgment, by considering how the statutory rule will function if the knife is laid to the branch instead of at the roots." see also, Matter of New York State Superfund Coalition v New York State Dept. of Envtl. Conservation, 75 N.Y.2d 88, 94; Matter of Westinghouse Elec. Corp. v Tully, 63 N.Y.2d 191, 196.)". (Assn. of Surrogate and Supreme Court Reporters v. State, supra, at 48).

Here, the two headed snake that the Legislature has created undermines both the bipartisan nature of the election process and the ability to obtain Judicial Review of decisions related to our most precious right to vote. Both of these protections are guaranteed by the State Constitution. Accordingly, the entire scheme based on constitutional violations must be stricken. The entirety of Chapter 763 must fall as a matter of law.

This Court of Appeals must reverse the Decision and Order below and allow for a coherent methodology to obtain judicial review of BOE determinations. This Court should be offended by the Legislature invading its jurisdiction, and the unconstitutional statute should be stricken immediately.

POINT IV

Appellants Adopt and Incorporate by Reference the Arguments of the Co-Appellants Minority Leaders of the Assembly and Senate Regarding Standing to Appeal

It has been alleged by the Respondents that the Minority Leader of the Senate of the State of New York and Minority Leader of the Assembly of the State of New York do not have standing to commence the Appeal herein. Appellants maintain that the Minority Leaders do have standing to appeal, and hereby adopt and incorporate by reference the arguments stated in the reply brief of the co-Appellant Minority Leaders.

CONCLUSION

For all of the reasons advanced herein, this Court of Appeals should reverse the Decision and Order of the Appellate Division, Third Department, and declare unconstitutional the provisions of Chapter 763, Laws of 2021, including those amending Election Law § 9-209 (2) (g), together with such other further and different relief as this Court may deem to be just and proper in the premises.

DATED: October 7, 2024

Respectfully submitted,

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PRINTING SPECIFICATIONS STATEMENT

The foregoing brief was prepared on a computer. A proportionally spaced typeface was used, as follows:

Name of typeface: Times New Roman
Point size: 14
Line spacing: Double

The total number of words in the brief, inclusive of point headings and footnotes and exclusive of pages containing the table of contents, table of citations, proof of service, printing specifications statement, or any authorized addendum containing statutes, rules, regulations, etc., is 4,491.

STATE OF NEW YORK	)		**AFFIDAVIT OF SERVICE**
	)	ss.:	**BY ELECTRONIC MAIL**
COUNTY OF NEW YORK	)		**(BY CONSENT OF PARTIES)**

I, Tyrone Heath, 2179 Washington Avenue, Apt. 19, Bronx, New York 10457, being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at the address shown above.

On October 7, 2024

deponent served the within: **REPLY BRIEF FOR PLAINTIFFS-RESPONDENTS-APPELLANTS**

upon:

DERОHANNESIAN & DERОHANNESIAN
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Sworn to before me on October 7, 2024

MARIANA BRAYLOVSKIY
Notary Public State of New York
No. 01BR6004935
Qualified in Richmond County
Commission Expires March 30, 2026

Job# 514058