

TO:
FROM: Ed Cox and John Faso
RE: New York State Redistricting Litigation

The Situation:

Democrats have used their supermajorities in both chambers of the New York legislature to pass partisan gerrymander legislation eliminating four of the eight presently held Republican congressional seats as well as two potential Republican seats and in the state Senate squeezing the Republican leaning seats from 22 to 15 as well as potential Republican seats from ten to three.

To challenge this partisan gerrymander, an 80 page Petition has been filed in Steuben County Supreme Court asking that the gerrymandered maps be declared invalid and redrawn by the court or legislature to conform with the specific requirements of the state constitution adopted by the voters in 2014.

The Petition makes two arguments: First, since the legislature did not follow the constitutional process, the courts should draw the maps. Second, since the legislature's maps violate the constitution's provisions, pursuant to those provisions the legislature should be ordered to redraw the maps.

The Stakes:

Federal: Congressional Democrats have a slim, five-seat majority in the House of Representatives. The maps produced by the Democrat led New York State legislature will likely cut New York's GOP Congressional delegation from eight to four. If successful, New York Democrats will have produced a significant gain in Speaker Pelosi's goal to maintain her majority in the U.S. House.

State: Through partisan gerrymandering Democrats are trying to ensure themselves veto proof supermajorities in the legislature for at least the next decade. The adopted plan could reduce state Senate GOP representation in the 63-member body to between 12-15 seats. Should Democrats succeed, New York State will be doomed to even higher taxes, lax policies on crime, restrictions on charter schools, and a steady flow of similarly awful progressive initiatives.

A typical competitive U.S. House race will cost between \$6-\$12 million. Similarly, a competitive state Senate race can often cost between \$750,000 - \$2.5 million. Successful litigation over these districting maps is a cost-effective way to protect our prospects in New York State political races over the next decade. Congresswoman's Claudia Tenney's 2020 costs all in including outside spending was a total of \$11 million and her opponents costs where \$17 million.

The Solution:

Litigation challenging the legislature's maps in state and federal courts costing from one and a half to three million dollars.

The Team:

Troutman Pepper's Misha Tseytlin has been retained since June as lead counsel, and together with local counsel and retained experts, will prosecute the litigation. Misha leads Troutman Pepper's national appellate and Supreme Court practice and has successfully led several high-profile appeals. He has been lead counsel in major redistricting cases, including *Gill v. Whitford* where he won a 9-0 U.S. Supreme Court victory in one of the most significant redistricting cases in decades. He also argued and prevailed before the Supreme Court in *Murr v. Wisconsin*, a high-stakes regulatory takings case. Graduating summa cum laude from Georgetown Law School, Misha clerked on the DC Circuit Court and then for U.S. Supreme Court Justice Kennedy

Funding Options:

Option 1:

Fair Lines America Foundation (FLAF) is a 501c-3 non-profit which educates the public on fair and legal redistricting through comprehensive data gathering, processing and deployment; dissemination of relevant news and information; and strategic investments in academic research and litigation. Donations to FLAF are tax deductible and names of donors are reported to the IRS but are not publicly disclosed by either FLAF or the IRS. Donations can be made from any source including corporations and foundations.

Option 2:

The National Republican Redistricting Trust (NRRT) which was founded in 2017 as the Republican hub for coordinating and supporting a 50-state redistricting strategy at all levels of government from city councils to Congress. Donations to the NRRT are not disclosed and can come from many sources including corporations but are not tax deductible.