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March 21 Roundtable Update

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NEW YORK REDISTRICTING ROUNDTABLE UPDATE

New York State Redistricting Update: *Harkenrider et al. v. Hochul et al.*

On March 14 and March 15, expert witnesses appeared before the court and were questioned by the petitioners and respondents. Questioning concerned the expert's qualifications and methodology used in their reports.

On March 14, Judge Patrick McAllister ordered that Respondents or their counsel appear before the court on March 16, to demonstrate why the petitioners' motion to strike portions of the expert reports of Professor Jonathan N. Katz and Dr. Kristopher R. Tapp, motion for adverse inferences to be drawn for the respondents and third parties' failure to appear for depositions, and motion for leave to submit supplemental briefing on the timing of remedy should not be granted.

On March 15, the Respondents submitted documents in opposition to the petitioners' motions as mentioned above.

On March 18, the petitioners submitted a supplemental brief addressing remedies. They argue that holding a special election for the United States House of Representatives in 2023 would be unconstitutional and the constitutionality of such a special election for the 2022 state senate is uncertain. They argue that the Constitution does not permit courts to force Congressmembers who have won a November election to thereafter run in a special election to retain their seats for the constitutional 2-year term. Holding a special election for New York's congressional seats in 2023, after a 2022 election under the prior, unconstitutional map, violates these principles. The petitioners argue that the limited exceptions for special elections plainly do not apply here. The U.S. Constitution permits special elections when a Congressman dies, retires, or is expelled during his term of office. The petitioners note that the 2014 amendments to the New York Constitution give the court broad authority to remedy unconstitutional legislative maps, so it is probably true that the court could order a special election for state senate districts in 2023.

The petitioners also argue that the court can and should order constitutional congressional and state senate maps during the 2022 election cycle. The petitioners state that the New York Constitution contemplates that if a challenger is successful, relief will apply to the first election cycle under the new map. The petitioners state that the court has ample authority to grant petitioners' requested remedy for 2022, including moving statutory election deadlines by postponing the primary election day set by law. Moreover, the court plainly has authority to move statutorily imposed deadlines in service of resolving a constitutional violation. The petitioners argue that there is amply time for this court to grant the requested remedy for the 2022 election cycle, including moving the statutory primary date to August, if the Legislature

does not itself take this action. The petitioners cite to other states that have taken a similar approach.

Common Cause New York City Redistricting Action Plan Meeting

Common Cause is hosting a New York City Redistricting Action Plan Meeting on Wednesday, March 23rd at 5:30 pm or Tuesday, March 29th at 5:30 pm. Both meetings will cover the same material, so please only RSVP for one. On the Zoom, they will go over the timeline and important dates for the New York City redistricting process. Then, they will show how you can easily use community mapping to analyze proposed maps, draw your own and provide compelling testimony to the city commission.

To RSVP, click [here](#).