To be Argued by:
PAUL DERОHANNESIAN
(Time Requested: 30 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 DEFENDANTS-APPELLANTS-RESPONDENTS

DERОHANNESIAN & DERОHANNESIAN
Paul DerOhannesian II, Esq.
Attorneys for Defendants-Appellants-Respondents
159 Wolf Road, Suite 305
Albany, New York 12205
Tel.: (518) 465-6420
Fax: (518) 427-0614
paul@derolaw.com

COUNSEL PRESS (800) 4-APPEAL • (514026)

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.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

PRELIMINARY STATEMENT 1

LEGAL ARGUMENTS 3

I. Qualifying a voter and validating a ballot after a cured ballot is returned are discretionary actions of the Board of Elections that require bipartisan agreement 3

A. Verifying signatures and determining whether a ballot has been properly cured are discretionary actions that are part of the process of qualifying voters and validating ballots and as such require bipartisan approval 6

II. Expediting ballot review to rush the reporting of election results does not supersede ensuring that a voter is qualified and a ballot is valid 7

III. There is no legislative intent to dismantle the bipartisan nature of the discretionary acts of qualifying voters and validating ballots 10

IV. Minority Leaders' appeal should not be dismissed because their request for relief was denied by the Appellate Division 13

CONCLUSION 15

TABLE OF AUTHORITIES

Page(s)

Cases:

Artibee v. Home Place Corp.,
28 N.Y.3d 739 (2017) 12

Byrnes v. Senate of the State of New York,
41 N.Y.3d 1022 (2024) 14

Conlin v. Kisiel,
35 A.D.2d 423 (4th Dep't 1971), *aff'd* 28 N.Y.2d 700 (1971)............................11

Foley v. Bratton,
92 N.Y.3d 781 (1999) 12

Graziano v County of Albany,
309 A.D.2d 1062 (3d Dep't 2003), *rev'd on other grounds*
3 N.Y.3d 475 (2004) 4, 5, 6

Gross v. Albany County Board of Elections,
3 N.Y.3d 251 (2004) 4, 5, 6

Matter of Aaron J.,
80 N.Y.2d 403 (1992) 10

Matter of Amedure v. State of New York,
77 Misc.3d 629 (Sup. Ct. Saratoga Cnty. 2022), *rev'd on other grounds*
210 A.D.3d 1134 (3d Dep't 2022)...2

Matter of Brandon P. v. Jennifer M.C.,
222 A.D.3d 1430 (4th Dep't 2023).. 13, 14

Matter of Dutchess County Dept. of Social Servs. ex rel. Day v. Day,
96 N.Y.2d 149 (2001) 10

Matter of Plato's Cave Corp v. State Liq. Auth.,
68 N.Y.2d 792 (1986) 10

People ex rel. Chadbourne v. Voorhis,
236 N.Y. 437 (1923) 3

RadLAX Gateway Hotel, LLC v. Amalgamated Bank,
566 U.S. 639 (2012) 12

Rangolan v. County of Nassau,
96 N.Y.2d 42 (2001) 12

Ross v. Wigg,
100 N.Y. 243 (1885) 13

Silver v. Pataki,
4 N.Y.3d 75 (2004) 14

Stefanik v. Hochul,
229 A.D.3d 79 (3d Dep't 2024) 12

Tenney v. Oswego,
71 Misc. 3d 400 (Sup. Ct., Oswego County 2021) 8

Statutes & Other Authorities:

9 N.Y.C.R.R. 6210.21(b) 12

C.P.L.R. § 5511 13

Election Law § 3-212 .... 2, 7

Election Law § 3-212(2) 10, 11

Election Law § 8-402 6

Election Law § 9-209 .... 7, 11

Election Law § 9-209(2)(g) .... *passim*

Election Law § 9-209(3) 11

Election Law § 9-209(3)(b) 6

N.Y. Const., art. II, § 8 .... *passim*

Assure, CAMBRIDGE ENGLISH DICTIONARY,
https://dictionary.cambridge.org/dictionary/english/assure (last visited
October 5, 2024) 9

New York Laws of 2021, Chapter 763 .... *passim*

PRELIMINARY STATEMENT

Bipartisan agreement in election matters is the heart of the New York Constitution's framework for the conduct of elections in New York. (N.Y. Constitution, Article II, Section 8 ("[a]ll 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") (emphasis added)). In other words, New York's Constitution requires bipartisan action for the "qualifying, distributing of ballots to voters, the receiving recording or counting of votes."

The constitutional mandate of bipartisanship is for good reason – bipartisanship is fundamental to fair elections that accurately reflect the will of the voters. Allowing one party's commissioner to decide whether to qualify a ballot means that we may not know the true winner of an election, the losers are clear: the voters and the integrity of the New York framework of bipartisan administration of elections.

Chapter 763 of the New York Laws of 2021 ("Chapter 763") for the most part hews to the constitutional mandate of bipartisanship in the initial issuance of absentee ballots and the cure process. Neither Chapter 763's legislative history, nor the language of the statute reflects any intent by the Legislature to override this bipartisan process for qualifying voters and counting votes as set forth in Article II,

Section 8 and Election Law §3-212. The statute's process helps meet the stated goal of expediting the counting of ballots. As Justice Egan states, "So far, so good." (R 1119).[1]

But Election Law § 9-209(2)(g) opens the door to one commissioner to qualify and count a ballot when there is a disagreement on whether a ballot is valid, or a voter is qualified when ballots are returned after issuance of a cure notice. Sacrificing accuracy and integrity by truncating and skipping the approval process of qualified voters at the altar of electoral expediency comes at the cost of not only faulty election results but also undermines the public's confidence in the electoral process. And the public's confidence is best insured by the judiciary's oversight of election commissioners' disagreements over the qualification of voters.

The Minority Leader of the Assembly of the State of New York and Minority Leader of the Senate of the State of New York (hereinafter "Minority Leaders") again respectfully submit that the Appellate Division's findings and conclusions should be reversed and that this Court should adopt the dissenting opinion in its entirety, thereby affirming the Decision and Order of the Supreme Court declaring

---

[1] To date, seven judges in both trial courts and the Appellate Division have reviewed the constitutionality of Election Law § 9-209(2)(g). Four judges (two appellate level and two trial court justices) have found that it is unconstitutional, and only three have found that it is constitutional. (*See Matter of Amedure v. State of New York*, 77 Misc.3d 629 (Sup. Ct. Saratoga Cnty. 2022) *rev'd on other grounds* 210 A.D.3d 1134 (3d Dep't 2022) ("*Amedure I*")).

unconstitutional one provision of Chapter 763, Laws of 2021, i.e., Election Law § 9-209(2)(g).

LEGAL ARGUMENTS

I. Qualifying a voter and validating a ballot after a cured ballot is returned are discretionary actions of the Board of Elections that require bipartisan agreement.

Respondents assert that the "only decision" to ever come from this Court regarding an evaluation of "an election-related statute for compliance with section 8" of the New York State Constitution is *People ex rel. Chadbourne v. Voorhis* (236 N.Y. 437 [1923]) (Att'y Gen. Br. 27; *see also* Sen. Br. 14, Intervenors Br. 12, Assem. Br. 26)[2]. All Respondents cite to the same, single sentence quote, stating that Article II, Section 8 of the New York State Constitution "merely 'guarantee[s] equality of representation to the two major political parties on all [elections] boards and nothing more." *Chadbourne*, 236 N.Y. at 446. This is the crux of all Respondents' arguments that equal representation does not equal bipartisan action.

However, *Chadbourne* merely stands for the general legal principal that Article II, Section 8 of the New York State Constitution requires equal representation. *Id.* It stands for nothing more. The case did not seek to interpret the

[2] The briefs cited to are those of the State of New York (Att'y Gen. Br.); Senate of the State of New York, Majority Leader and President Pro Tempore of the Senate of the State of New York (Sen. Br.); Majority Leader of the Assembly of the State of New York and Speaker of the Assembly of the State of New York (Assem. Br.); and Senator Kirsten Gillibrand, Representative Paul Tonko, and Declan Taintor (Intervenors Br.).

provision regarding the qualifications of voters or counting of ballots, and it has never been cited for this language or interpretation of Article II, Section 8.

More importantly, Respondents overlook the fact that this Court has held that qualifying and validating ballots are discretionary actions of a Board of Elections, and that discretionary actions "cannot be exercised unilaterally," i.e., by one commissioner. *See Gross v. Albany County Board of Elections* (3 N.Y.3d 251, 253, 258-59, n.3 [2004]) (holding that issuing absentee ballots to "any voter who had requested one" without reviewing applications for absentee ballots was a discretionary action because it "involved the Board's exercise of judgment" in determining whether a voter is "qualified to cast an absentee ballot"); *Graziano v County of Albany* (309 A.D.2d 1062, 1064 [3d Dep't 2003], *rev'd on other grounds* 3 N.Y.3d 475 [2004]) (holding that a discretionary action by a single member of the Board of Elections "cannot be exercised unilaterally").

Respondents insist that *Graziano* is irrelevant to this matter because it concerns "unilateral action by a single commissioner" who challenged a "county hiring freeze." (Sen. Br. 19; Assem. Br. 27; Att'y Gen. Br. 30). But this is only one part of *Graziano*. What Respondents fail to acknowledge is that this Court did not disturb the Appellate Division's holding that the decision to hire personnel is discretionary, and discretionary actions by members of the Board of Elections simply cannot be unilateral. (*Graziano,* 309 A.D.2d at 1063). Discretionary action requires

bipartisan approval. Further, the relevancy of this case becomes more apparent when reading it in conjunction with *Gross*, a case that the Minority Leaders called attention to in both their initial brief to this Court and to the Appellate Division. Notably, the State is the only respondent to even cite to *Gross*, in a footnote ten pages after its analysis of *Graziano*, and in a context that mischaracterizes the decision itself. (Att'y Gen. Br. 40).

In *Gross*, the Albany County Board of Elections forwarded absentee ballots "to any voter who had requested one during the fall 2003 elections" without requiring the voter file an "application establishing that they were entitled to do so." (*Gross*, 3 N.Y.3d at 254). This Court held that such an error "simply cannot be characterized as technical, ministerial or inconsequential because it was central to the substantive process by which voters are determined to be qualified to cast absentee ballots." (*Id.* at 258-59). This Court further explained that an action which "affect[s] the manner in which [the Board] exercise[s] its statutory obligation to determine absentee voter eligibility" is not ministerial, i.e., discretionary, because "it involve[s] the Board's exercise of judgment." (*Id.* at n.3).

Applying these principles to this Court's holding in *Graziano* that discretionary actions cannot be unilateral, the relevancy and applicability of these cases to the matter at the heart of this brief cannot be denied.

A. Verifying signatures and determining whether a ballot has been properly cured are discretionary actions that are part of the process of qualifying voters and validating ballots and as such require bipartisan approval.

The voter's signature is a crucial component of a valid ballot and a substantial factor that is considered when determining that voter's qualification. Under Election Law § 8-402, the Board of Elections, upon receiving an application for an absentee ballot, determines if the applicant is qualified to receive an absentee ballot, and that application must be signed by the voter. The dissent recognizes that a serious objection that one commissioner might have would be over the "discrepancies between the signature on the ballot envelope and the voter's actual signature on file." (R 1119). Even the majority below acknowledges that "acceptance of a ballot signature may be fairly characterized as the ultimate determination of that ballot's validity." (R 1113-14).

Whether there is a discrepancy between the signature on the ballot and the one on file would be based on the commissioner's "exercise of judgment," making the act discretionary under *Gross*, and as noted above, this Court in *Graziano* has held that actions of the board which are discretionary cannot be exercised unilaterally. (*Gross*, 3 N.Y.3d at n.3; *Graziano,* 309 A.D.2d at 1064). The same holds true for the inspection that must take place once a ballot that has been returned to the voter for a curable defect is resubmitted, especially if the defect was that the envelope lacked a signature. *See* Election Law § 9-209(3)(b).

Respondents' argument that equal representation does not mean bipartisan agreement would render Article II, Section 8 meaningless and open the door to eliminating bipartisan agreement at other stages of the electoral process, not only in Election Law § 9-209, but also Board actions encompassed by Election Law § 3-212. And the argument that equal representation does not mean bipartisan agreement also fails because this Court's precedent clearly sets forth a separate requirement that any discretionary actions regarding the qualification of voters which involve a Board member's exercise of judgment must have bipartisan agreement.

II. Expediting ballot review to rush the reporting of election results does not supersede ensuring that a voter is qualified and a ballot is valid.

The State recognizes that there must be bipartisan agreement on the initial review of the ballot, where it is examined for "certain threshold defects" and acknowledges that if there is a partisan split at this point, then the ballot can "unilaterally be set aside." (Att'y Gen. Br. 12). The State further acknowledges that there must also be a bipartisan determination of whether a curable defect is present. (*Id.* at 13). And the Senate Respondents list seven curable defects, four of which involve the validity of the voter's signature. (Sen. Br. 7-8). In other words, at the first instance, there must be bipartisan agreement that the signature is or is not valid. Again, as the dissent notes, the provisions of Chapter 763 are "so far so good." (R 1119).

The State's illustration of this process demonstrates where Election Law § 9-209(2)(g) goes off the rail: "[i]f the envelope does not contain any of these curable defects, or if the defect has been cured, the envelope proceeds to a signature-matching process," after which "the envelope is processed for counting … even if there is a split on the CBC as to the validity of the match." (Att'y Gen. Br. 13).

Apart from the question of a signature match, what if an unsigned ballot envelope is returned unsigned, i.e., with no signature at all? Election Law § 9-209(2)(g) permits one commissioner to count the patently unqualified unsigned ballot envelope, without any challenge or judicial review. Likewise, if a voter is subsequently disqualified after the initial issuance of the ballot, such as by death or residence, it likewise can be counted by one commissioner without any challenge or judicial review.[3] A voter may also not be qualified to vote if purged from the roll of voters for reasons such as moving out of the country "or in the course of federally required voter database maintenance under the National Voter Registration Act." (*Tenney v. Oswego*, 71 Misc. 3d 400, 406-08 [Sup. Ct., Oswego County 2021]) (holding voters purged from voter rolls were improperly allowed to cast ballots and their votes should be removed from tally).[4]

---

[3] Commissioner Ralph Mohr of the Erie County Board of Commissioners reported that "as a result of the statutory procedures set forth by Chapter 763, the affirmation envelope of a deceased voter was not set aside because of the procedure under Chapter 763. (R 874)

[4] A "purged" voter — unlike an inactive voter — is no longer registered to vote.

Regardless of whatever subsequent actions may or may not be taken against individuals who may have participated in the submission and approval of unqualified ballots (which may also be the result of negligence or oversight), the election results are tainted and perhaps the winner uncertain. Many New York elections can and have been won by only a small number of votes, so any voter, as well as elected officials who could lose their seats due to a few fraudulent ballots being counted, should recognize the importance of taking the time, and extra precautions, to make sure every valid vote by a qualified voter is counted.

The legislative history of Election Law § 9-209(2)(g) shows that the purpose of Chapter 763 was not just to "obtain the results of an election in a more expedited manner," it was also "to *assure* that every valid vote by a *qualified* voter is counted." (emphasis added) (R 317). The dictionary defines the term "assure" as "to say with certainty; to tell someone confidently that something is true." *Assure*, CAMBRIDGE ENGLISH DICTIONARY, https://dictionary.cambridge.org/dictionary/english/assure (last visited October 5, 2024). By rushing the review of the signatures at the very last stage before the ballot is canvassed and allowing the vote to be unilaterally decided by one commissioner over the objection of the other, the Board of Elections cannot make any such assurance to the citizens of New York.

III. There is no legislative intent to dismantle the bipartisan nature of the discretionary acts of qualifying voters and validating ballots.

Respondents state that "if a new, more specific law 'conflicts with' an earlier, more general law, the earlier general law is superseded." (Intervenors Br. 10) (emphasis omitted) (*See also* Sen. Br. 21). Respondents attribute this language to *Matter of Dutchess County Dept. of Social Servs. ex rel. Day v. Day* (96 N.Y.2d 149, 153 [2001]), but this mischaracterizes the case and takes the quote out of context.

Here, that "earlier, more general law" is Election Law § 3-212(2), which provides that "[a]ll actions of the [county] board shall require a majority vote of the commissioners prescribed by law for such board." (Senate Br. 21). The claim asserted is that "[s]ection 9-209 plainly overrides § 3-212(2) when it comes to canvassing mail-in and absentee ballots" because it is "more specific and more recent" and that § 3-212(2) "does not address any particular subject matter." (*Id.*).

This Court in *Matter of Dutchess County*, however, went on to state that "[s]tatutes which relate to the same subject matter must be construed together unless a contrary legislative intent is expressed," and goes on to state that "[c]ourts must 'harmonize the various provisions of related statutes and construe them in a way that renders them internally compatible." *Matter of Dutchess County* (96 N.Y.2d at 154) (citing *Matter of Plato's Cave Corp v. State Liq. Auth.,* 68 N.Y.2d 792, 793 [1986]; *Matter of Aaron J.,* 80 N.Y.2d 403, 407 [1992]). Here the Legislature did not express

a contrary intent. If anything, the process laid out by Chapter 763 apart from the subdivision in question, § 9-209(2)(g), expresses a desire for bipartisanship.

As the trial court noted, Chapter 763 of the New York Laws of 2021 ("Chapter 763") states as its general purpose: "To change the process for canvassing absentee, military, special and affidavit ballots in order to obtain the results of an election in a more expedited manner and to assure that every valid vote by a qualified voter is counted." (R 27). The court further noted the purpose of "assur[ing] that every valid vote by a qualified voter is counted," is a "noble goal" which must still pass "constitutional muster." (*Id.*) At no time did the Legislature indicate a purpose or intent of Chapter 763 was to modify or override Election Law § 3-212(2).[5]

It should also be noted that the legislature's preference for bipartisan action is present in other sections of Election Law § 9-209, for example § 9-209(3), which sets forth the ballot cure process. Consistent with this bipartisan action, the New York State Board of Elections' regulation for this section mandates that there be "a

---

[5] The case of *Conlin v. Kisiel*, 35 A.D.2d 423, 425 (4th Dep't 1971), *aff'd* 28 N.Y.2d 700 (1971) was also correctly relied on by the trial court for the proposition that "the intent of the Legislature for bipartisan conduct by Boards of Election seems to be paramount." (R 28-29). Bipartisan conduct means what it says it means: the actions of both board commissioners. *Conlin* addressed the unilateral action of the Republican Commissioner of Elections for Nassau County when he unilaterally replaced the Deputy Commissioner of Elections. The appellate court also concluded that the unilateral action of this commissioner was not the action of the Board of Elections so that the deputy was not legally removed from his office.

bipartisan determination of the board of elections" that a curable defect exists. *See* 9 NYCRR 6210.21(b) (emphasis added).

A court may not adopt a statutory construction resulting in the nullification of one part of the statute by another. *See Rangolan v. County of Nassau* (96 N.Y.2d 42, 48 [2001]). Instead, courts should give effect to all parts of a statute. (*See Artibee v. Home Place Corp.*, 28 N.Y.3d 739, 749 [2017]). This must be done without one statutory provision becoming "the victor over another." (*See Foley v. Bratton*, 92 N.Y.3d 781, 787 [1999]).

The Appellate Division in *Stefanik v. Hochul* (229 A.D.3d 79 [3rd Dep't 2024]) recognized that "the general/specific cannon of [statutory] construction seeks to avoid 'the superfluity of a specific provision that is swallowed by the general one, violating the cardinal rule that, if possible, effect be given to every clause and part of a statute …[h]owever, it bears emphasis that this '*is not an absolute rule*' and may be '*overcome by textual indications that point in the other direction*.'" (*Stefanik,* 229 A.D.3d at 90 (emphasis added) (quoting *RadLAX Gateway Hotel, LLC v. Amalgamated Bank,* 566 U.S. 639, 646-47 [2012])).

Stefanik dealt with the mechanics of voting, not the qualification of voters. Thus, the Supreme Court's decision, and dissent in the Appellate Division adheres faithfully to these principles, harmonizing and giving both statutes their full effect.

IV. Minority Leaders' appeal should not be dismissed because their request for relief was denied by the Appellate Division.

The State concludes their brief with the argument that "[t]his Court lacks jurisdiction over the minority leaders' appeal, as they are not aggrieved by the Appellate Division's decision. (Att'y Gen. Br. 53). The State cites to C.P.L.R. §5511, which states that only "[a]n aggrieved party or a person substituted for him may appeal from any appealable judgment." However, there is "[n]o all-embracing definition of an 'aggrieved party' [which] has been or can be formulated," and "to state the rule as an inflexible one … would be misleading." (Weinstein, Korn & Miller, New York Civil Practice: CPLR ¶¶ 5511.03, 5511.04 [David L. Ferstendig ed., LexisNexis Matthew Bender 2d Ed.]; *see also Ross v. Wigg*, 100 N.Y. 243 [1885] (reasoning that an aggrieved party may broadly be one "bound or affected by the order from which he has brought the appeal")).

One of many approaches that New York courts have taken when analyzing the definition of an aggrieved party is that "[a] party is aggrieved when [the party] asks for relief but that relief is denied in whole or in part." *Matter of Brandon P. v. Jennifer M.C.* (222 A.D.3d 1430 [4th Dep't 2023]). In their brief to the Appellate Division, the Minority Leaders asked the court to declare that the Supreme Court's Order and Judgment holding that Chapter 763, codified in Election Law § 9-209(2)(g), is unconstitutional insofar as it precludes judicial review of the split decision of the board of canvassers be affirmed. This request for relief was denied by the Appellate

Division, making them aggrieved parties under the courts definition in *Matter of Brandon P.*

Additionally, the State cites to *Byrnes v. Senate of the State of New York* (41 N.Y.3d 1022 [2024]) and argues that because this Court dismissed an appeal by the Minority Leaders in a different case, based on an entirely different set of facts, their appeal should be dismissed here. (Att'y Gen. Br. 53). There is absolutely no legal justification for a court to decide a party's fate in one case based on the outcome of that same party's involvement in another case.

Plaintiff-Petitioners brought a claim against the Appellant Minority Leaders and made them parties to this action, entitling them to take a position on the merits of the litigation. If the State wanted to argue that Minority Leaders were not aggrieved parties, they should have done so at the trial court level.[6] Further, not only is there a waiver of the aggrieved party argument, the parties seek declaratory relief and the "results from [the Court's decision] will be exactly the same whether or not the claims" are dismissed. *Silver v. Pataki* (4 N.Y.3d 75, 88 [2004]). As party defendants, the Appellant Minority Leaders have every right to be heard.

[6] Nor did the Attorney General assert that the Majority Leaders were not aggrieved parties when they appealed the trial court's decision to the Appellate Division.

CONCLUSION

For all the foregoing reasons, the Senate and Assembly Minority Leaders respectfully submit that this Honorable Court should adopt the dissenting opinion of the Honorable Justices Egan and Pritzker and affirm Supreme Court's Order and Judgment holding that Chapter 763, codified in Election Law § 9-209(2)(g), is unconstitutional, together with such order and further relief as the court may deem just and proper.

Dated: October 7, 2024
Albany, New York

Paul DerOhannesian II
DerOhannesian & DerOhannesian
159 Wolf Road, Suite 305
Albany, New York 12205
(518) 465-6420

Attorneys for Defendant-Respondents Minority Leader of the Senate of the State of New York and Minority Leader of the Assembly of the State of New York

ATTORNEY CERTIFICATION PURSUANT TO UNIFORM RULE 22 NYCRR § 500.13

I, Paul DerOhannesian II, an attorney duly admitted to practice law before the courts of the State of New York, hereby certify that this brief complies with the word count limit set forth in 22 NYCRR § 500.13(c)(1) because it contains 3,973 words. In preparing this certification, I relied on the word count of the word-processing system used to prepare this brief.

Dated: October 7, 2024
Albany, New York

Paul DerOhannesian II

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 Defendants-Appellants-Respondents**

upon:

FUSCO LAW OFFICE
Adam M. Fusco, Esq.
Attorneys for Plaintiffs-Respondents-Appellants
P.O. Box 7114
Albany, New York 12224
Tel.: (518) 620-3920
afusco@fuscolaw.net

PERILLO HILL, LLP
John Ciampoli, Esq.
Attorneys for Plaintiffs-Respondents-Appellants Of Counsel
285 West Main Street, Suite 203
Sayville, New York 11782
Tel: (631) 582-9422
ciampolilaw@yahoo.com

HON. LETITIA JAMES
ATTORNEY GENERAL OF THE STATE OF NEW YORK
Sarah L. Rosenbluth, Esq.
Attorney for Defendant-Respondent State of New York
The Capitol
Albany, New York 12224
Tel.: (518) 776-2000
sarah.rosenbluth@ag.ny.gov

HACKER MURPHY, LLP
James C. Knox, Esq.
Attorneys for Defendant-Respondent Senate of the State of New York
28 Second Street
Troy, New York 12180
Tel.: (518) 274-5820
jknox@hackermurphy.com

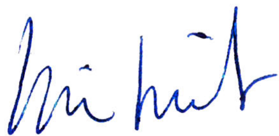
HODGSON RUSS LLP
Christopher Massaroni, Esq.
Attorneys for Defendant-Respondent Assembly of the State of New York
677 Broadway, Suite 401
Albany, New York 12207
Tel.: (518) 465-2333
cmassaroni@hodgsonruss.com

NEW YORK STATE BOARD OF ELECTIONS
Brian L. Quail, Esq.
Attorney for Defendant-Respondent Democratic Commissioners of the Board of Elections
40 North Pearl Street, Suite 5
Albany, New York 12207
Tel.: (518) 474-2063
brian.quail@elections.ny.gov
kevin.murphy@elections.ny.gov
William.mccann@elections.ny.gov

ELIAS LAW GROUP LLP
Aria Branch, Esq.
Attorneys for Defendant-Respondent Democratic Congressional Campaign Committee
250 Massachusetts Avenue NW,
Suite 400
Washington, DC 20001
Tel.: (202) 968-4518
abranch@elias.law
jbaxenberg@elias.law
rmedina@elias.law

the e-mail address(es) designated by said attorney(s) for that purpose by e-mailing a true copy(ies) of same to the e-mail address(es) listed above.

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# 514026