EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
---X

MARK A. FAVORS et al.,

Plaintiffs,

v.

ANDREW M. CUOMO et al.,

Defendants.

---X

Case No. 11 Civ. 5632 (DLI) (RR) (GEL)

AMENDED ANSWER TO AMENDED COMPLAINT AND CROSS-CLAIM

Defendants/Cross-Claimants Senate Minority Leader John L. Sampson and Senator Martin Malavé Dilan, by and through their attorneys, Cuti Hecker Wang LLP and Jeffrey M. Wice, for their Answer to the First Amended Complaint (the "Complaint") and Cross-Claim, allege as follows:

1. Defendants admit that over the past several decades, New York's process of redistricting its State Senate, Assembly, and congressional districts often has been based to an inappropriate degree on partisan considerations and that many New Yorkers have been denied a meaningful opportunity to select their own leaders as alleged in Paragraph 1 of the Complaint.

2. Defendants admit the allegations in Paragraph 2 of the Complaint.

3. Defendants admit the allegations in Paragraph 3 of the Complaint.

4. Defendants admit that the Governor promised to veto any redistricting plan that was not the result of an independent process, and that legislative inaction led to delay in the enactment of a redistricting plan.

5. Defendants admit the allegations in Paragraph 5 of the Complaint.

6. Defendants admit the allegations in Paragraph 6 of the Complaint.

7. Defendants admit the allegations in Paragraph 7 of the Complaint.

8. Defendants admit that the Court must address state legislative redistricting, as alleged in Paragraph 8 of the Complaint.

9. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Complaint.

10. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Complaint.

11. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Complaint.

12. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Complaint.

13. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of the Complaint.

14. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 of the Complaint.

15. Defendants admit the allegations in Paragraph 15 of the Complaint.

16. Defendants admit the allegations in Paragraph 16 of the Complaint.

17. Defendants admit the allegations in Paragraph 17 of the Complaint.

18. Defendants admit the allegations in Paragraph 18 of the Complaint.

19. Defendants admit the allegations in Paragraph 19 of the Complaint.

20. Defendants admit the allegations in Paragraph 20 of the Complaint.

21. Defendants admit the allegations in Paragraph 21 of the Complaint.

22. Defendants admit the allegations in Paragraph 22 of the Complaint.

23. Paragraph 23 of the Complaint sets forth purported legal conclusions to which

no response is warranted.

24. Paragraph 24 of the Complaint sets forth purported legal conclusions to which no response is warranted.

25. Paragraph 25 of the Complaint sets forth purported legal conclusions to which no response is warranted.

26. Paragraph 26 of the Complaint sets forth purported legal conclusions to which no response is warranted.

27. Paragraph 27 of the Complaint sets forth purported legal conclusions to which no response is warranted.

28. Defendants admit the allegations in Paragraph 28 of the Complaint.

29. Defendants admit the allegations in Paragraph 29 of the Complaint.

30. Defendants admit the allegations in Paragraph 30 of the Complaint.

31. Defendants admit the allegations in Paragraph 31 of the Complaint.

32. Defendants admit the allegations in Paragraph 32 of the Complaint.

33. Defendants admit the allegations in Paragraph 33 of the Complaint.

34. Defendants admit that the current process for drawing district lines in New York State has been widely criticized as being unduly partisan as alleged in Paragraph 34 of the Complaint.

35. Defendants admit that technological advances in redistricting technology better enable legislators to manipulate district lines to serve partisan goals as alleged in Paragraph 35 of the Complaint.

36. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 of the Complaint.

37. Defendants admit the allegations in Paragraph 37 of the Complaint.

38. Defendants admit the allegations in Paragraph 38 of the Complaint.

39. Paragraph 39 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

40. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40 of the Complaint.

41. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41 of the Complaint.

42. Paragraph 42 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

43. Paragraph 43 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

44. Paragraph 44 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

45. Paragraph 45 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

46. Paragraph 46 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

47. Paragraph 47 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

48. Defendants admit that the principles of population equality, contiguity, fair representation of minority groups, respect for political subdivisions, compactness, and preservation of communities of interest are important redistricting criteria as alleged in

Paragraph 48 of the Complaint.

49. Defendants admit the allegations in Paragraph 49 of the Complaint.

50. Defendants admit the allegations in Paragraph 50 of the Complaint.

51. Defendants admit that New York has not adopted an independent redistricting approach as alleged in Paragraph 51 of the Complaint.

52. Defendants admit that the Department of Defense denied a request by the State of New York to keep its September primary date. The remaining allegations in Paragraph 52 of the Complaint set forth purported legal conclusions to which no response is warranted.

53. Defendants admit the allegations in Paragraph 53 of the Complaint.

54. Defendants admit the allegations in Paragraph 54 of the Complaint.

55. Defendants admit the allegations in Paragraph 55 of the Complaint.

56. Defendants admit that in practice, prospective candidates for public office begin building support and raising and spending money long before the nominating and petitioning period begins. Defendants deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 56 of the Complaint.

57. Defendants admit that politically active citizens typically begin the process of determining which candidates to support and endorse well in advance of the state primary. Defendants deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 57 of the Complaint.

58. Defendants admit the allegations in Paragraph 58 of the Complaint.

59. Defendants admit the allegations in Paragraph 59 of the Complaint.

60. Defendants admit the allegations in Paragraph 60 of the Complaint.

61. Defendants admit the allegations in Paragraph 61 of the Complaint.

62. Defendants admit the allegations in Paragraph 62 of the Complaint.

63. Defendants admit the allegations in Paragraph 63 of the Complaint.

64. Defendants admit that the Court adopted a congressional redistricting plan. Defendants deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 64 of the Complaint.

65. Defendants admit the allegations in Paragraph 65 of the Complaint.

66. Defendants admit the allegations in Paragraph 66 of the Complaint.

67. Defendants admit the allegations in Paragraph 67 of the Complaint.

68. Defendants admit the allegations in Paragraph 68 of the Complaint.

69. Paragraph 69 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

70. Defendants admit the allegations in Paragraph 70 of the Complaint.

71. Defendants admit that the Senate plan was submitted for preclearance on March 16, 2012, and that the Assembly plan had not yet been submitted for preclearance as of March 27, 2012, but Defendants note that the Assembly submitted its plan to the Department of Justice on March 28, 2012, and to the United States District Court for the District of Columbia on March 30, 2012.

72. Defendants admit the allegations in Paragraph 72 of the Complaint.

73. Defendants admit the allegations in Paragraph 73 of the Complaint.

74. Paragraph 74 of the Complaint sets forth a purported legal conclusion to which no response is warranted.

75. Defendants admit the allegations in Paragraph 75 of the Complaint.

76. Defendants admit the allegations in Paragraph 76 of the Complaint.

77. Defendants admit the allegations in Paragraph 77 of the Complaint.

78. Defendants admit the allegations in Paragraph 78 of the Complaint.

79. Defendants admit the allegations in Paragraph 79 of the Complaint.

80. Defendants admit the allegations in Paragraph 80 of the Complaint.

81. Defendants admit the allegations in Paragraph 81 of the Complaint.

82. Defendants admit the allegations in Paragraph 82 of the Complaint.

83. Defendants admit the allegations in Paragraph 83 of the Complaint.

84. Defendants admit the allegations in Paragraph 84 of the Complaint.

85. Defendants repeat and reallege the above Paragraphs in this Answer as if fully set forth herein.

86. Defendants admit the allegations in Paragraph 86 of the Complaint.

87. Defendants admit the allegations in Paragraph 87 of the Complaint.

88. Defendants admit the allegations in Paragraph 88 of the Complaint.

89. Defendants admit that the petitioning period starts on June 5, and that a valid, enforceable redistricting plan should be in place before then, as alleged in Paragraph 89 of the Complaint.

90. Defendants admit the allegations in Paragraph 90 of the Complaint.

91. Defendants admit the allegations in Paragraph 91 of the Complaint.

92. Defendants admit the allegations in Paragraph 92 of the Complaint.

93. Defendants admit that the Special Master appointed by the Court should be entirely independent of partisan interests and that the Special Master should be provided with instructions regarding appropriate redistricting criteria, including that the Senate plan should have 62 districts.

94. Defendants admit the allegations in Paragraph 94 of the Complaint.

95. Defendants repeat and reallege the above Paragraphs in this Answer as if fully set forth herein.

96. Defendants admit the allegations in Paragraph 96 of the Complaint.

97. Defendants admit the allegations in Paragraph 97 of the Complaint.

98. Defendants admit the allegations in Paragraph 98 of the Complaint.

99. Defendants admit the allegations in Paragraph 99 of the Complaint.

100. Defendants admit that the Special Master appointed by the Court should be entirely independent of partisan interests and that the Special Master should be provided with instructions regarding appropriate redistricting criteria, including that the Senate plan should have 62 districts.

101. Defendants admit the allegations in Paragraph 101 of the Complaint.

102. Defendants admit the allegations in Paragraph 102 of the Complaint.

103. Defendants admit the allegations in Paragraph 103 of the Complaint.

104. Defendants repeat and reallege the above Paragraphs in this Answer as if fully set forth herein.

105. Defendants admit the allegations in Paragraph 105 of the Complaint.

106. Defendants admit the allegations in Paragraph 106 of the Complaint.

107. Defendants admit the allegations in Paragraph 107 of the Complaint.

108. Defendants admit the allegations in Paragraph 108 of the Complaint.

109. Defendants admit the allegations in Paragraph 109 of the Complaint.

110. Defendants admit the allegations in Paragraph 110 of the Complaint.

111. Defendants admit that the Special Master appointed by the Court should be

entirely independent of partisan interests and that the Special Master should be provided with instructions regarding appropriate redistricting criteria, including that the Senate plan should have 62 districts.

112. Defendants admit the allegations in Paragraph 112 of the Complaint.

113. Defendants repeat and reallege the above Paragraphs in this Answer as if fully set forth herein.

114. Defendants admit that legislative districts in New York remain malapportioned. The remaining allegations in Paragraph 114 of the Complaint set forth purported legal conclusions to which no response is warranted.

115. Paragraph 115 of the Complaint sets forth purported legal conclusions to which no response is warranted.

AS AND FOR A FIRST CROSS-CLAIM
(AGAINST GOVERNOR ANDREW M. CUOMO, LIEUTENANT GOVERNOR ROBERT J. DUFFY, SENATE MAJORITY LEADER DEAN G. SKELOS, and ASSEMBLY SPEAKER SHELDON SILVER)
(42 U.S.C. § 1983 – Equal Protection Clause)

1. The Equal Protection Clause requires that state legislative districts be of equal population, and imposes on state redistricting bodies – including legislatures – a duty to make an honest and good faith effort to draw equipopulous districts after each decennial Census.

2. A legislature may consider other state-law mandated redistricting principles, including, pursuant to the New York Constitution, the compactness and contiguousness of districts, and the integrity of counties, but these factors must be balanced with the demands of the Equal Protection Clause and its requirement of equal population districts.

3. Moreover, a legislature may not depart from the population equality mandate to

pursue the majority's political agenda, even when the legislature's redistricting plan has an overall deviation of less than 10%.

4. In crafting the plan for the Senate included in Chapter 16 of the Law of 2012 (the "Chapter 16 Senate Plan"), the Senate Majority exalted its partisan agenda over the requirements of the one-person, one-vote rule. Rather than making an honest and good faith effort to adhere as closely as possible to the Fourteenth Amendment's equal population principle, the Senate Majority maximized the population deviations – while staying below the 10% threshold under which a plaintiff bears the burden of proffering prima facie evidence of the plan's unconstitutionality – because doing so (and increasing the size of the body by one district) was the only way the Majority could draw lines specifically intended to perpetuate the Republican majority in the Senate. As is plain by comparing the various characteristics of the Chapter 16 Senate Plan to an alternative that attempted to minimize population deviations while honoring the other criteria identified in the New York Constitution and providing more fair representation to minority groups, the malapportionment in the Chapter 16 Senate Plan could not have resulted from an effort to balance equipopulousness and other traditional redistricting criteria.

5. The Chapter 16 Senate Plan creates more districts that are further from the mean than did the 2002 Senate Plan, and creates a more harshly skewed regional effect than did the 2002 Senate Plan.

6. Under the Chapter 16 Senate Plan, all of the districts in the overwhelmingly non-Hispanic white, upstate regions of the State are underpopulated as compared to the ideal district. All of the districts in New York City – where the State's residents of color are concentrated – are overpopulated as compared to the ideal district by more than 3.4% (and, in the case of Queens County, by a full 3.83%).

7. As a result of the Chapter 16 Senate Plan's overpopulating of minority-concentrated New York City-area districts, most of the black, Hispanic and Asian-American residents of New York State, along with their non-Hispanic white neighbors in New York City, are deprived of their due proportion of representation, while residents of the upstate region are overrepresented.

8. There is no legitimate justification for the Chapter 16 Senate Plan's discrimination against residents of the New York City area.

9. The Senate Majority did not make an honest and good faith effort to draw the Senate districts to comport with the demands of the equal population principle. To the contrary, the Senate Majority sought to maximize the population deviations in the Plan – while staying below a 10% overall deviation – to enable it to secure its position and maximize its strength as the majority in that house.

10. The Chapter 16 Senate Plan violates the Fourteenth Amendment population equality requirement.

PRAYER FOR RELIEF

WHEREFORE, Cross-Claimants respectfully request the following relief:

A. An order and judgment declaring that the Senate districts enacted as part of Chapter 16 of the Laws of 2012 violate the Fourteenth Amendment to the United States Constitution and its requirement that legislative districts be of equal population;

B. An order and judgment enjoining implementation of the Senate districts contained in Chapter 16 of the Laws of 2012;

C. An order and judgment directing Magistrate Judge Mann and court expert Nathaniel Persily, Ph.D, to redraw Senate district lines in conformity with the requirements of the

Federal and State Constitutions, and with the New York Court of Appeals' forthcoming decision in *Cohen v. Cuomo*, Sup. Ct. N.Y. Cnty. Index No. 102185/2012;

D. An order and judgment adopting the Magistrate Judge's district lines after the lines are subjected to public comment and if they are to the Court's satisfaction; and,

E. Any further relief that the Court in its discretion deems necessary and proper to ensure timely and lawful elections for the New York State Senate.

Dated: New York, New York
May 1, 2012

By: /s/ Eric Hecker
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