In the

Supreme Court of the United States

NICOLE MALLIOTAKIS, *et al.*,

Applicants,

v.

MICHAEL WILLIAMS, *et al.*,

Respondents.

On Application For Stay to the Court of Appeals of the State of New York to the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Second Circuit

APPENDIX TO EMERGENCY APPLICATION FOR STAY VOLUME IX OF X (PAGES 3201a - 3600a)

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TABLE OF CONTENTS

Table of Contents

Table of Contents

iv

Table of Contents

Table of Contents

User:

Plan Name: **NYC_2024_Plan__**

Plan Type:

Communities of Interest (Landscape, 11x8.5)

Sunday, November 16, 2025   6:52 PM

VTDs	District	Population	%
688	10	150	4.9
688	11	2,895	95.1
691	10	74	3.7
691	11	1,936	96.3

Map

3201a

PET_000388

Communities of Interest (Landscape, 11x8.5)

NYC_2024_Plan__

VTDs   **-- Listed by District**

VTDs	Population	%
1054	0	0.0
1055	0	0.0
1056	0	0.0
1057	0	0.0
1059	0	0.0
1060	0	0.0
1061	0	0.0
1062	0	0.0
1069	0	0.0
1070	0	0.0
1838	0	0.0
1839	0	0.0
192	0	0.0
193	0	0.0
194	0	0.0
688 (part)	150	4.9
691 (part)	74	3.7
84	0	0.0
933	0	0.0
934	0	0.0
935	0	0.0
936	0	0.0
94	0	0.0
97	0	0.0

District 10 Totals   **751,241**

Communities of Interest (Landscape, 11x8.5)

NYC_2024_Plan__

	Population	%
000322	0	0.0
000327	0	0.0
166	0	0.0
1840	0	0.0
1841	0	0.0
1842	0	0.0
253	0	0.0
254	0	0.0
255	0	0.0
256	0	0.0
257	0	0.0
323	0	0.0
324	0	0.0
326	0	0.0
524	0	0.0
688 (part)	2,895	95.1
691 (part)	1,936	96.3
District 11 Totals	**764,529**	

Communities of Interest (Landscape, 11x8.5)

NYC_2024_Plan__

Summary Statistics

Number of VTDs not split	556
Number of VTDs split	195
Number of VTDs split in 2	195
Total number of splits	390

Exhibit F-7

User:
Plan Name: **NYC_2024_Plan__**
Plan Type:

Communities of Interest (Landscape, 11x8.5)

Sunday, November 16, 2025   6:57 PM

2020_NTAs	District	Population	%	[18+_Pop]	%	[H18+_Pop]	%	[NH18+_AP_Blk]	%	[NH18+_Wht]	%
Bath Beach	11	33,070	100.0	25,689	100.0	3,349	100.0	470	100.0	10,964	100.0
Bay Ridge	10	10,243	11.8	7,956	11.3	1,817	14.8	289	13.7	3,453	8.1
Bay Ridge	11	76,536	88.2	62,195	88.7	10,437	85.2	1,824	86.3	39,299	91.9
Bensonhurst	11	85,690	100.0	67,415	100.0	10,291	100.0	916	100.0	24,470	100.0
Borough Park	10	52,995	100.0	30,297	100.0	3,892	100.0	465	100.0	20,243	100.0
Brooklyn Heights	10	25,092	100.0	21,242	100.0	1,616	100.0	949	100.0	15,853	100.0
Calvert Vaux Park	11	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Carroll Gardens-Cobb	10	59,166	100.0	46,849	100.0	9,262	100.0	6,380	100.0	26,289	100.0
Chelsea-Hudson Yards	10	5,654	100.0	5,146	100.0	530	100.0	191	100.0	3,721	100.0
Chinatown-Two Bridge	10	42,556	100.0	36,658	100.0	5,399	100.0	2,381	100.0	4,551	100.0
Coney Island-Sea Gat	11	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downtown Brooklyn-DU	10	26,466	100.0	22,522	100.0	2,453	100.0	2,299	100.0	13,176	100.0
Dyker Beach Park	11	9	100.0	8	100.0	2	100.0	1	100.0	3	100.0
Dyker Heights	10	5,148	11.0	4,007	11.0	431	9.1	74	17.4	639	4.5
Dyker Heights	11	41,608	89.0	32,407	89.0	4,282	90.9	351	82.6	13,608	95.5
East Village	10	68,596	100.0	62,629	100.0	13,905	100.0	5,156	100.0	31,680	100.0
Financial District-B	10	52,992	100.0	45,405	100.0	3,915	100.0	2,048	100.0	28,474	100.0
Fort Greene	10	2,658	100.0	2,275	100.0	254	100.0	806	100.0	893	100.0
Fort Hamilton	11	775	100.0	502	100.0	110	100.0	88	100.0	224	100.0
Gramercy	10	2,445	100.0	2,322	100.0	213	100.0	95	100.0	1,478	100.0

Communities of Interest (Landscape, 11x8.5)

NYC_2024_Plan__

2020_NTAs	District	Population	%	[18+_Pop]	%	[H18+_Pop]	%	[NH18+_AP_Blk]	%	[NH18+_Wht]	%
Gravesend (South)	11	13	100.0	13	100.0	1	100.0	5	100.0	7	100.0
Gravesend (West)	11	43,523	100.0	34,804	100.0	4,139	100.0	575	100.0	12,999	100.0
Greenwich Village	10	34,147	100.0	30,722	100.0	2,315	100.0	1,222	100.0	22,467	100.0
Green-Wood Cemetery	10	5	100.0	3	100.0	2	100.0	1	100.0	0	0.0
Kensington	10	5,039	100.0	3,892	100.0	628	100.0	140	100.0	1,540	100.0
Lower East Side	10	49,149	100.0	42,253	100.0	12,417	100.0	3,938	100.0	14,013	100.0
Midtown South-Flatir	10	5,832	100.0	5,312	100.0	372	100.0	187	100.0	3,683	100.0
Park Slope	10	57,405	100.0	46,061	100.0	5,304	100.0	3,486	100.0	31,546	100.0
Prospect Heights	10	18,869	100.0	15,753	100.0	1,462	100.0	3,396	100.0	8,781	100.0
Prospect Park	10	15	100.0	11	100.0	4	100.0	5	100.0	2	100.0
SoHo-Little Italy-Hu	10	23,287	100.0	21,104	100.0	1,790	100.0	610	100.0	12,679	100.0
Sunset Park (Central	10	55,606	100.0	41,694	100.0	13,371	100.0	626	100.0	3,778	100.0
Sunset Park (East)-B	10	35,632	100.0	25,865	100.0	5,461	100.0	654	100.0	4,596	100.0
Sunset Park (West)	10	54,473	100.0	43,157	100.0	23,288	100.0	2,874	100.0	10,184	100.0
The Battery-Governor	10	8	100.0	6	100.0	1	100.0	2	100.0	0	0.0
Tribeca-Civic Center	10	25,390	100.0	20,204	100.0	1,746	100.0	1,268	100.0	13,445	100.0
West Village	10	35,011	100.0	32,032	100.0	2,283	100.0	938	100.0	25,555	100.0
Windsor Terrace-Sout	10	23,093	100.0	18,258	100.0	2,623	100.0	959	100.0	12,240	100.0

Communities of Interest (Landscape, 11x8.5)

NYC_2024_Plan__

2020_NTAs　　　　　**-- Listed by District**

	Population	%	[18+_Pop]	%	[H18+_Pop]	%	[NH18+_AP_Blk]	%	[NH18+_Wht]	%
District 10										
Bay Ridge (part)	10,243	11.8	7,956	11.3	1,817	14.8	289	13.7	3,453	8.1
Borough Park	52,995	100.0	30,297	100.0	3,892	100.0	465	100.0	20,243	100.0
Brooklyn Heights	25,092	100.0	21,242	100.0	1,616	100.0	949	100.0	15,853	100.0
Carroll Gardens-Cobb	59,166	100.0	46,849	100.0	9,262	100.0	6,380	100.0	26,289	100.0
Chelsea-Hudson Yards	5,654	100.0	5,146	100.0	530	100.0	191	100.0	3,721	100.0
Chinatown-Two Bridge	42,556	100.0	36,658	100.0	5,399	100.0	2,381	100.0	4,551	100.0
Downtown Brooklyn-DU	26,466	100.0	22,522	100.0	2,453	100.0	2,299	100.0	13,176	100.0
Dyker Heights (part)	5,148	11.0	4,007	11.0	431	9.1	74	17.4	639	4.5
East Village	68,596	100.0	62,629	100.0	13,905	100.0	5,156	100.0	31,680	100.0
Financial District-B	52,992	100.0	45,405	100.0	3,915	100.0	2,048	100.0	28,474	100.0
Fort Greene	2,658	100.0	2,275	100.0	254	100.0	806	100.0	893	100.0
Gramercy	2,445	100.0	2,322	100.0	213	100.0	95	100.0	1,478	100.0
Greenwich Village	34,147	100.0	30,722	100.0	2,315	100.0	1,222	100.0	22,467	100.0
Green-Wood Cemetery	5	100.0	3	100.0	2	100.0	1	100.0	0	0.0
Kensington	5,039	100.0	3,892	100.0	628	100.0	140	100.0	1,540	100.0
Lower East Side	49,149	100.0	42,253	100.0	12,417	100.0	3,938	100.0	14,013	100.0
Midtown South-Flatir	5,832	100.0	5,312	100.0	372	100.0	187	100.0	3,683	100.0
Park Slope	57,405	100.0	46,061	100.0	5,304	100.0	3,486	100.0	31,546	100.0
Prospect Heights	18,869	100.0	15,753	100.0	1,462	100.0	3,396	100.0	8,781	100.0
Prospect Park	15	100.0	11	100.0	4	100.0	5	100.0	2	100.0
SoHo-Little Italy-Hu	23,287	100.0	21,104	100.0	1,790	100.0	610	100.0	12,679	100.0
Sunset Park (Central	55,606	100.0	41,694	100.0	13,371	100.0	626	100.0	3,778	100.0
Sunset Park (East)-B	35,632	100.0	25,865	100.0	5,461	100.0	654	100.0	4,596	100.0
Sunset Park (West)	54,473	100.0	43,157	100.0	23,288	100.0	2,874	100.0	10,184	100.0

Communities of Interest (Landscape, 11x8.5)

NYC_2024_Plan__

	Population	%	[18+_Pop]	%	[H18+_Pop]	%	[NH18+ _AP_Blk]	%	[NH18+ _Wht]	%
The Battery-Governor	8	100.0	6	100.0	1	100.0	2	100.0	0	0.0
Tribeca-Civic Center	25,390	100.0	20,204	100.0	1,746	100.0	1,268	100.0	13,445	100.0
West Village	35,011	100.0	32,032	100.0	2,283	100.0	938	100.0	25,555	100.0
Windsor Terrace-Sout	23,093	100.0	18,258	100.0	2,623	100.0	959	100.0	12,240	100.0
District 10 Totals	**776,972**		**633,635**		**116,754**		**41,439**		**314,959**	
District 11										
Bath Beach	33,070	100.0	25,689	100.0	3,349	100.0	470	100.0	10,964	100.0
Bay Ridge (part)	76,536	88.2	62,195	88.7	10,437	85.2	1,824	86.3	39,299	91.9
Bensonhurst	85,690	100.0	67,415	100.0	10,291	100.0	916	100.0	24,470	100.0
Calvert Vaux Park	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Coney Island-Sea Gat	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Dyker Beach Park	9	100.0	8	100.0	2	100.0	1	100.0	3	100.0
Dyker Heights (part)	41,608	89.0	32,407	89.0	4,282	90.9	351	82.6	13,608	95.5
Fort Hamilton	775	100.0	502	100.0	110	100.0	88	100.0	224	100.0
Gravesend (South)	13	100.0	13	100.0	1	100.0	5	100.0	7	100.0
Gravesend (West)	43,523	100.0	34,804	100.0	4,139	100.0	575	100.0	12,999	100.0
District 11 Totals	**281,224**		**223,033**		**32,611**		**4,230**		**101,574**	

PET_000396

Communities of Interest (Landscape, 11x8.5)

NYC_2024_Plan__

Summary Statistics

Number of 2020_NTAs not split	34
Number of 2020_NTAs split	2
Number of 2020_NTAs split in 2	2
Total number of splits	4

Exhibit G

2024 Plan -- Compactness Scores by CD

CD	Reock	Polsby-Popper
1	0.2289	0.3742
2	0.3387	0.4919
3	0.4543	0.4188
4	0.6045	0.5924
5	0.2758	0.273
6	0.2785	0.2511
7	0.3701	0.2548
8	0.3315	0.2338
9	0.5585	0.3754
10	0.56	0.3643
11	0.4463	0.5424
12	0.5213	0.4185
13	0.3593	0.2785
14	0.341	0.3302
15	0.4085	0.2283
16	0.5535	0.4356
17	0.4356	0.4274
18	0.3452	0.2476
19	0.252	0.1815
20	0.3991	0.2879
21	0.6271	0.3399
22	0.3456	0.3406
23	0.1868	0.203
24	0.275	0.1778
25	0.5727	0.635
26	0.4427	0.4292
Mean	**0.40**	**0.35**

Source:
https://davesredistricting.org/maps#analytics::948da7ae-d2f9-48d8-a04a-433f5ff88fcd

Exhibit H-1

Illustrative Map - CDs 11 & 10

NTAs
Boroughs
District
10
11

0   2.5   5
Miles
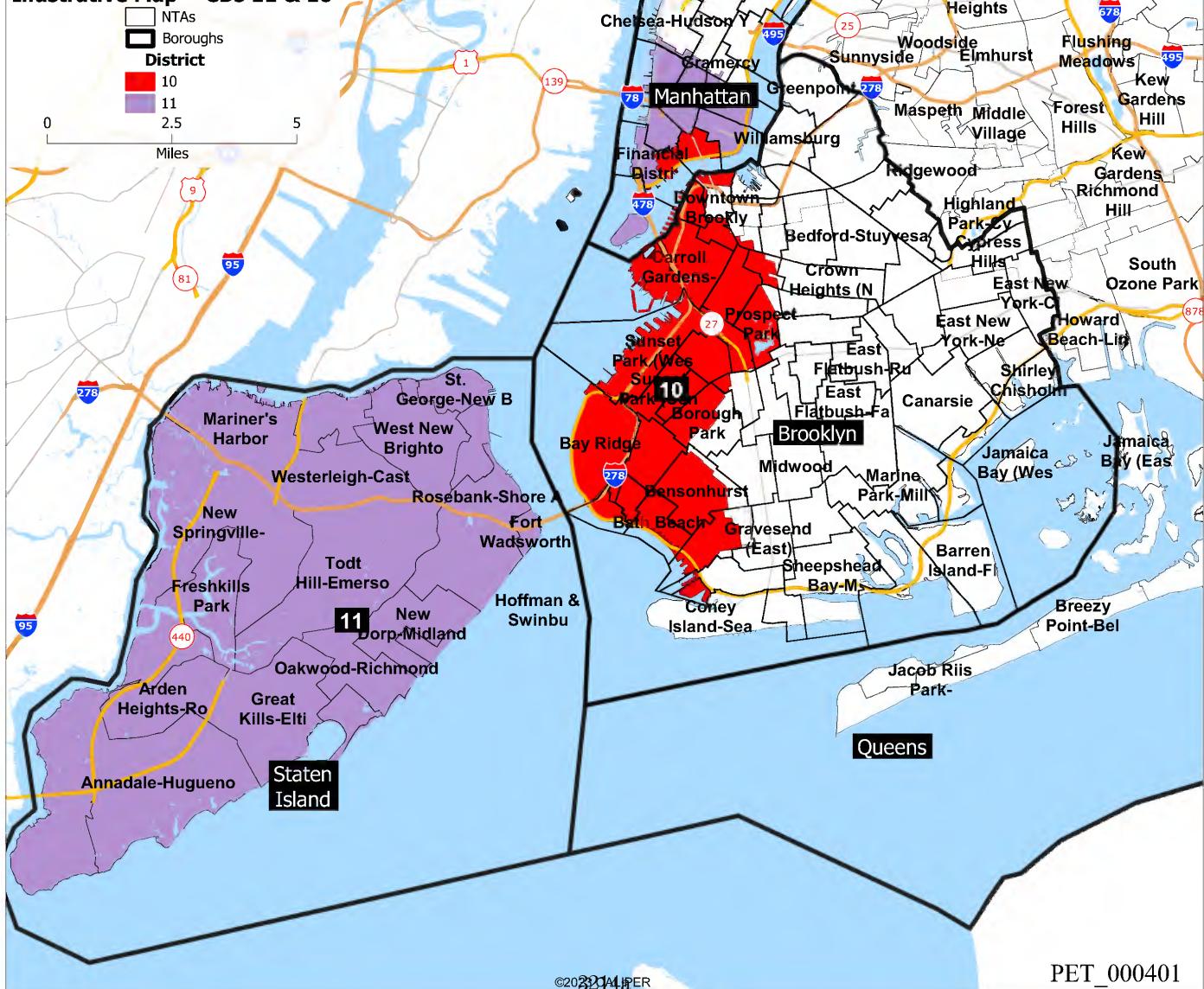
PET_000401

Exhibit H-2

Illustrative Map - CDs 11 & 10

NTAs
Boroughs

District
10
11

0   .5   1
Miles

West Village

Greenwich Villag

Gramercy

Stuyvesant Town-

Greenpoint

East Village

SoHo-Little Ital

Manhattan

Tribeca-Civic Ce

Lower East Side

Williamsburg

Chinatown-Two Br

Financial Distri

South Williamsbu

Brooklyn Navy Ya

Brooklyn Heights

Downtown Brookly

The Battery-Gove

Fort Greene

Clinton Hill

Brooklyn

Carroll Gardens-

Prospect Heights
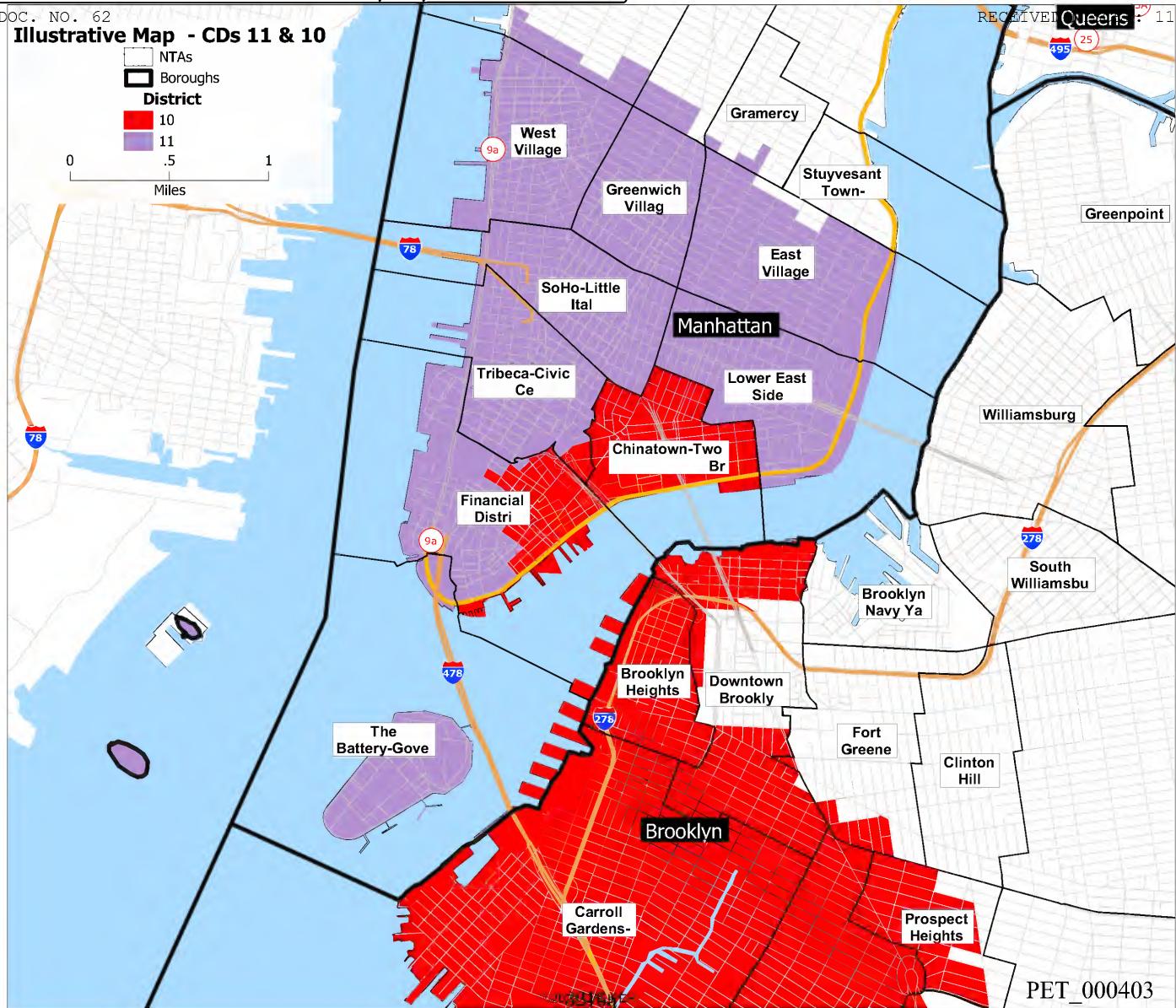
PET_000403

Exhibit H-3

User:

Plan Name: **NYC_Ilustrative_Plan**

Plan Type:

Measures of Compactness Report

Sunday, November 16, 2025   5:31 PM

	Reock	Polsby-Popper
Sum	N/A	N/A
Min	0.30	0.19
Max	0.30	0.28
Mean	0.30	0.24
Std. Dev.	0.00	0.06

District	Reock	Polsby-Popper
10	0.30	0.19
11	0.30	0.28

Map[ ]

3218a

Page 1 of 2

PET_000405

Measures of Compactness Report

NYC_Ilustrative_Plan

Measures of Compactness Summary

Reock   The measure is always between 0 and 1, with 1 being the most compact.
Polsby-Popper The measure is always between 0 and 1, with 1 being the most compact.

PET_000406

Exhibit H-4

User:

Plan Name: NYC_Ilustrative_Plan

Plan Type:

Communities of Interest (Landscape, 11x8.5)

| Sunday, November 16, 2025 | | | | | | | | | | 5:50 PM |

County Subdivision	District	Population	%	[Hispanic Origin]	%	NH_Wht	%	NH_AP_Blk	%	Asian	%
Brooklyn	10	713,129	100.0	140,115	100.0	321,827	100.0	34,047	100.0	193,365	100.0
Brooklyn	11	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Manhattan	10	63,842	18.5	8,648	16.1	17,599	9.9	4,321	19.9	31,771	40.6
Manhattan	11	281,225	81.5	45,068	83.9	160,518	90.1	17,403	80.1	46,491	59.4
Staten Island	10	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Staten Island	11	495,747	100.0	96,960	100.0	277,981	100.0	51,824	100.0	59,279	100.0

Map

3221a

PET_000408

Communities of Interest (Landscape, 11x8.5)

NYC_Ilustrative_Plan

County Subdivision   -- Listed by District

	Population	%	[Hispanic Origin]	%	NH_Wht	%	NH_AP_Blk	%	Asian	%
Manhattan (part)	63,842	18.5	8,648	16.1	17,599	9.9	4,321	19.9	31,771	40.6
Staten Island (part)	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
District 10 Totals	**776,971**		**148,763**		**339,426**		**38,368**		**225,136**	
Brooklyn (part)	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Manhattan (part)	281,225	81.5	45,068	83.9	160,518	90.1	17,403	80.1	46,491	59.4
District 11 Totals	**776,972**		**142,028**		**438,499**		**69,227**		**105,770**	

Map...

3222a

PET_000409

Communities of Interest (Landscape, 11x8.5)

NYC_Ilustrative_Plan

Summary Statistics

Number of County Subdivision not split	0
Number of County Subdivision split	3
Number of County Subdivision split in 2	3
Total number of splits	6

PET_000410

Exhibit H-5

User:
Plan Name: **NYC_Ilustrative_Plan**
Plan Type:

Communities of Interest (Condensed)

Sunday November 16 2025	5:58 PM

Whole 2020_NTAs : 32
2020_NTAs Splits: 12
Zero Population 2020_NTAs Splits: 6

District	2020_NTAs	Population	% Pop	District	2020_NTAs	Population	% Pop
10	Bay Ridge	86,779	100.00%				
10	Sunset Park (West)	54,473	100.00%				
10	Carroll Gardens-Cobb	59,166	100.00%				
10	The Battery-Governor	0	0.00%				
10	Financial District-B	21,264	40.13%				
10	Tribeca-Civic Center	22	0.09%				
11	Bay Ridge	0	0.00%				
11	Sunset Park (West)	0	0.00%				
11	Carroll Gardens-Cobb	0	0.00%				
11	The Battery-Governor	8	100.00%				
11	Financial District-B	31,728	59.87%				
11	Tribeca-Civic Center	25,368	99.91%				

3225a

PET_000412

Exhibit H-6

User:
Plan Name: NYC_Ilustrative_Plan
Plan Type:

Communities of Interest (Condensed)

Sunday November 1 2025   6:01 PM

Whole VTDs : 897
VTDs Splits: 32
Zero Population VTDs Splits: 43

District	VTDs	Population	% Pop	District	VTDs	Population	% Pop
10	324	0	0.00%				
10	1840	0	0.00%				
10	935	0	0.00%				
10	88	0	0.00%				
10	92	20	1.83%				
10	10	2,169	99.22%				
10	103	38	1.60%				
10	91	1,622	77.72%				
10	15	0	0.00%				
10	41	1,699	94.65%				
10	58	667	32.44%				
10	18	2,392	75.53%				
10	22	1,834	100.00%				
10	24	1,726	85.23%				
10	61	319	15.55%				
10	62	855	44.25%				
11	324	0	0.00%				
11	1840	0	0.00%				
11	935	0	0.00%				
11	88	2,229	100.00%				
11	92	1,071	98.17%				
11	10	17	0.78%				
11	103	2,334	98.40%				
11	91	465	22.28%				
11	15	5,120	100.00%				
11	41	96	5.35%				
11	58	1,389	67.56%				
11	18	775	24.47%				
11	22	0	0.00%				
11	24	299	14.77%				
11	61	1,732	84.45%				
11	62	1,077	55.75%				

Map

3227a

PET_000414

Exhibit H-7

User:

Plan Name: **NYC_Ilustrative_Plan**

Plan Type:

Communities of Interest (Landscape, 11x8.5)

| Sunday, November 16, 2025 | | | | | | | | | | | | 6:07 PM |

2020_NTAs	District	Population	%	[18+_Pop]	%	[18+_AP_Blk]	%	[H18+_Pop]	%	[NH18+_Wht]	%
Bath Beach	10	33,070	100.0	25,689	100.0	612	100.0	3,349	100.0	10,964	100.0
Bay Ridge	10	86,779	100.0	70,151	100.0	2,845	100.0	12,254	100.0	42,752	100.0
Bay Ridge	11	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Bensonhurst	10	85,690	100.0	67,415	100.0	1,293	100.0	10,291	100.0	24,470	100.0
Borough Park	10	52,995	100.0	30,297	100.0	592	100.0	3,892	100.0	20,243	100.0
Brooklyn Heights	10	25,092	100.0	21,242	100.0	1,093	100.0	1,616	100.0	15,853	100.0
Calvert Vaux Park	10	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Carroll Gardens-Cobb	10	59,166	100.0	46,849	100.0	7,589	100.0	9,262	100.0	26,289	100.0
Carroll Gardens-Cobb	11	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Chelsea-Hudson Yards	11	5,654	100.0	5,146	100.0	224	100.0	530	100.0	3,721	100.0
Chinatown-Two Bridge	10	42,556	100.0	36,658	100.0	3,132	100.0	5,399	100.0	4,551	100.0
Coney Island-Sea Gat	10	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downtown Brooklyn-DU	10	26,466	100.0	22,522	100.0	2,611	100.0	2,453	100.0	13,176	100.0
Dyker Beach Park	10	9	100.0	8	100.0	1	100.0	2	100.0	3	100.0
Dyker Heights	10	46,756	100.0	36,414	100.0	635	100.0	4,713	100.0	14,247	100.0
East Village	11	68,596	100.0	62,629	100.0	6,657	100.0	13,905	100.0	31,680	100.0
Financial District-B	10	21,264	40.1	19,120	42.1	1,142	49.5	1,699	43.4	11,659	41.0
Financial District-B	11	31,728	59.9	26,285	57.9	1,167	50.5	2,216	56.6	16,815	59.1
Fort Greene	10	2,658	100.0	2,275	100.0	880	100.0	254	100.0	893	100.0
Fort Hamilton	10	775	100.0	502	100.0	99	100.0	110	100.0	224	100.0
Gramercy	11	2,445	100.0	2,322	100.0	105	100.0	213	100.0	1,478	100.0

Map[...]

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PET_000416

Communities of Interest (Landscape, 11x8.5)

NYC_Ilustrative_Plan

2020_NTAs	District	Population	%	[18+_Pop]	%	[18+_AP_Blk]	%	[H18+_Pop]	%	[NH18+_Wht]	%
Gravesend (South)	10	13	100.0	13	100.0	5	100.0	1	100.0	7	100.0
Gravesend (West)	10	43,523	100.0	34,804	100.0	740	100.0	4,139	100.0	12,999	100.0
Greenwich Village	11	34,147	100.0	30,722	100.0	1,359	100.0	2,315	100.0	22,467	100.0
Green-Wood Cemetery	10	5	100.0	3	100.0	2	100.0	2	100.0	0	0.0
Kensington	10	5,039	100.0	3,892	100.0	157	100.0	628	100.0	1,540	100.0
Lower East Side	11	49,149	100.0	42,253	100.0	5,576	100.0	12,417	100.0	14,013	100.0
Midtown South-Flatir	11	5,832	100.0	5,312	100.0	200	100.0	372	100.0	3,683	100.0
Park Slope	10	57,405	100.0	46,061	100.0	4,061	100.0	5,304	100.0	31,546	100.0
Prospect Heights	10	18,869	100.0	15,753	100.0	3,686	100.0	1,462	100.0	8,781	100.0
Prospect Park	10	15	100.0	11	100.0	5	100.0	4	100.0	2	100.0
SoHo-Little Italy-Hu	11	23,287	100.0	21,104	100.0	718	100.0	1,790	100.0	12,679	100.0
Sunset Park (Central)	10	55,606	100.0	41,694	100.0	1,319	100.0	13,371	100.0	3,778	100.0
Sunset Park (East)-B	10	35,632	100.0	25,865	100.0	895	100.0	5,461	100.0	4,596	100.0
Sunset Park (West)	10	54,473	100.0	43,157	100.0	4,225	100.0	23,288	100.0	10,184	100.0
Sunset Park (West)	11	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
The Battery-Governor	10	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
The Battery-Governor	11	8	100.0	6	100.0	3	100.0	1	100.0	0	0.0
Tribeca-Civic Center	10	22	0.1	14	0.1	5	0.4	0	0.0	0	0.0
Tribeca-Civic Center	11	25,368	99.9	20,190	99.9	1,414	99.7	1,746	100.0	13,445	100.0
West Village	11	35,011	100.0	32,032	100.0	1,072	100.0	2,283	100.0	25,555	100.0
Windsor Terrace-Sout	10	23,093	100.0	18,258	100.0	1,175	100.0	2,623	100.0	12,240	100.0

Communities of Interest (Landscape, 11x8.5)

NYC_Ilustrative_Plan

2020_NTAs   -- **Listed by District**

	Population	%	[18+_Pop]	%	[18+_AP_Blk	%	[H18+_Pop]	%	[NH18+_Wht]	%
District 10										
Bath Beach	33,070	100.0	25,689	100.0	612	100.0	3,349	100.0	10,964	100.0
Bay Ridge (part)	86,779	100.0	70,151	100.0	2,845	100.0	12,254	100.0	42,752	100.0
Bensonhurst	85,690	100.0	67,415	100.0	1,293	100.0	10,291	100.0	24,470	100.0
Borough Park	52,995	100.0	30,297	100.0	592	100.0	3,892	100.0	20,243	100.0
Brooklyn Heights	25,092	100.0	21,242	100.0	1,093	100.0	1,616	100.0	15,853	100.0
Calvert Vaux Park	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Carroll Gardens-Cobb (part)	59,166	100.0	46,849	100.0	7,589	100.0	9,262	100.0	26,289	100.0
Chinatown-Two Bridge	42,556	100.0	36,658	100.0	3,132	100.0	5,399	100.0	4,551	100.0
Coney Island-Sea Gat	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Downtown Brooklyn-DU	26,466	100.0	22,522	100.0	2,611	100.0	2,453	100.0	13,176	100.0
Dyker Beach Park	9	100.0	8	100.0	1	100.0	2	100.0	3	100.0
Dyker Heights	46,756	100.0	36,414	100.0	635	100.0	4,713	100.0	14,247	100.0
Financial District-B (part)	21,264	40.1	19,120	42.1	1,142	49.5	1,699	43.4	11,659	41.0
Fort Greene	2,658	100.0	2,275	100.0	880	100.0	254	100.0	893	100.0
Fort Hamilton	775	100.0	502	100.0	99	100.0	110	100.0	224	100.0
Gravesend (South)	13	100.0	13	100.0	5	100.0	1	100.0	7	100.0
Gravesend (West)	43,523	100.0	34,804	100.0	740	100.0	4,139	100.0	12,999	100.0
Green-Wood Cemetery	5	100.0	3	100.0	2	100.0	2	100.0	0	0.0
Kensington	5,039	100.0	3,892	100.0	157	100.0	628	100.0	1,540	100.0
Park Slope	57,405	100.0	46,061	100.0	4,061	100.0	5,304	100.0	31,546	100.0
Prospect Heights	18,869	100.0	15,753	100.0	3,686	100.0	1,462	100.0	8,781	100.0
Prospect Park	15	100.0	11	100.0	5	100.0	4	100.0	2	100.0
Sunset Park (Central	55,606	100.0	41,694	100.0	1,319	100.0	13,371	100.0	3,778	100.0
Sunset Park (East)-B	35,632	100.0	25,865	100.0	895	100.0	5,461	100.0	4,596	100.0

Communities of Interest (Landscape, 11x8.5)

NYC_Ilustrative_Plan

	Population	%	[18+_Pop]	%	[18+_AP_Blk	%	[H18+_Pop]	%	[NH18+_Wht]	%
Sunset Park (West) (part)	54,473	100.0	43,157	100.0	4,225	100.0	23,288	100.0	10,184	100.0
The Battery-Governor (part)	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Tribeca-Civic Center (part)	22	0.1	14	0.1	5	0.4	0	0.0	0	0.0
Windsor Terrace-Sout	23,093	100.0	18,258	100.0	1,175	100.0	2,623	100.0	12,240	100.0
District 10 Totals	**776,971**		**608,667**		**38,799**		**111,577**		**270,997**	

District 11

	Population	%	[18+_Pop]	%	[18+_AP_Blk	%	[H18+_Pop]	%	[NH18+_Wht]	%
Bay Ridge (part)	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Carroll Gardens-Cobb (part)	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Chelsea-Hudson Yards	5,654	100.0	5,146	100.0	224	100.0	530	100.0	3,721	100.0
East Village	68,596	100.0	62,629	100.0	6,657	100.0	13,905	100.0	31,680	100.0
Financial District-B (part)	31,728	59.9	26,285	57.9	1,167	50.5	2,216	56.6	16,815	59.1
Gramercy	2,445	100.0	2,322	100.0	105	100.0	213	100.0	1,478	100.0
Greenwich Village	34,147	100.0	30,722	100.0	1,359	100.0	2,315	100.0	22,467	100.0
Lower East Side	49,149	100.0	42,253	100.0	5,576	100.0	12,417	100.0	14,013	100.0
Midtown South-Flatir	5,832	100.0	5,312	100.0	200	100.0	372	100.0	3,683	100.0
SoHo-Little Italy-Hu	23,287	100.0	21,104	100.0	718	100.0	1,790	100.0	12,679	100.0
Sunset Park (West) (part)	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
The Battery-Governor (part)	8	100.0	6	100.0	3	100.0	1	100.0	0	0.0
Tribeca-Civic Center (part)	25,368	99.9	20,190	99.9	1,414	99.7	1,746	100.0	13,445	100.0
West Village	35,011	100.0	32,032	100.0	1,072	100.0	2,283	100.0	25,555	100.0
District 11 Totals	**281,225**		**248,001**		**18,495**		**37,788**		**145,536**	

Communities of Interest (Landscape, 11x8.5)

NYC_Ilustrative_Plan

Summary Statistics

Number of 2020_NTAs not split	30
Number of 2020_NTAs split	6
Number of 2020_NTAs split in 2	6
Total number of splits	12

EXHIBIT T

Exhibit A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty,

Petitioners,

-against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-Executive
Director of the Board of Elections of the State of New York;
Raymond J. Riley, III, in his official capacity as Co-
Executive Director of the Board of Elections of the State of
New York; Peter S. Kosinski, in his official capacity as Co-
Chair and Commissioner of the Board of Elections of the
State of New York; Henry T. Berger, in his official capacity
as Co-Chair and Commissioner of the Board of Elections of
the State of New York; Anthony J. Casale, in his official
capacity as Commissioner of the Board of Elections of the
State of New York; Essma Bagnuola, in her official capacity
as Commissioner of the Board of Elections of the State of
New York; Kathy Hochul, in her official capacity as
Governor of New York; Andrea Stewart-Cousins, in her
official capacity as Senate Majority Leader and President
Pro Tempore of the New York State Senate; Carl E. Heastie,
in his official capacity as Speaker of the New York State
Assembly; and Letitia James, in her official capacity as
Attorney General of New York,

Respondents,

-and-

Representative Nicole Malliotakis, Edward L. Lai, Joel
Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba

Intervenor-Respondents,

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Index No. 164002/2025

**Expert Report of Dr.
Maxwell Palmer**

3236a

EXPERT REPORT OF MAXWELL PALMER, PH.D.

I, Dr. Maxwell Palmer, declare as follows:

1. My name is Maxwell Palmer. I am currently an Associate Professor of Political Science at Boston University. I joined the faculty at Boston University in 2014, after completing my Ph.D. in Political Science at Harvard University. I was promoted to Associate Professor, with tenure, in 2021. I am also a Civic Tech Fellow in the Faculty of Computing & Data Sciences and a Faculty Fellow at the Initiative on Cities. I teach and conduct research on American politics and political methodology.

2. I have published academic work in leading peer-reviewed academic journals, including the *American Political Science Review, Journal of Politics, Perspectives on Politics, Political Analysis, British Journal of Political Science, Journal of Empirical Legal Studies, Political Science Research and Methods, Legislative Studies Quarterly,* and *Urban Affairs Review.* My book, *Neighborhood Defenders: Participatory Politics and America's Housing Crisis,* was published by Cambridge University Press in 2019. I have also published academic work in the *Ohio State University Law Review.* My published research uses a variety of analytical approaches, including statistics, geographic analysis, and simulations, and data sources including academic surveys, precinct-level election results, voter registration and vote history files, and census data. My curriculum vitae is attached to this report.

3. I have served as an expert witness or litigation consultant on numerous cases involving redistricting or voting restrictions. I testified at trial, court hearing, or by deposition in *Bethune Hill v. Virginia* before the U.S. District Court for the Eastern District of Virginia (No. 3:14-cv-00852-REP-AWA-BMK); *Thomas v. Bryant* before the U.S. District Court for the Southern District of Mississippi (No. 3:18-CV-00441-CWR-FKB); *Chestnut v. Merrill* before the U.S. District Court for the Northern District of Alabama (No. 2:18-cv-00907-KOB); *Dwight v. Raffensperger* before the U.S. District Court for the Northern District of Georgia (No. 1:18-cv-2869-RWS); *Bruni v. Hughs* before the U.S. District Court for the Southern District of Texas (No. 5:20-cv-35); *Caster v. Merrill* before the U.S. District Court for the Northern District of Alabama (No. 2:21-cv-1536-AMM); *Pendergrass v. Raffensperger* before the U.S. District Court for the Northern District of Georgia (No. 1:21-CV-05339-SCJ); *Grant v. Raffensperger* before the U.S. District Court for the Northern District of Georgia (No. 1:22-CV-00122-SCJ); *Galmon v. Ardoin* before the U.S. District Court for the Middle District of Louisiana (3:22-cv-00214-SDD-SDJ); *In Re: Georgia Senate Bill 202* (1:12-MI-55555-JPB) before the U.S. District Court for the Northern District of Georgia; *Vet Voice Foundation, et al., v. Hobbs, et al.* (No. 22-2-19384-1 SEA) before the King County Superior Court of Washington; *Vet Voice Foundation, et al., v. Griswold* (No. 2022CV033456) before the District Court of the City and County of Denver, Colorado; *Agee v. Benson* before the U.S. District Court for the Western District of Michigan (No. 1:22-CV-00272-PLM-RMK-JTN); and *Williams, et. al., v. Hall* before the U.S. District Court for the Middle District of North Carolina (1:23-CV-01057-TDS-JLW). I also served as the independent racially polarized voting analyst

1

for the Virginia Redistricting Commission in 2021, and I have worked as a consultant to the United States Department of Justice on several matters. My expert testimony has been accepted and relied upon by courts; in no case has my testimony been rejected or found unreliable.

4. I was retained by the petitioners in this litigation to offer an expert opinion on the extent to which voting is racially polarized in the 11th Congressional District and to evaluate the ability of Black and Hispanic preferred candidates to win elections in this district. I was also asked to analyze the extent to which voting is racially polarized in the illustrative district, and to evaluate the ability of Black and Hispanic preferred candidates to win elections in the illustrative district.

5. I find strong evidence of racially polarized voting in the 11th Congressional District. Across 20 elections from 2017 to 2024, I find that Black and Hispanic voters share the same candidates of choice, and that Black and Hispanic voters consistently support different candidates than White voters.

6. Black and Hispanic voters are generally unable to elect their preferred candidates in the 11th Congressional District. The Black and Hispanic preferred candidate won only 5 of the 20 elections that I examined, and averaged 40.9% of the vote.

7. I find that there is substantially less racially polarized voting in the illustrative district. On average, White voters support Black and Hispanic preferred candidates with an average of 41.8% of the vote.

8. Black and Hispanic voters are generally able to elect their preferred candidates in the illustrative district. Overall, Black and Hispanic preferred candidates won 16 of the 18 elections that I examined, and averaged 54.0% of the vote.

Racially Polarized Voting in the 11th Congressional District

9. To analyze racially polarized voting, I examined general election results in the 11th Congressional District from 2017 to 2024. I included all offices where both major parties contested the election across the entire district. This includes federal offices (U.S. President, U.S. Senate), statewide offices (Governor, Attorney General, and State Comptroller), and New York City offices (Mayor, Public Advocate, and City Comptroller). I also included the 2022 and 2024 elections for U.S. Representative in the 11th District. In all, I analyzed 20 different contests.

10. I analyzed racially polarized voting using precinct-level election results and precinct-level data on citizen voting age population by race.[1] I downloaded the precinct-level election data from the website of the New York City Board of Elections[2], and precinct boundaries for each year from the New York City Department of City Planning.[3]

11. In analyzing racially polarized voting in each election, I used a statistical procedure, ecological inference (EI), that estimates group-level preferences based on aggregate data. I analyzed the results for five groups: Non-Hispanic Black, Hispanic, Non-Hispanic White, Non-Hispanic Asian American and Pacific Islander, and Other, based on citizen voting age population (C-VAP) data from the 2023 American Community Survey. This data is reported by the U.S. Cen-

3238a

sus Bureau at the block group level. To calculate CVAP for each group at the precinct level I disaggregated block group data to census blocks using 2020 census populations, and then aggregated to precincts using the precinct shape files for each year.

12. In New York, candidates may run under multiple different parties in the same election. For each unique candidate, I aggregated all of the votes they received under different party labels in each precinct. When more than three different candidates ran in the same contest, I aggregated the additional candidates with the lowest numbers of votes into a single "Other" candidate. For example, in the 2017 election for New York City Mayor, there were seven different candidates. I combined the four candidates receiving the lowest numbers of votes into a single "Other" candidate.

13. For each of the 20 contests, I estimated a separate ecological inference model. The results of each model are estimates of the percentage of each group that voted for each candidate in each election. The results include both a mean estimate (the most likely vote share), and a 95% confidence interval.[4]

14. Interpreting the results of the ecological inference models proceeds in two general stages. First, I examined the support for each candidate by each demographic group to determine if members of the group vote cohesively in support of a single candidate in each election. When a significant majority of the group supports a single candidate, I can then identify that candidate as the group's preferred candidate. If the group's support is roughly evenly divided between the two candidates, then the group does not cohesively support a single candidate and does not have a clear preference. Second, after identifying the preferred candidate for each group (or the lack of such a candidate), I then compared the preferences of voters of each group to the voters of the other groups. Evidence of racially polarized voting is found when voters of different groups support different candidates, and evidence of cohesion is found when voters of different groups support that same candidate.

15. Figure 1 shows the ecological inference estimates for the 2022 and 2024 elections for U.S. House in the 11th Congressional District. The estimated levels of support for each candidate for each group are represented by the colored points, and the vertical lines indicate the range of the 95% confidence intervals. Black voters are extremely cohesive, with a clear preferred candidate in both elections. Similarly, Hispanic voters are extremely cohesive in both elections, and share the same candidate of choice as Black voters. However, only a minority of White voters in both elections support the Black and Hispanic preferred candidate, and large majorities of White voters supported the opposing candidate in each election.

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[1] In New York City, voting precincts are called "election districts." To avoid confusion with congressional districts, I refer to them by precincts in this report.

[2] https://vote.nyc/page/election-results-summary

[3] https://www.nyc.gov/content/planning/pages/resources/datasets/election-districts

[4] The 95% confidence interval is a measure of uncertainty in the estimates from the model. For example, the model might estimate that 94% of the members of a group voted for a particular candidate, with a 95% confidence interval of 91-96%. This means that based on the data and the model assumptions, 95% of the simulated estimates for this group fall in the range of 91-96%, with 94% being the average value. Larger confidence intervals reflect a higher degree of uncertainty in the estimates, while smaller confidence intervals reflect less uncertainty.

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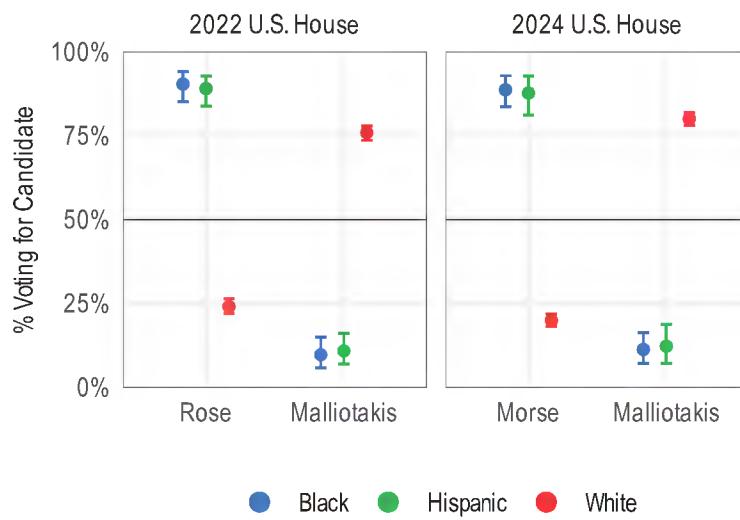
Figure 1: Racially Polarized Voting Estimates for U.S. House Races, CD 11

16. Figure 2 presents the results for all 20 elections. For each election, I first identified the Black and Hispanic preferred candidate in each contest, and include only the results for that candidate.[5]

17. Figure 2 shows that Black voters are extremely cohesive, with a clear preferred candidate in all 20 elections. On average, Black voters supported their preferred candidates with 90.5% of the vote.

18. Figure 2 shows that Hispanic voters also vote cohesively, and support the same candidates as Black voters. Hispanic voters have a clear preferred candidate in all 20 elections. On average, Hispanic voters supported their preferred candidates with 87.7% of the vote.

19. Figure 2 also shows that White voters are highly cohesive in voting in opposition to the Black and Hispanic-preferred candidates in every election. On average, White voters supported Black and Hispanic-preferred candidates with 26.3% of the vote. Figure 2 thus demonstrates a consistent pattern of racially polarized voting in the 11th Congressional District.

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[5]Full results for each election are presented in Table 1.

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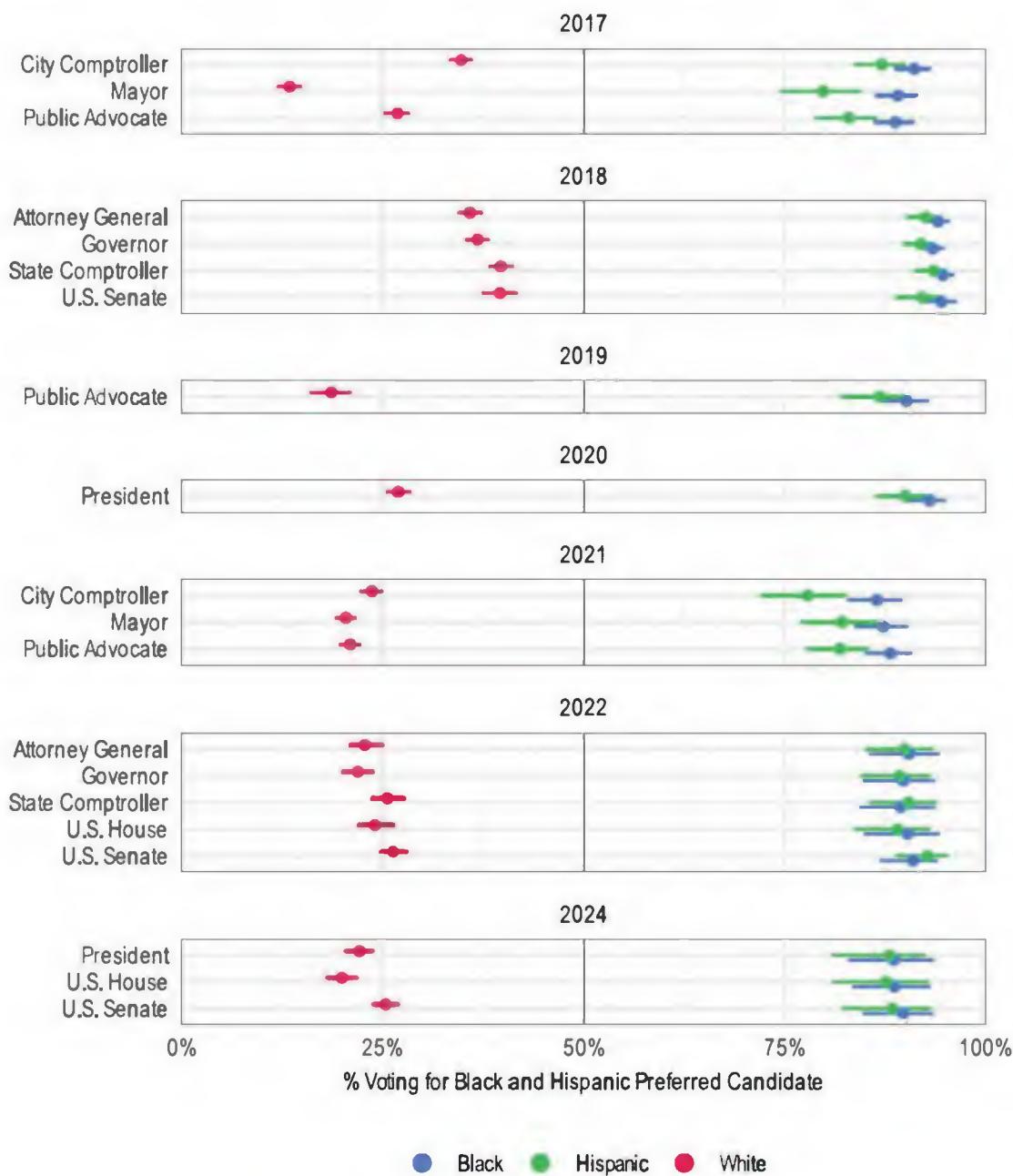
Figure 2: Racially Polarized Voting Estimates, CD 11

Performance of Black and Hispanic Preferred Candidates in the 11th Congressional District

20. Having identified the Black and Hispanic preferred candidate in each election, I now turn to their performance in the 11th Congressional District. Black and Hispanic preferred candidates are consistently defeated. Of the 20 elections I examined, the Black and Hispanic preferred

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candidate won only five times. Across all 20 contests, the Black and Hispanic preferred candidate averaged 40.9% of the vote.[6] Figure 3 and Table 3 show the vote shares for the Black and Hispanic preferred candidates in each election.
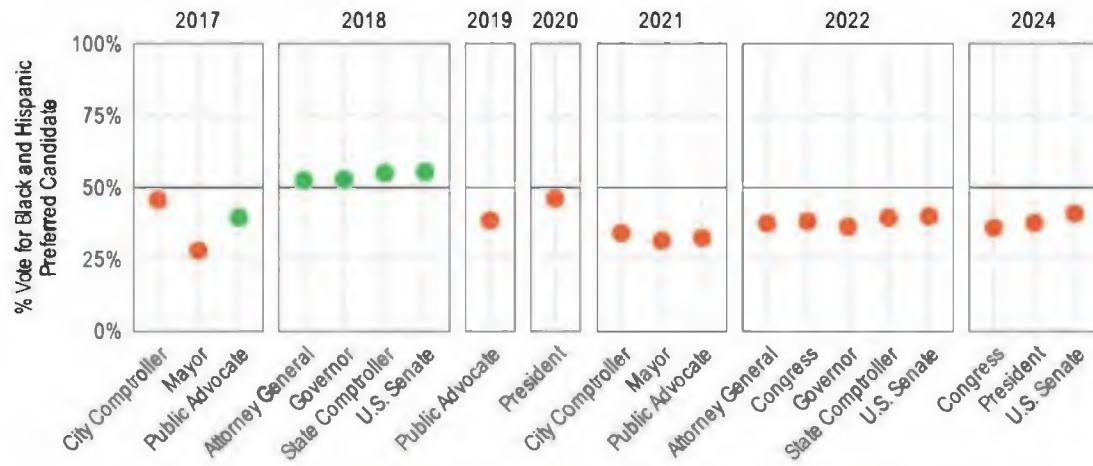

Figure 3: Performance of Black and Hispanic Preferred Candidates, CD 11

Racially Polarized Voting in the Illustrative District

21. I was also asked to analyze the extent to which voting is racially polarized under the illustrative map. To do so, I used the same methodology as above, but included all precincts contained within the boundaries of the illustrative 11th Congressional District. I analyzed racially polarized voting for the 18 statewide or citywide elections from 2017 to 2024.[7]

22. Figure 4 presents the results for all 18 elections. For each election, I first identified the Black and Hispanic preferred candidate in each contest, and include only the results for that candidate.[8]

23. Figure 4 shows that Black voters are extremely cohesive, with a clear preferred candidate in all 18 elections. On average, Black voters supported their preferred candidates with 87.9% of the vote.

24. Figure 4 shows that Hispanic voters also vote cohesively, and support the same candidates as Black voters. Hispanic voters have a clear preferred candidate in all 18 elections. On average, Hispanic voters supported their preferred candidates with 83.1% of the vote.

25. Figure 4 also shows that White voters are substantially less cohesive in the illustrative district than in CD 11. In 2018, majorities of White voters supported the Black and Hispanic preferred candidates. In the other elections, White voters are less cohesive in opposing Black and Hispanic preferred candidates. On average, White voters supported Black and Hispanic-preferred candidates with 41.8% of the vote.

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[6] If third party candidates are excluded, the the Black and Hispanic preferred candidate averaged 42.6% of the vote.

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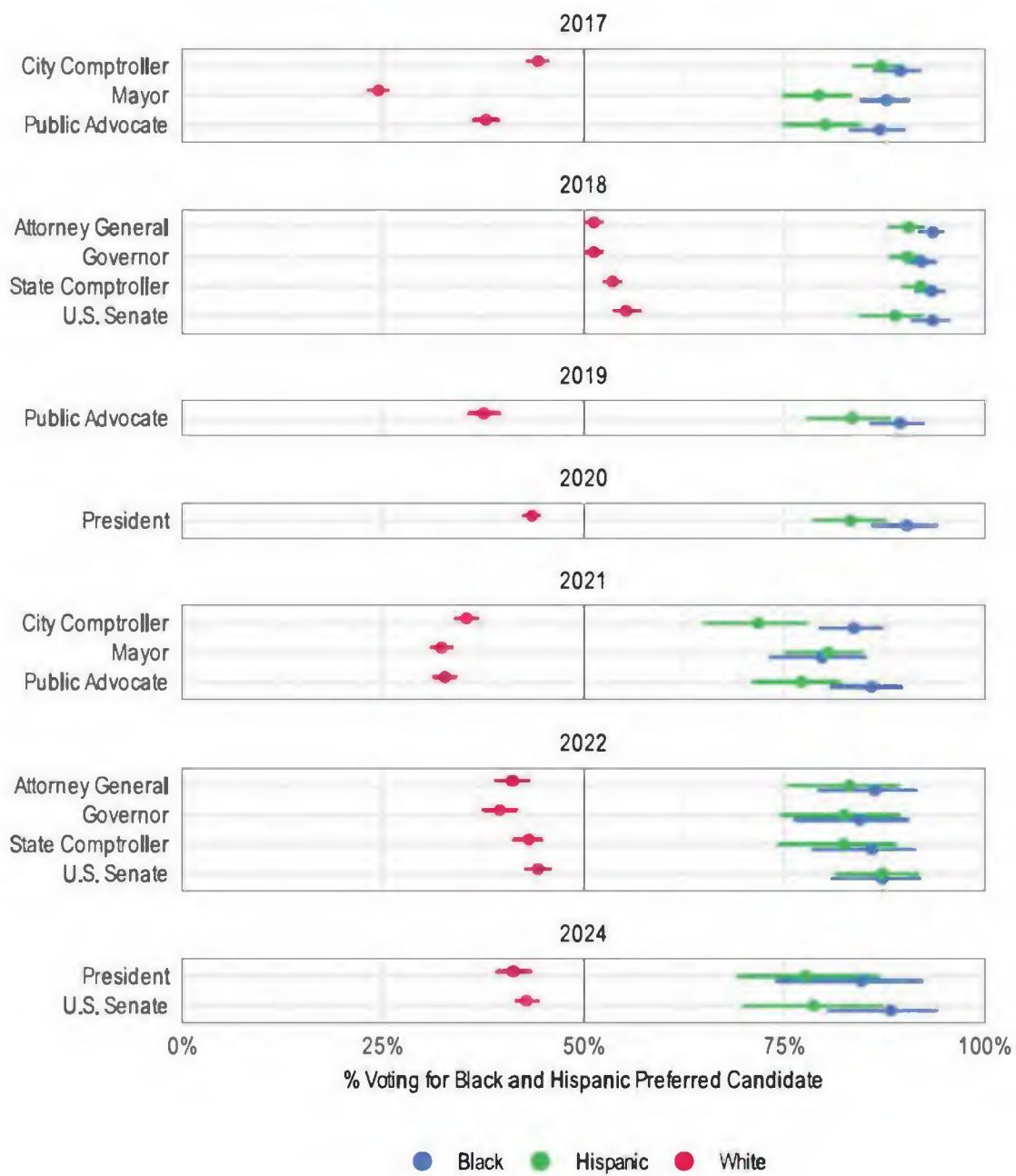
Figure 4: Racially Polarized Voting Estimates, Illustrative District

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[7] I exclude congressional elections from this analysis because different parts of the illustrative district are located in different districts.

[8] Full results for each election are presented in Table 2.

Performance of Black and Hispanic Preferred Candidates in the Illustrative District

26. Black and Hispanic preferred candidates are generally able to win elections in the illustrative district. Of the 18 elections I examined, the Black and Hispanic preferred candidate won 16, including all of the state and federal elections. Across all 18 contests, the Black and Hispanic preferred candidate averaged 54.0% of the vote.[9] Figure 5 and Table 3 show the vote shares for the Black and Hispanic preferred candidates in each election.
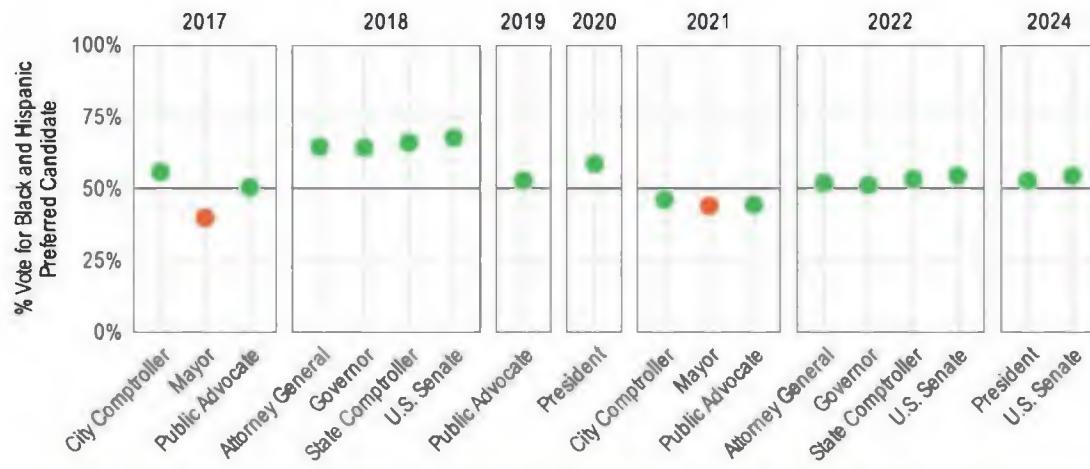

Figure 5: Performance of Black and Hispanic Preferred Candidates, Illustrative District

Voter Turnout in Staten Island

27. I was also asked to examine differences in voter turnout by race and ethnicity in Staten Island. New York does not record the race and ethnicity of voters on its voter registration file, it can be estimated using statistical models that combine individual voting data including surname, address, age, and gender with U.S. Census data. I did not have access to a New York voter registration file for each election year to calculate such estimates myself. However, the commercial voter data vendor L2 calculated county and precinct-level estimates of the number of registered and actual voters by race and ethnicity, and made this data available on the Redistricting Data Hub for the 2020, 2022, and 2024 elections.[10]

28. For each election, I used the L2 data to calculate the estimated percentage of registered voters who voted in Staten Island. Figure 6 presents the results. In each election, White voters turned out to vote at the highest rates, while Black and Hispanic voters turned out at substantially lower rates. The difference is particularly stark in the 2022 midterm election, where an estimated 54 percent of White voters turnout out to vote, but only 34 percent of Black and Hispanic voters turned out.

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[9] If third party candidates are excluded, the the Black and Hispanic preferred candidate averaged 56.2% of the vote.

[10] https://redistrictingdatahub.org/state/new-york/

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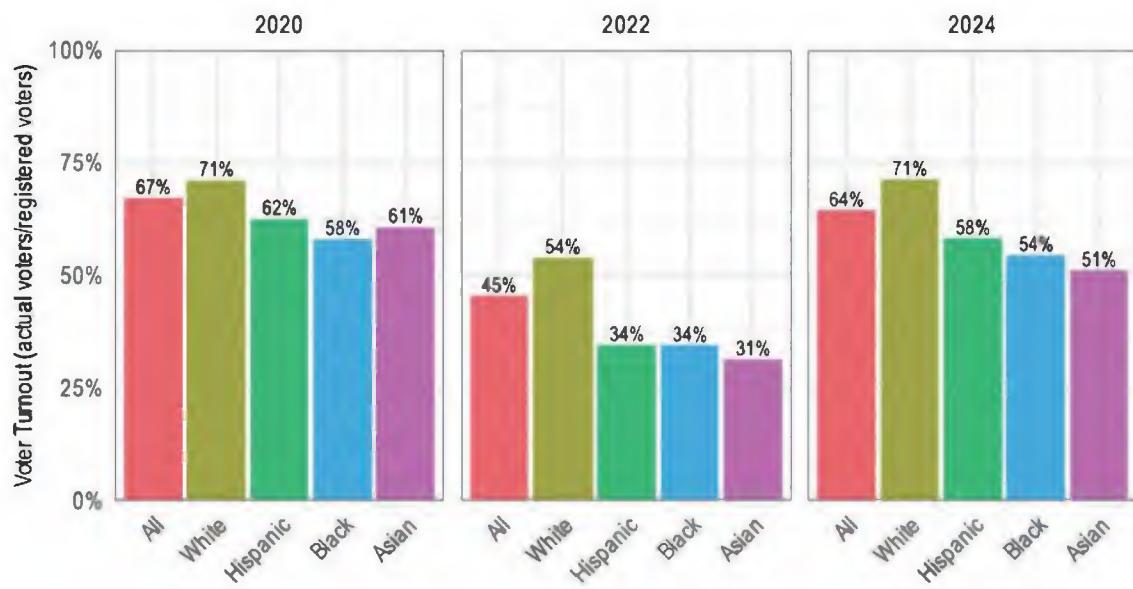
Figure 6: Estimated Voter Turnout by Race and Election in Staten Island

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Table 1: Ecological Inference Results — Estimated Vote Share of Black and Hispanic Preferred Candidates — CD 11

		Black	White	Hispanic	Asian	Other
2017	City Comptroller	91.1% (88.9, 93.1)	34.8% (33.6, 36.1)	87.1% (83.8, 89.9)	50.9% (39.8, 62.8)	67.5% (46.3, 81.1)
2017	Mayor	89.1% (86.4, 91.3)	13.5% (12.2, 14.8)	79.8% (74.7, 84.2)	51.0% (40.4, 61.1)	61.0% (45.1, 73.8)
2017	Public Advocate	88.8% (86.3, 91.0)	26.9% (25.4, 28.3)	83.0% (79.1, 86.2)	47.5% (36.6, 57.9)	67.0% (51.5, 78.1)
2018	Attorney General	94.1% (92.7, 95.3)	35.9% (34.7, 37.2)	92.6% (90.4, 94.2)	79.2% (72.2, 84.3)	75.3% (63.7, 85.0)
2018	Governor	93.5% (91.9, 94.7)	36.9% (35.5, 38.2)	92.0% (89.9, 93.6)	77.5% (70.0, 82.5)	73.3% (61.0, 82.0)
2018	State Comptroller	94.7% (93.4, 95.9)	39.7% (38.5, 41.0)	93.6% (91.4, 95.0)	80.6% (73.3, 85.7)	77.4% (61.6, 89.2)
2018	U.S. Senate	94.5% (92.4, 96.2)	39.7% (37.6, 41.5)	92.2% (89.0, 94.6)	74.8% (64.9, 82.9)	83.0% (70.3, 91.4)
2019	Public Advocate	90.2% (87.2, 92.8)	18.7% (16.2, 21.0)	86.9% (82.2, 90.4)	65.1% (49.1, 76.8)	70.8% (56.9, 82.1)
2020	President	93.1% (90.6, 94.9)	27.0% (25.7, 28.4)	90.0% (86.5, 93.4)	73.5% (65.9, 80.9)	73.4% (59.4, 84.6)
2021	City Comptroller	86.5% (83.0, 89.5)	23.7% (22.4, 24.9)	77.8% (72.2, 82.5)	34.0% (25.6, 45.5)	49.2% (25.8, 68.0)
2021	Mayor	87.3% (83.8, 90.2)	20.5% (19.3, 21.6)	82.1% (77.3, 86.4)	43.5% (33.1, 53.9)	54.6% (36.3, 72.1)
2021	Public Advocate	88.2% (85.2, 90.7)	21.0% (19.8, 22.2)	81.9% (77.9, 85.3)	40.7% (30.5, 53.0)	48.2% (29.3, 62.8)
2022	Attorney General	90.5% (85.7, 94.1)	22.8% (21.0, 25.1)	89.9% (85.3, 93.4)	60.4% (43.8, 73.3)	75.7% (55.1, 90.3)
2022	Governor	89.8% (85.0, 93.6)	22.0% (20.1, 23.9)	89.3% (84.7, 92.9)	53.2% (37.5, 69.2)	77.5% (60.6, 89.4)
2022	State Comptroller	89.5% (84.5, 93.6)	25.6% (23.7, 27.8)	90.4% (85.9, 93.8)	65.5% (54.2, 76.4)	73.6% (51.0, 88.6)
2022	U.S. House	90.4% (85.1, 94.1)	24.1% (22.1, 26.4)	89.1% (83.9, 93.0)	57.5% (44.8, 71.5)	78.8% (61.4, 89.5)
2022	U.S. Senate	91.0% (87.1, 93.9)	26.4% (24.7, 28.0)	92.9% (89.0, 95.2)	64.3% (46.2, 78.2)	75.3% (56.3, 89.0)
2024	President	88.7% (83.1, 93.4)	22.2% (20.4, 23.9)	88.1% (81.1, 92.4)	49.0% (38.4, 59.2)	65.3% (47.0, 85.8)
2024	U.S. House	88.7% (83.6, 92.9)	20.0% (18.1, 21.9)	87.7% (81.1, 92.8)	51.6% (41.0, 62.0)	60.0% (34.8, 79.3)
2024	U.S. Senate	89.8% (85.0, 93.4)	25.4% (23.8, 27.0)	88.4% (82.4, 93.1)	58.8% (47.1, 71.4)	66.3% (43.4, 83.6)

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Table 2: Ecological Inference Results — Estimated Vote Share of Black and Hispanic Preferred Candidates — Illustrative District

		Black	White	Hispanic	Asian	Other
2017	City Comptroller	89.5% (86.4, 91.9)	44.3% (43.0, 45.4)	87.1% (83.8, 89.7)	80.8% (75.0, 85.0)	65.0% (46.0, 77.2)
2017	Mayor	87.8% (84.7, 90.5)	24.5% (23.3, 25.7)	79.3% (75.0, 83.2)	68.5% (60.6, 75.1)	54.8% (41.7, 64.8)
2017	Public Advocate	86.9% (83.3, 90.0)	37.9% (36.4, 39.4)	80.1% (75.0, 84.3)	74.2% (66.6, 79.9)	66.7% (52.1, 77.8)
2018	Attorney General	93.5% (92.0, 94.8)	51.2% (50.1, 52.3)	90.5% (88.2, 92.4)	88.3% (84.5, 91.0)	77.5% (66.9, 85.5)
2018	Governor	92.1% (90.4, 93.8)	51.2% (50.1, 52.3)	90.4% (88.3, 92.3)	87.0% (83.0, 90.0)	70.9% (59.3, 81.2)
2018	State Comptroller	93.4% (91.4, 94.9)	53.6% (52.6, 54.6)	92.0% (89.7, 93.7)	88.2% (84.0, 91.5)	77.9% (68.0, 86.7)
2018	U.S. Senate	93.5% (90.9, 95.5)	55.3% (53.8, 56.9)	88.8% (84.5, 92.1)	89.1% (84.5, 92.6)	83.9% (69.8, 91.3)
2019	Public Advocate	89.5% (85.8, 92.3)	37.7% (35.8, 39.5)	83.5% (78.0, 88.1)	78.4% (70.8, 84.6)	77.1% (64.6, 85.2)
2020	President	90.3% (85.9, 94.0)	43.5% (42.5, 44.4)	83.3% (78.7, 87.5)	86.2% (81.2, 91.0)	80.0% (67.6, 88.5)
2021	City Comptroller	83.7% (79.4, 87.2)	35.5% (34.2, 36.9)	71.7% (65.1, 77.6)	69.4% (60.9, 75.8)	73.7% (62.9, 82.0)
2021	Mayor	79.7% (73.4, 85.0)	32.4% (31.2, 33.6)	80.4% (75.2, 84.6)	72.1% (63.2, 78.9)	68.2% (45.9, 78.9)
2021	Public Advocate	85.9% (80.8, 89.6)	32.8% (31.4, 34.1)	77.1% (71.2, 81.8)	71.3% (64.3, 77.5)	64.9% (47.0, 78.1)
2022	Attorney General	86.3% (79.4, 91.4)	41.1% (39.2, 43.0)	83.1% (75.5, 89.1)	77.3% (65.5, 86.1)	77.4% (56.0, 89.8)
2022	Governor	84.5% (76.3, 90.3)	39.6% (37.7, 41.6)	82.5% (74.6, 89.3)	81.1% (70.1, 87.8)	77.2% (53.3, 88.5)
2022	State Comptroller	85.9% (78.7, 91.3)	43.1% (41.3, 44.7)	82.5% (74.4, 88.8)	80.4% (70.4, 88.1)	75.5% (48.0, 88.3)
2022	U.S. Senate	87.3% (81.0, 91.9)	44.3% (42.8, 45.8)	87.3% (81.6, 91.5)	80.2% (69.8, 88.1)	77.3% (54.7, 88.7)
2024	President	84.6% (74.1, 92.1)	41.2% (39.4, 43.4)	77.7% (69.4, 86.5)	73.8% (62.5, 82.9)	74.0% (53.2, 88.1)
2024	U.S. Senate	88.3% (80.6, 94.0)	42.8% (41.6, 44.2)	78.6% (70.0, 87.2)	79.8% (71.5, 87.4)	75.2% (58.3, 87.5)

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Table 3: Estimated Performance of Black and Hispanic Preferred Candidates

		11th District	Illustrative District
2017	City Comptroller	45.7%	55.8%
2017	Mayor	28.1%	39.8%
2017	Public Advocate	39.5%	50.4%
2018	Attorney General	52.5%	64.5%
2018	Governor	52.8%	64.2%
2018	State Comptroller	55.0%	66.0%
2018	U.S. Senate	55.4%	67.6%
2019	Public Advocate	38.5%	52.7%
2020	President	46.1%	58.6%
2021	City Comptroller	34.1%	46.1%
2021	Mayor	31.5%	44.0%
2021	Public Advocate	32.5%	44.4%
2022	Attorney General	37.5%	51.9%
2022	Congress	38.2%	—
2022	Governor	36.3%	51.2%
2022	State Comptroller	39.5%	53.3%
2022	U.S. Senate	39.9%	54.4%
2024	Congress	36.0%	—
2024	President	37.6%	52.7%
2024	U.S. Senate	40.9%	54.4%

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Dated: November 18, 2025

Maxwell Palmer

EXHIBIT U

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

Williams et al. v. Board of Elections of the State of New York et al.

Index No. 164002/2025

CORRECTED RESPONSE TO EXPERT REPORT OF MAXWELL PALMER*

D. STEPHEN VOSS

I.   INTRODUCTION & QUALIFICATIONS

A. I am a political scientist who earned his Ph.D. from Harvard University in 2000, with **political methodology** (i.e., quantitative analysis) as my focus field.

B. I currently am employed with the University of Kentucky's Department of Political Science, where I am a **senior professor** at the Associate rank. I am part of my university department's rotation of methods instructors, having taught graduate methods most recently in Fall 2024. I fill two administrative positions for my department: Internship Director and Publicity Coordinator. I am one of the three social scientists on our college's Educational Policy Committee, and one of my college's two Faculty Senators at the university level.

C. I have served as **president of the Kentucky Political Science Association** and I co-founded that association's journal, the *Commonwealth Review of Political Science*.

D. My dissertation explored **elections and voting behavior** related to race & ethnicity,[1] and I have published scholarly work in that topical area from 1996 through the current year, including in peer-reviewed disciplinary journals.[2] Some of that work included analysis focused on redistricting and/or voting rights.[3]

E. My primary Ph.D. advisor was Gary King, originator of commonly used methods and software for conducting **ecological inference**. I was on the ground floor when King wrote the 1997 book introducing his method, as illustrated by the use of my data in his book's opening analysis,[4] and I authored a solo chapter in King's follow-up edited volume.[5] I employed King's EI software throughout my dissertation,[6] and I have published work using EI in invited,[7] peer-reviewed,[8] and trade articles.[9]

F. Another of my dissertation advisors was Bradley Palmquist, also a specialist in ecological inference. A conference paper Palmquist and I coauthored to help introduce EI has enjoyed widespread visibility due to its influence on a

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*This version corrects the original report dated December 8, 2025, in which Table 1 was inadvertently duplicated and substituted for Table 3 on page 13 of Appendix B. This corrected version contains the correct Table 3. This report is otherwise unchanged.

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prominent racial-politics scholar; it has been "read" (i.e., accessed) more than 5,000 times just from one source: the scholarly archive site ResearchGate.[10]

G. I am interviewed frequently by state, national, and international news organizations as a **non-partisan commentator**. I work as a political analyst for Spectrum One News, after a long stint as an analyst for ABC-36 (WTVQ). I am a recurring guest and periodic guest host on WVLK talk radio, and I have been a recurring columnist for a progressive outlet, the *Kentucky Lantern*. Students at UK recognize my non-partisan orientation. I've served as faculty advisor for student groups across the political spectrum – including, currently, both UK's College Democrats and College Republicans – as well as UK's Phi Alpha Delta pre-law chapter. In the past, I advised the Moderates Club and the NAACP chapter.

H. Although I do not pursue, and in the past have usually turned down, offers to engage in consulting work, I have served as a **consultant and expert witness** in a handful of redistricting and voting-rights cases, starting with an Indianapolis case early in my career and most recently (not counting ongoing litigation) a Tampa case. About half of those cases required me to conduct and evaluate ecological inferences. I've also been admitted as a quantitative-analysis expert in cases unconnected to elections and voting (e.g., for automobile risk analysis), and I have been hired as a data scientist by public & private entities focused on policy.

I. Accompanying this expert report as Appendix A is my CV, which, among other things, lists my publications and cases in which I provided expert testimony.

II. SCOPE OF WORK & MATERIALS RELIED ON

A. Counsel retained me to evaluate the report submitted by Dr. Maxwell Palmer, especially his use of ecological inference to estimate racial/ethnic voting behavior in New York City. In evaluating the Palmer analysis, my main charge was to assess (1) whether Dr. Palmer's analysis used scientific best practices, and (2) whether Dr. Palmer's methodology could be trusted to produce accurate results. By extension, because the Palmer report analyzed New York congressional maps, I was expected to evaluate both the enacted New York congressional districts and illustrative maps developed by plaintiff's expert William Cooper.

B. To verify and debug the Palmer analysis itself, I use the same programming language (R), the same ecological-inference package (eiPack with command ei.MD.bayes), and the same racial/ethnic and vote-choice data that Dr. Palmer employed. Only when I extend past CD11 and the rival illustrative district do I use other Census data and election data (provided by Dr. Sean Trende through counsel), as well as other ecological-inference algorithms commonly used in the field (i.e., so-called Iterative EI, and the package EI-COMPARE). I also draw on ecological inferences for New York made available to the public through the Web site VoteHub, partly as a verification of my work, and partly because of the site's excellent mapping capabilities.

C. To set up my analysis of New York City's congressional districts, I draw on another online elections site commonly used in the field, Dave's Redistricting application. DRA uses different, and slightly older, election results than Dr. Palmer's when determining partisanship in New York.[11] Nonetheless, I will not be using DRA data for any of my ecological-inference work, only to aid with background and visualizations.

D. As compensation for accepting this assignment, I was retained at a pay scale of $400 per hour billed, with an additional $50 for time spent under oath. I was assisted in this work by a part-time employee of my consulting partnership, an experienced R programmer and simulation expert named Dr. Corrine F. Elliott (Ph.D. in Statistics, UC Berkeley). Neither her compensation nor mine was dependent on the results of our analysis or on the conclusions in this report. Because I supervised and vetted all work, I take responsibility for everything presented here.

III.   SUMMARY OF OPINIONS OFFERED

A. My technical report accompanies this document as Appendix B. It reaches a number of conclusions that I believe might be relevant to the litigation in question.

B. I was quickly and easily able to replicate Dr. Palmer's ecological-inference analysis, thanks to the highly professional way he conducted his work and submitted his materials through disclosure. My results from that replication were substantively identical to the results he reports. Dr. Palmer did what he said he did, and his results were as he characterized them.

C. Unfortunately, as my report explains and documents, some of the decisions Dr. Palmer made for his analysis do not conform to best practices with ecological-inference research. Addressing those shortcomings results in estimates of voting behavior by race and ethnicity – and, therefore, estimates of group cohesion and racially polarized voting – that differ in substantive ways from what Dr. Palmer reports.

D. Dr. Palmer employs a simple or "naïve" version of ecological inference that assumes members of a group vote the same way everywhere (aside from random variation and the occasional quirky deviation from the norm). Yet an evaluation of the data Dr. Palmer used – encapsulating only Staten Island and parts of Brooklyn and lower Manhattan – suggests that this assumption is false. Hispanic and Asian voters do not appear to be politically uniform across Staten Island and (perhaps stating the obvious) Whites voters on most of Staten Island hold partisan preferences distinct from the White voters elsewhere in New York City, especially those living in lower Manhattan.

E. Neglecting to allow for the likelihood that racial/ethnic groups are internally diverse in systematic ways can result in ecological inferences plagued by what's called aggregation bias. If Asians or Hispanics are more likely to vote Republican when they live near one group and more likely to vote Democratic when they live near another group – that is, when vote choice is contextual in some way – then the pattern will be attributed falsely to the other group.

F. The statistical package Dr. Palmer employed provides a simple way to (1) soften assumptions of homogeneity within racial/ethnic groups and instead (2) invite the methodology to take into account possible contextual patterns. (I've needed to make such adjustments in all of my peer-reviewed work using ecological inference, because racial and ethnic groups rarely vote the same way everywhere in a state or region.) When I repeated Dr. Palmer's analysis with that simple adjustment, the ecological inferences changed, putting them more in line with ecological inferences for New York City reported by VoteHub (which employed an even more complex methodology to adjust for aggregation bias). Dr. Palmer apparently missed some of the rich contextual variation in how Asians, Hispanics, and Whites vote.

G. Dr. Palmer pays little attention to Asian voters. They appear in a pair of tables near the end of his report, as well as in a turnout graph, but they are excluded

entirely from his discussion and from most of his graphs/figures. Their erasure is remarkable, given that the main thing separating an analysis of racially polarized voting from an analysis of whether the Black/Hispanic candidate of choice usually will lose is how everyone else votes. Insofar as Dr. Palmer's simple ecological inferences result in instability or error in how he estimates Asian (and Hispanic) voting preferences, it also will undermine the usefulness of the analysis for determining whether a candidate preferred by minority voters usually will be defeated.

H. Even if one does not reject Dr. Palmer's simpler ecological inferences on behalf of my context-based results – and it's true that I'm limited in my ability to document their relative merits, because Dr. Palmer's code does not retain intermediate results – it should be troubling that I am getting estimates well outside of his "confidence intervals" despite tweaking only one feature of the computer code. At best, Dr. Palmer's ecological inferences are reported with false precision, and the simulations underlying his results exhibit unreliable levels of instability.

I. Dr. Palmer's decision to restrict his analysis to a single congressional district's precincts – either only the precincts in the current CD11 or only the illustrative district's precincts – does not conform to best practices. There is no consensus answer as to how far out an analyst ought to zoom to obtain best results: Being too inclusive, for example by conducting ecological inference for an entire state all at once, can skew results just as zooming in too closely can. Still, Dr. Palmer should have used more than just the small number of precincts with which he worked, even if all he and the Court cared about was the voting behavior or the likely election outcomes in a single district.

J. Of course, the need to expand the scope of the data becomes even more compelling if, as a matter of law, an analysis of group cohesion and of racially polarized voting (RPV) needs to extend beyond a single legislative district – which, as a scholar of elections, I believe it ought. Focusing on only a single district to judge racial gerrymandering renders a vote-dilution analysis practically worthless, because mapmakers can manipulate the level of racial/ethnic voting cohesion – by separating or merging like-minded members of a demographic group – just as easily as they can manipulate the partisan slant of a district. Dr. Palmer's analysis illustrates the instability of such an analysis of RPV, with White voters becoming less cohesive and Asian voters becoming more cohesive in Staten Island's district after Cooper reshapes it. Focusing only on one district will give a misleading picture of how cohesive a racial or ethnic group actually is in the area where mapmakers were working, and will give a distorted view of the level of racial polarization as well.

K. Perhaps more important, if the goal is free and fair elections: Judging racial polarization using a single legislative seat or focusing solely on likely election outcomes in a single district risks imposing active discrimination against White (and in places like Staten Island, also Asian) voters. Whereas pockets of Black or Hispanic voters could opt to vote Republican with no negative

consequence, should they wish to do so, the only way White (and Asian) voters would be allowed regularly to opt for Republican representation in most metro areas would be if they were subject to racial gerrymandering (by packing those Republicans into an especially homogenous district, thereby diluting the vote of their racial/ethnic groups) or perhaps partisan gerrymandering (in the unlikely event they can be packed into a district with an uncharacteristically Republican minority population, diluting the Republican vote). The case at hand illustrates this dynamic. Cooper's illustrative map makes the single-district polarization numbers look better not because it groups protected minority populations who have been separated from each other artificially by district lines – the original purpose for fighting vote dilution – but instead because the White and Asian Republicans of Staten Island are cracked away from like-minded voters right across a bridge and instead submerged with White and Asian Manhattanites across the water who will cancel out their votes.

L. Within the limitations of the time and data provided to me, therefore, I conducted ecological inferences for all of the congressional districts centered in New York City. I conclude that New York City's congressional districts as a whole do not exhibit racially polarized voting, so the candidates of choice preferred by African-American and Hispanic voters are not usually going to be defeated. White voting is not cohesive, and neither Whites nor Asians consistently vote against the candidates preferred by African-American and Hispanic citizens. To repeat: My extended analysis of New York City voting shows that White voters are not cohesive in the region, that voting behavior is not racially polarized across the city as a whole, and that on the whole, people of color do not face an especially low likelihood of electing their candidates of choice in general elections. That conclusion extends to the entire state of New York as well, if as a matter of law that is the proper scope of analysis – as judged not only by numerous pre-election polls and by VoteHub's ecological inferences for New York state, but also because of the Democratic Party's dominance statewide.

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[10] *See* Palmquist and Voss, "Racial Polarization and Turnout in Louisiana: New Insights from Aggregate Data Analysis," Midwest Political Science Association (April 1996) https://www.researchgate.net/publication/268341180_Racial_Polarization_and_Turnout_in_Louisiana_New_Insights_from_Aggregate_Data_Analysis.

[11] https://davesredistricting.org/maps#aboutdata.

RESPONSE TO EXPERT REPORT OF MAXWELL PALMER

D. STEPHEN VOSS

APPENDIX A: CURRICULUM VITAE

Voss Response to Maxwell Palmer (Appendix A)

D. Stephen Voss

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EDUCATION

Ph.D., Harvard University: Government   1998-2000
   Dissertation: "Familiarity Doesn't Breed Contempt:
               The Political Geography of Racial Polarization"
   Committee: Gary King (chair), James Alt, Bradley Palmquist

A.M., Harvard University: Government   1990-1993; 1995-1998
   Focus Field: Political Methodology (advisor: Gary King)

B.A., Louisiana State University: History, minor in Political Science   1986-1990
B.A.J., Louisiana State University: (Print) Journalism, minor in Sociology   1986-1990
   Graduated: *Summa Cum Laude*

RESEARCH (ORC ID #0000-0001-6933-0268)

Peer-Reviewed Articles, Books, and Chapters

Morina, Dastid, Ridvan Peshkopia, and D. Stephen **Voss**. 2025. "You Can Go Your Own Way: How Transit-Country Migration Attitudes Are Influenced by European Union Ideals." *Journal of International Migration and Integration*. Published online March 25. https://doi.org/10.1007/s12134-025-01254-0.

Voss, D. Stephen, and Ridvan Peshkopia. 2025. "Discovering Neighbors: The Regional Migration Experience as a Source of Intergroup Contact." *European Politics and Society* 26(1): Pp. 207-225. Published online July 24. https://doi.org/10.1080/23745118.2024.2380692. Pp. 207-225.

Marleku, Alfred, Ridvan Peshkopia, and D. Stephen **Voss**. 2025. "Let's Get Numerical: Explaining Social-Science Student Preferences for Quantitative Studies." *International Journal of Mathematical Education in Science and Technology* 56(6): Pp. 1114-1131. https://doi.org/10.1080/0020739X.2024.2327560.

Voss, D. Stephen, Corrine F. Elliott, and Sherelle Roberts. 2024. "Seeing Red in the Bluegrass: How the Democratic Party Lost Kentucky Voters." *Commonwealth Review of Political Science* 7(1): Article 5. https://doi.org/10.61611/2994-0044.1053.

Marleku, Alfred, Ridvan Peshkopia, and D. Stephen Voss. 2024. "Research-Oriented Studies in Political Science: How Research Collaboration Shapes Southeast European Student Learning Preferences." *Journal of Political Science Education* 20(1): 31-46. https://doi.org/10.1080/15512169.2023.2196023.

Marleku, Alfred, Ridvan Peshkopia, and D. Stephen **Voss**. 2023. "Using Survey Research as an Education Tool: Cross-Cultural Lessons on How to Balance Research and Teaching." In Charity Butcher, Tavishi Bhasin, Elizabeth Gordon, and Maia C. Hallward (eds.), *The Palgrave Handbook of Teaching and Research in Political Science*. New York: Palgrave Macmillan (Political Pedagogies Series). Chap. 16. Pp. 181-194. https://doi.org/10.1007/978-3-031-42887-6_16.

Voss, D. Stephen, and Penny Miller. 2017. "The Phantom Segregationists: Kentucky's 1996 Desegregation Amendment and the Limits of Direct Democracy." *Commonwealth Review of Political Science* 4(1): 21-38.

Peshkopia, Ridvan, and D. Stephen **Voss**. 2016. "The Role of Ethnic Divisions in People's Attitudes toward the Death Penalty: The Case of the Albanians." *Punishment and Society* 18 (December): 610-630.

Peshkopia, Ridvan, and D. Stephen **Voss**. 2016. "Attitudes toward the Death Penalty in Ethnically Divided Societies: Albania, Macedonia, and Montenegro." *Journal of Behavioral and Social Sciences* 3(1): 29-40.

Peshkopia, Ridvan, Mergin Cahani, Festim Cahani, and D. Stephen **Voss**. 2014. "SKUTHI: Developing a Tablet-Based Survey Technology and its Application in Teaching Research Methods in Social Sciences." *Applied Technologies & Innovations* 10(3): 91-100.

Voss, D. Stephen, Jason E. Kehrberg, and Adam M. Butz. 2013. "The Structure of Self-Interest(s): Applying Comparative Theory to U.S. Immigration Attitudes." In Gary P. Freeman, Randall Hansen, and David L. Leal (eds.), *Immigration and Public Opinion in Liberal Democracies.*. New York: Routledge. Pp. 93-125. Chap. 4.

Voss, D. Stephen, and Donald Gross. 2011. "Poster Child for the Tea Party: Rand Paul of Kentucky." In William J. Miller and Jeremy D. Walling (eds.), *Tea Party Effects on 2010 Senate Elections: Stuck in the Middle to Lose*. Lanham, MD: Lexington Books. Pp. 141-172. Chap. 8.

Bartilow, Horace A., and D. Stephen **Voss**. 2009. "Market Rules: The Incidental Relationship between Democratic Compatibility and International Commerce." *International Studies Quarterly* 53(March): 103-124.

Bartilow, Horace A., and D. Stephen **Voss**. 2006. "[No Guns, No Butter:] International Politics and the Disaggregation of Major-Power Trade, 1962-1997." *International Politics* 43 (July): 362-383.

Voss, D. Stephen. 2004. "Using Ecological Inference for Contextual Research: When Aggregation Bias Is the Solution as Well as the Problem." In Gary King, Ori Rosen, and Martin Tanner (eds.), *Ecological Inference: New Methodological Strategies*. New York: Cambridge University Press. Pp. 69-96.

Lublin, David, and D. Stephen **Voss**. 2003. "The Missing Middle: Why Median-Voter Theory Can't Save Democrats from Singing the Boll-Weevil Blues." *Journal of Politics* 65(February): 227-37.

Lublin, David, and D. Stephen **Voss**. 2002. "Context and Francophone Support for Sovereignty: An Ecological Analysis." *Canadian Journal of Political Science* 35(March):75-101.

Voss - 2

Voss, D. Stephen, and Penny Miller. 2001. "Following a False Trail: The Hunt for White Backlash in Kentucky's 1996 Desegregation Vote." *State Politics and Policy Quarterly* 1(March):63-82.

Voss, D. Stephen, and David Lublin. 2001. "Black Incumbents, White Districts: An Appraisal of the 1996 Congressional Elections." *American Politics Research* 29(March): 141-82.

Voss, D. Stephen. 2001. "Huddled Masses or Immigrant Menace? The Black Belt Hypothesis Did Not Emigrate." *American Review of Politics* 22(Summer):217-32.

Lublin, David, and D. Stephen **Voss**. 2000. "Racial Redistricting and Realignment in Southern State Legislatures." *American Journal of Political Science* 44(October):792-810.

Lublin, David, and D. Stephen **Voss**. 2000. "Boll-Weevil Blues: Polarized Congressional Delegations into the 21st Century." *American Review of Politics* 21(Fall & Winter): 427-50.

Lublin, David, and D. Stephen **Voss**. 1998. "The Partisan Impact of Voting Rights Law: A Reply to Pamela S. Karlan." *Stanford Law Review* 50(February):765-77.

Voss, D. Stephen. 1996. "Beyond Racial Threat: Failure of an Old Hypothesis in the New South." *Journal of Politics* 58:1156-70. [Followed by an exchange with Giles & Buckner.]

Voss, D. Stephen, Andrew Gelman, and Gary King. 1995. "Preelection Survey Methodology: Details 3 from Eight Polling Organizations, 1988 and 1992." *Public Opinion Quarterly* 59:98-132.

Other Professional Publications

Voss, D. Stephen. 2004. "Multicollinearity." In Kimberly Kempf-Leonard (ed.), *The Encyclopedia of Social Measurement.* San Diego, CA: Academic Press. Revision in progress for 2026.

Voss, D. Stephen. 2004. "Aggregation." In Kimberly Kempf-Leonard (ed.), *The Encyclopedia of Social Measurement.* San Diego, CA: Academic Press. Revision in progress for 2026.

Voss, D. Stephen. 2025. "Less White than Ever? Using Ecological Inference to Probe the Trump Coalition's Diversity in Louisiana." *The Forum* (De Gruyter). Published online on April 18. https://doi.org/10.1515/for-2025-2007. This was an invited submission, so not peer-reviewed.

Voss, D. Stephen. 2023. "Assessment of Expert Witness Analysis & Reports for *Graham v. Adams* (2022)." Lexington, KY: doubleDenny Consulting. Report #dDC 003. Post-Litigation Version.

Voss, D. Stephen. 2020. "Curtailing Election Day Voting Opportunities: What Does the Research Literature Say?" Lexington, KY: doubleDenny Consulting. Report #dDC 002.

Voss, D. Stephen. 2018. "An Evaluation of Automatic Voter Registration & Fayette County Registration Rates." Lexington, KY: doubleDenny Consulting. Report #dDC 001.

Voss, D. Stephen. 2016. "The End of Kentucky's Dual Partisanship?" *P.S.: Political Science & Politics* 49(2): 234-235. This was an invited submission, so not peer-reviewed.

Voss - 3

Voss, D. Stephen. 2016. "Will Superdelegates Pick the Democratic Nominee?" The *Washington Post* Monkey Cage blog (February 26). https://www.washingtonpost.com/news/monkey-cage/wp/2016/02/26/will-superdelegates-pick-the-democratic-nominee-heres-everything-you-need-to-know

Kreis, Doug, Roy E. Sturgill, Jr., Brian K. Howell, Chris Van Dyke, and D. Steve **Voss**. 2014. *Inland Waterway Operational Model & Simulation along the Ohio River.* Lexington, KY: Kentucky Transportation Center. Research Report KTC -14-13/MTIC3-14-1F.

Fiorina, Morris P., Paul E. Peterson, Bertram Johnson, D. Stephen **Voss**, and William G. Mayer. 2008. *America's New Democracy.* New York: Longman. Fourth edition. Coauthor of the three previous versions as well.

Voss, D. Stephen. 2005. "Review of *The New Electoral Politics of Race*, by Matthew J. Streb." *Journal of Politics* 67(Feb.): 301-302.

Fine, Jeffrey A., and D. Stephen **Voss**. "Politics, Use of Polls In." In Kimberly Kempf-Leonard (ed.), *The Encyclopedia of Social Measurement.* San Diego, CA: Academic Press.

Fine, Jeffrey A., and D. Stephen **Voss**. "Polling Companies, History of." In Kimberly Kempf-Leonard (ed.), *The Encyclopedia of Social Measurement.* San Diego, CA: Academic Press.

Fiorina, Morris P., Paul E. Peterson, Bertram Johnson, and D. Stephen **Voss**. 2004. *The New American Democracy.* New York: Longman. Fourth edition.

Voss, D. Stephen. 2002. "King, Gary." In Glenn H. Utter and Charles Lockhart (eds.), *American Political Scientists: A Dictionary.* Westport, CT: Greenwood Press. Second edition. Pp. 206-209.

Voss, D. Stephen. 2002. "Review of *Elbridge Gerry's Salamander*, by Gary W. Cox and Jonathan N. Katz." *American Review of Politics* 23(Spring/Summer): 74-76.

Soifer, Paul, Abraham Hoffman, and D. Stephen **Voss**. 2001. *CliffsQuickReview American Government.* Indianapolis, IN: Hungry Minds.

Michie, Jonathan (ed.). 2001. *Reader's Guide to the Social Sciences.* Chicago and London: Fitzroy Dearborn. **Voss** authored entries on: Race and Politics; Civil Rights (US); Martin Luther King, Jr.; Congress; the New Deal; and Opinion Polls.

Voss, D. Stephen. 1999. "Racial Redistricting and the Quest for Legislative Diversity." *Extensions of Remarks: APSA Legislative Studies Section Newsletter:* 22(July):11-14.

Voss, D. Stephen and David Lublin. 1998. "Ecological Inference and the Comparative Method." *APSA-CP: Newsletter of the APSA Organized Section in Comparative Politics* 9(1):25-31.

Shrum, Wesley, Carl L. Bankston III, and D. Stephen **Voss**. 1995. *Science, Technology, and Society in the Third World: An Annotated Bibliography.* Metuchen, NJ: Scarecrow Press

Selected Conference Involvement (excludes papers listed elsewhere)

2025   Presenter (with Tasnia Symoom), "The Dangers of Denim: Attitudes toward Southern Asian Women Who Wear Western Garb," Kentucky Political Science Association. A rewrite is scheduled to be presented at the 2026 Southern Political Science Association meeting.

2025   Panelist, "Elections Roundtable," Kentucky Political Science Association.

2025   Panel Chair & Discussion, Kentucky Political Science Association.

2025   Chair & Discussant, "Public Opinion about Immigration," Midwest Political Science Association

2025   Discussant, "Shaping Immigration Attitudes," Midwest Political Science Association

2024   Presenter, Kentucky Political Science Association, panel on Race, Gender, and Public Law. Paper titled, "The Siege Effect: Using Spatial Measures to Inform Group-Threat Research." With Candice Y. Wallace.

2024   Discussant, Kentucky Political Science Association, "Partisanship, the Presidency, and COVID-19."

2024   Panelist, Kentucky Political Science Association, "Election Roundtable."

2023   Discussant, Midwest Political Science Association, "Energy, Infrastructure, and Resource Politics."

2023   Panelist, Kentucky Political Science Association, "Election Roundtable."

2022   Presenter, Kentucky Political Science Association, panel on "Foreign Policy and Political Behavior." Paper titled, "How Can You Bring a Child into This? The Effect of Triggering Threat on Ukrainian Attitudes toward Fertility." With Celeste Beasley and Rose McDermott.

2020   Panelist, Kentucky Political Science Association, "Kentucky Politics."

2018   Poster Advisor, Midwest Political Science Association, "Elections, Campaigns, and Candidates" session (April 6)

2018   Discussant, Midwest Political Science Association, "Representation" session.

2018   Presenter, Kentucky Political Science Association. Paper titled, "Why Does Education Lead to Increased Tolerance for Migrants." With Anne Klette. Also panelist for "Roundtable on Kentucky Politics."

2018   Poster Advisor, Midwest Political Science Association. Sessions on "Political Communication II" and "Politics of Immigration."

Voss - 5

3263a

OTHER WORKS IN PROGRESS

McDermott, Rose, and D. Stephen Voss. N.d. "Attitudes toward Gender Equality: Australia and New Zealand." Under revise & resubmit for *Political Science* (Taylor & Francis).

Beasley, Celeste, Rose McDermott, and D. Stephen Voss. N.d. "Benevolent Sexism and Constraints on the Social Role of Post-Soviet Women: The Case of the Ukraine."

With Rose McDermott (untitled book project): Cross-national survey research on attitudes about violence toward women. Focuses especially on the role of religion in shaping those attitudes.

Clinger, James, Scott Lasley, Joshua Tucker, and D. Stephen **Voss** (eds.). N.d. *Kentucky Politics and Government.* Lexington: University of Kentucky Press. Second edition.

Voss, D. Stephen, Corrine F. Elliott, and Sherelle Roberts. Forthcoming. "Seeing Red in the Bluegrass: Voting Behavior in the First Quarter of the 21st Century [working title only]." In James Clinger, Scott Lasley, Joshua Tucker, and D. Stephen Voss (eds.), *Kentucky Politics and Government.* Lexington: University of Kentucky Press. Second edition.

RELATED WORK EXPERIENCE

POLITICAL ANALYST, SPECTRUM ONE NEWS   2023-present
Appearing both live & in recorded news segments for coverage of election-related events.

CONSULTANT AND EXPERT WITNESS, Holtzman Vogel   2024-2025
Worked on a Florida redistricting case, *Hodges v. Albritton* (originally *Hodges v. Passidomo*) analyzing reports from two witnesses, one by Matthew Barreto using ecological inference & a second by Cory McCartan, as well as a Louisiana case, *Nairne v. Landry*, conducting ecological inference. Also, a consulting expert in a second Florida case.

EXPERT WITNESS, Kightlinger & Gray   2025
Worked on a civil action, *Bopp v. True the Vote*, growing out of 2020 Pennsylvania voting-rights case in which I briefly served as a non-testifying expert, *Pirkle v. Wolf*. My role initially involved evaluating and criticizing a method for trying to measure voter fraud presented by employees of TTV. In the follow-up case, I was asked to review my criticism of TTV's methodology (as well as the presentation of it) because it was relevant to the civil dispute.

CONSULTANT AND EXPERT WITNESS, Graves Garrett Greim   2024
For a federal redistricting lawsuit in Louisiana, *Callais v. Landry*. I analyzed reports from two witnesses, especially one by Cory McCartan that used simulated congressional districts. I replicated and extended McCartan's simulations.

NON-TESTIFYING CONSULTING EXPERT, Consovoy McCarthy   2023
I was approached to be a consultant and expert witness for a Wisconsin redistricting case, *Clark v. Wisconsin Elections Commission*, but didn't want to take on the work. We signed a retainer agreement just in case they needed me, but while I consulted with them a couple of times by phone, they didn't use me beyond that, so I didn't charge them.

CONSULTANT AND EXPERT WITNESS, Kentucky Attorney General's office   2022
For a redistricting lawsuit, *Graham v. Adams*. I analyzed reports from Harvard professor Kosuke Imai and M.I.T. professor Devin Caughey for their fidelity capturing the dynamics of Kentucky elections. Involved replicating and extending both Imai's districting simulations and Caughey's efficiency gap calculations.

Voss - 6

CONSULTANT AND DATA ANALYST, Chris Wiest, Attorney at Law, PLLC   2020
For a voting-rights lawsuit, Nemes v. Bensinger. I produced a literature review outlining evidence on the effects of various election policies as well as a statistical analysis of Kentucky's 2020 primary-election voting rules to estimate the extent to which they were suppressing the vote.

CONSULTANT AND DATA ANALYST, Fayette County Clerk   2018
Study of Kentucky registration and turnout data, with a focus on determining the likely impact of automatic voter registration.

CONSULTANT AND DATA ANALYST, Kentucky Transportation Center   2013

CONSULTANT AND DATA ANALYST, Zooknic, Inc.   2007-2013
Specialist in matters related to Internet domain pricing and e-commerce activity:
Analyst for APTLD: Asian Internet domain sellers (Fall, 2007)
Analyst for CENTR, European Internet domain sellers (Summer 2008)
Analyst for Verisign Market (2009)
Analysis for CENTR, European Internet domain sellers (2012)

CONSULTANT AND DATA ANALYST in Voting-Rights Cases, for Kroger, Gardis, and Regas
Pirkle v. Wolf (Winter 2020-2021): non-testifying expert
Borst v. Peterson (Winter 2003): affidavit submitted; trial testimony given
Dillard v. Lawrence (Fall 2006): affidavit submitted

METHODOLOGICAL CONSULTANT in Auto Liability Cases, for Perlman Law Offices, Lexington, KY
• *Vaughn v. DaimlerChrysler* (Spring 2004): affidavit submitted
• *Weuchtler v. GM* (Fall 2004): affidavit submitted
• *Aldridge v. DaimlerChrysler* (Spring 2005): affidavit submitted
• *Robins v. Wayne* (Fall 2006): affidavit submitted
• *Harrison v. DaimlerChrysler* (Summer 2007): affidavit submitted
METHODOLOGICAL CONSULTANT in Auto Liability Cases, Coben & Associates (Scottsdale, AZ)
• *Turner v. Suburu* (Fall 2004 - Spring 2005): affidavit and phone deposition
• *Varelas v. GM* (Summer 2005): brief consultation only
• *Hinkle v. Dorel* (Fall 2005 - Spring 2006): retained, listed as rebuttal witness
• *Ricci v. Volvo* (Summer 2007): brief consultation only

ASSISTANT PROFESSOR OF POLITICAL SCIENCE, University of KY   1998-2004

TECHNICAL EDITOR, *Politics for Dummies*   2002

RESEARCH ASSISTANT FOR GARY KING. Job included: writing & editing 1992 edition of Judge-It manual, gathering data, replicating results (Budge & Hofferbert, Green & Krasno), producing graphs & charts (e.g. consulting work for Ohio redistricting case), indexing (*Designing Social Inquiry*). (1991-1995)

CONSULTANT AND DATA ANALYST for the **Washington**, D.C., law firm of Baker and Hostetler in New York state redistricting litigation, working under Gary King (Summer 1992).

RESEARCH ASSISTANT FOR DEREK BOK, Harvard President Emeritus. Job included: methodological consultant for a sweeping project predicting the failure of U.S. social policies. (1992-1998)

RESEARCH ASSISTANT FOR PAUL E. PETERSON. Job included: out-of-sample forecasting for *Welfare Magnets* model to produce chapter 5 of *The Price of Federalism*; producing charts and

Voss - 7

3265a

graphs, preparing survey data for analysis. (1991- TBA)

EDITOR-IN-CHIEF of *Let's Go: USA, 1992 edition*, the year's top-selling travel guide for the entire United States. (Summer 1991).

LEGISLATIVE AIDE to Louisiana State Sen. Sydney Nelson, D-Shreveport. Job included: legal research, legislative tracking, public relations (Spr.-Sum. 1990).

HONORS AND AWARDS

David Hughes Memorial Award   **2023**
Recognizes "the outstanding paper presented at the 2023 Annual Meeting of the Kentucky Political Science Association.

A&S Summer Research Fellowship   2013

Student Activities Board Faculty Partner Award   2012

College of Arts & Sciences Outstanding (Social Sciences) Teacher Award 2007-2008
College-wide award granted to one faculty member each year that recognizes excellence and outstanding contribution in all aspects of teaching, not just classroom performance.

Pi Sigma Alpha Award for Excellence in Scholarly Writing   2006
Award given to the best paper presented at the annual meeting of the Southern Political Science Association. Received with Jeff Fine and Mac Avery.

Great Teacher Award   2003
University award granted to six faculty members annually by the UK Alumni Association.

National Science Foundation Grant, "The Federal Elections Project"   2001-2002
Grant totaling $140,000 used to collect the 2000 federal election precinct level results and match them with demographic data from the 2000 U.S. Census. Voss portion: $50,607

Faculty Summer Research Grant   1999, 2001
Grant awarded to outstanding faculty to allow tenure-track assistant professors without summer support to launch programs or finish a project involving their research or creative activities. Voss portion $5,000.

Lights of Liberty Award, Advocates for Self-Government   2001
Recognition for public service that advanced liberty in the United States.

Mellon Dissertation Completion Fellowship, Harvard University   Spr. 1995-Fall 1996
Grant given to outstanding students toward defrayment of living costs during the pursuit of a degree.

Mellon Dissertation Research Fellowship, Harvard University   Summer, 1994
Grant given to outstanding students toward defrayment of living costs during the pursuit of a
degree.

Paul Solis Top Scholar Award, Louisiana State University   1990
Kappa Tau Alpha Top Scholar Award, Louisiana State University   1990

THESIS ADVISING AND MENTORING

Primary Adviser or Mentor

Kirkwood, Chris (Ph.D., still in program)
Al Amin, MD (Ph.D., still in program)
Symoom, Tasnia (Ph.D., 2025)
Taylor, Travis M. (Teaching Post-Doc, 2022-2023)
Kaiser, Steven J., Jr. (Ph.D., 2020)
Ledford, Chris (Ph.D., 2019)
East, Jack (Ph.D., 2014)

Advisory Committee

Crumrine, Chris (Ph.D., still in program)
Gantner, John (Ph.D., still in program)
Brewer, Caedmon (Ph.D., still in program)
Taylor, Travis (Ph.D., 2020)
Schoellhammer, Ralph (Ph.D., 2020)
Enjaian, Brian – Psychology (Ph.D., 2019)
Wei, Wenchi – Public Policy & Administration (Ph.D., 2019)
Poe, John (Ph.D., 2017)
Mihai Paraschiv – Economics (Ph.D., 2016)
Martin, Andrew (Ph.D., 2015)
Wallace, Candice – Geography (Ph.D., 2015)
Ouyang, Yu (Ph.D., 2015)
Morgan, Michael (Ph.D., 2014)
Ke, Yanyu (Ph.D., 2014)
Mattei, Nick – Computer Science (Ph.D., 2012)
Sharma, Ramesh (Ph.D., 2012)
Weinberg, Erik – History (Ph.D., 2012)
Peshkopia, Ridvan (Ph.D., 2011)
Kehrberg, Jason (Ph.D., 2011)
Jeong, Hanbeom (Ph.D., 2010)
Martin, Tom (Ph.D., 2008)
Bailey, Mandi Bates (Ph.D., 2007)
Fine, Jeffrey A. (Ph.D., 2006)
Bond, Maurey (M.A., 2006)
Prince, David (Ph.D., 2005)

Voss - 9

Avery, J. Mac (Ph.D. 2004)
Eom, Kihong (Ph.D., 2003)

Also helped advise some students who eventually left their program: Donald Darmsteadt (primary advisor), Corey Chaise Camp, Samantha Ferrell, Jim Glenn, John Hajner, Cyrus Karimian, Hossein Motamedi, Daniel Partin, Chris White, Sean Chick (History), Matt Hall (History), Stephen Pickering (History), Will Stone (History)

Select Undergraduate Advising

Basinic, Dalia (Honors, 2025)
Tanner, Grace (NCUR, 2025)
Everett, Mackenzie (Honors, co-advisor, 2025)
Slish, Regan (Chellgren Research, 2025)

PROFESSIONAL AFFILIATIONS

Kentucky Political Science Association
KPSA President (2012-2013)
Executive Board member (2011-2014)
Editorial Board member, *Commonwealth Review of Political Science* (until present)
Co-editor, *Commonwealth Review of Political Science* (first two volumes)

I also, off and on, have been a member of the following:

American Political Science Association
Midwest Political Science Association
Southern Political Science Association

UNIVERSITY AND DISCIPLINARY SERVICE

Administrator, University of Kentucky Department of Political Science
2024-present   Internship Director (also 2014-15, 2010-11, 2005)
2015-present   Publicity Director (also 1999-2002)
2012-2014   Associate Chair
2005-2013   Director of Undergraduate Studies (sabbatical 2007-2008, hiatus 2010-2011)
2004-2005   Co-Director of Undergraduate Studies
2003-2004   Assistant Director of Undergraduate Studies

University/Faculty Senate
2025-present   Faculty Senator (one of two representing the College of Arts & Sciences)
2024-2025   Provisional Faculty Senator (sole representative of College of Arts & Sciences)
2005-2007   University Senate (social science rep for the College of Arts & Sciences)

Voss - 10

Arts & Sciences Educational Policy Committee
2025   Acting member
2009-2011   Member
2006-2007   Chair
2004-2006   Member (2004 - 2007, 2009-2011)
2003-2004   Member, Area B Curriculum Committee

Faculty Advisor for campus groups
• Phi Alpha Delta pre-law fraternity (2004-2008, 2025-present)
• UK College Democrats (2022-present)
• UK College Republicans (2024-present)
• Pi Sigma Alpha poli sci honorary (2005-2007, 2008-2010, 2011-2012)
• UK Moderates
• UK-NAACP (2001)
• UK Liberty Club (Fall 2000)

WilDCats at the Capitol, Steering Committee member (2024-2025)

Student Affairs/Success Task Force (to rewrite UK's Admin Regs related to students)
        Member, 2024

Search Committee for Associate Dean of Agriculture & V.P. of Land-Grant Extension
        Member, 2024

Department of Political Science Faculty Merit Evaluation Review Committee
Member, 2024-2025
Member, 2022-2023
Member, 2010-2011
Member, 2008-2009
Member, 1999-2000

College of Arts & Sciences, Political Science Acting Chair Search Committee
Chair, Spring 2023

Appeals Board Member, University of Kentucky (2018-2020)

Scholarship Committees
• T. Marshall Hahn, Jr., Graduate Fellowship Selection Committee (2005, 2009-2010, 2025)
• Schwarte, Gorman, and Jewell awards committees (2019)
• Trunzo Scholars Program (2015-2017)
• Arts & Sciences Scholarship Committee (2004-2008)
• Interdisciplinary Program (IDP) Committee, American Studies Rep. (2005-2006)

Online Colloquium Coordinator, UK Political Science Department   2020-2021

Voss - 11

Department of Political Science Search Committee Member
Judicial Politics position, Fall, 2008
American Institutions, Fall 2006
Judicial Politics, Fall, 2006
International Relations, Fall, 2006
Chair Search Fall, 2006
American Politics senior search, Fall, 2001

Department of Political Science Field Committee – I've been on these so many times that I decided to remove the year-by-year listings. I'm been appointed to the exam committee in Political Methodology, American Politics, Policy Studies (chairing in 2020), and Political Behavior.

American Studies Committee
• Acting Director (2005-2006)
• Steering Committee Member (2003-2007)

UK President's Commission on Diversity
• Member (2003 - 2006)
• Chair, Campus Environment Subcommittee (2004 - 2005)

General Education U.S. Citizenship Vetting Committee
• Chair, 2009-2010

Award Committees and Judge Panels
• UK Homecoming judge (2012)
• Singletary Service and Leadership Award Committee (2003-2006)
• Oswald Undergraduate Research Award Committee (2003)
• UK Homecoming Queen competition interviewer (2002)
• UK Homecoming King competition interviewer (2001)

Section Head
Southern Political Science Association meeting, 2009
Southern Political Science Association meeting, 2006

V.O. Key Book Award Committee
Chair, 2002
Member, 2001

Peer-Reviewed Articles for (among others):
• *American Political Science Review*
• *American Journal of Political Science*
• *Journal of Politics*
• *Political Analysis*
• *Sociological Methods and Research*
• *American Politics Quarterly/Research*
• *American Review of Politics*

Voss - 12

- *Comparative Politics*
- *Electoral Studies*
- *International Politics*
- *Political Behavior*
- *Politics and Polity*
- *Political Research Quarterly*
- *Social Forces*
- *State Politics and Policy Quarterly*

INVITED TALKS & UNPAID PUBLIC APPEARANCES

Due to my focus on elections and voting behavior, and my long residence in Kentucky, I engage in extensive **media outreach** on behalf of UK. The result has been years of local, national, and international media appearances spanning TV, radio, and print journalism, a list much too long to provide here. I can list a few recurring gigs, though:

POLITICAL ANALYST, WVLK 590AM 92.9FM   2022-present
Weekly 45-minute appearance on the Larry Glover Live show to discuss a wide-ranging variety of topics related to politics, government, policy, and society (unpaid post).

POLITICAL ANALYST, CINCINNATI EDITION   2023-2025
Recurring appearances on public radio program to discuss topics related to politics and elections. Included appearances on 11 March 2025.

POLITICAL ANALYST, KENTUCKY EDUCATIONAL TELEVISION   2023-2025
Recurring appearances on public television station to discuss topics related to politics and elections. Included appearances on 22 November 2024.

POLITICAL ANALYST, BEHIND THE BLUE (UK PUBLIC AFFAIRS PODCAST)   2014 (?) - 2024
I've recorded regular podcasts with UK public relations during election season. Appearances on 4 November 2014, 17 May 2016, 19 October 2016, 18 January 2017, 31 October 2018, 30 October 2020, 21 April 2022, 27 October 2022, 18 November 2022 9 November 2023, 29 October 2024.

POLITICAL ANALYST, WRFL   ? - 2024
Appearing in studio for coverage of elections and election-related events (unpaid post). Includes appearances on 6 November 2024.

POLITICAL ANALYST, WTVQ ABC-36   2013-2023
Appearing in studio for coverage of elections and election-related events (unpaid post).

OPINION COLUMNIST, THE KENTUCKY LANTERN (NEWS FROM THE STATES)   2023-2024
Biweekly column on politics, elections, and policy. See https://kentuckylantern.com/author/d-stephen-voss/

GUEST COLUMNIST, LEXINGTON HERALD-LEADER   2023
Columns on Kentucky politics and elections (unpaid post).

POLITICAL ANALYST, WKYT   2020-2021
Recurring guest on The Breakdown, a deep dive into the political topics of the day (unpaid post).

POLITICAL ANALYST, LEX-18   2019
Appeared in studio for coverage of Kentucky statewide elections (unpaid post).

Select Other Invited Appearances
- 2025   Keynote Address, Indiana Political Science Association
- 2024   Presenter, Berkeley Immigration Workshop
- 2023   Presenter, Berkeley Immigration Workshop
- 2021   Co-presenter, annual meeting of WomanStats (virtual, Texas A&M)
- 2021   Co-presenter, Gender & Political Violence Workshop (virtual, Cornell University)
- 2020   New Leaders Council of Kentucky (18 April)
- 2019   Moderator, "Gun Control," with John Lott, UK Student Activities Board (29 Jan.)
- 2018   Bluegrass Activist Alliance: "What Went Wrong in the 6th District and Where Do Progressives Go from Here." (18 Nov.)
- 2018   Japanese Embassy delegation, "Kentucky's 6th Congressional District Race." (Oct. 25)
- 2018   UK College of Arts & Sciences Dean's Circle, "Undergraduate Research." (Oct. 19)
- 2018   UK College of Arts & Sciences Ambassadors, "The Undergraduate Political Science Degree at UK." (Oct. 1)
- 2018   Bellarmine University, "Voting Rights and Election Reforms." (Sept. 17)
- 2018   Henry Clay Congress (May 17)
- 2018   New Leaders Council of Kentucky (April 21)
- 2018   UK College of Law Federalist Society, "Partisan Gerrymandering"
- 2018   Harvard University Center for Public Leadership, "Kentucky's Culture, Challenges, and Opportunities."
- 2018   UK Lewis Honors College, "American Social-Welfare Policy" (Aug. 22)
- 2017   Henry Clay Congress, "Polarization and Distrust in American Politics" (June 13)
- 2008   Moderator, election debate between the UK College Democrats & College Republicans (28 October)
- 2008   Moderator, election debate between the UK College Democrats & College Republicans (26 September)
- 2007   Moderator, policy debate between the UK College Democrats & College Republicans (Spring)
- 2006   Moderator, Mayoral Candidate Debate sponsored by UK Student Government Association (Fall)
- 2006   Moderator, SGA Presidential Candidate Debate, sponsored by UK's G-PAC (Spring)
- 2005   Moderator, screening of Steven Greenstreet's "This Divided State" (18 April)
- 2005   Moderator, SGA Presidential Candidate Debate, sponsored by UK's G-PAC (Spring)
- 2004   Discussant, screening of "School of the Americas, School of Assassins," sponsored by Amnesty International of UK (4 November)
- 2004   Moderator, election debate between the UK College Democrats & College Republicans (Fall)

Moderator (selected examples)
• Discussant, screening of Michael Moore's "Fahrenheit 9/11" sponsored by the Cats' Den (18 Oct. 2004)

Voss - 14

- University-Affiliated Conferences and Symposia
- Presenter, "Probabilities in the Courtroom: How Expert Witnesses (Mis)Use Risk Analysis," Judith Goldsmith's UK colloquium on the psychology of probabilities (Fall 2008)
- Panelist, Diversity Dialogue (23 January 2007)
- Participant, General Education Process Planning Workshop (August 2006)
- Moderator and Discussant, "History of Race Relations in 1940s US," Fifteenth Annual Bluegrass Symposium (7-8 April 2006)
- Panelist, Diversity Dialogue, "Uses, Misuses, and Abuses: Race, Ethnicity, Diversity, and Related Concepts" (30 March 2004)
- Panelist, "Education Beyond *Brown*: Future Perspectives," UK President's Commission on Diversity and African American Studies and Research Program (26 March 2004)
- Videographer, "Affirmative Action Forum: How Brown vs. Board of Education Affected You," sponsored by UK-NAACP and UK President's Commission on Diversity (18 Nov. 2003)
- Panelist, campus NAACP forum, "Affirmative Action: Under Siege and Under Fire" (26 Feb. 2003)
- Chair and Discussant, National Council on Undergraduate Research (2001)
- Presenter, How to Express & Explain Your Results," Quantitative Methods Committee in the Social and Behavioral Sciences (7 Dec. 2000)
- Panelist, Gaines Center forum on the 2000 elections (2000)

Guest Speaker (selected examples, service to Univ. of Kentucky only)
- UK College of Arts & Sciences speaker series (17 Oct 2024)
- Ford Lecture panelist, UK Martin School (8 Oct 2024)
- Bourbon County High School Candidate Forum (6 Oct 2014)
- #TrendingTopics Debate: Immigration (2014)
- See Tomorrow speaker series, "UK's Partnership with the Commonwealth (9 Sept 2014)
- American University of Tirana, on online instruction (2012)
- American University of Tirana, on the presidential election (2012)
- Bellarmine University, Constitution Day address (2012)
- UK College of Arts & Sciences podcast on the presidential election (Sept 2012)
- UKC 180 course on elections taught by A&S Dean Kornbluh & Prof. Kathy Kern (2012)
- Student Activities Board Trending Topics Obamacare Debate (2012)
- National Assn. of Women Business Owners, Lexington Chapter (21 Oct 2008)
- Fayette County Chapter of UK Alumni Association (2004)
- Clark County Chapter (23 Sept 2004)
- Sorority Rush, "Surviving UK Academics" (2002)
- Guest Speaker, Lexington Catholic High School, National Honor Society Induction Ceremony (20 Feb. 2002)
- Lexington Catholic English class (2001, 2002)
- Bryan Station H.S. political science class (11 Sept. 2001)
- Emerging Leader Institute Presenter (Fall 2005, Spring 2005, Fall 2004)

COMPUTER SOFTWARE

Microsoft Office (i.e., Excel, Word, Powerpoint, Outlook), STATA, R, GAUSS, Camtasia, etc.

Voss - 15

RESPONSE TO EXPERT REPORT OF MAXWELL PALMER

D. STEPHEN VOSS

APPENDIX B: ANALYSIS AND TECHNICAL REPORT

Counsel retained me to evaluate the report submitted by Dr. Maxwell Palmer, especially his use of ecological inference to estimate racial/ethnic voting behavior in New York City. In evaluating Palmer's analysis, I understood my main charge to be assessing:

(1) whether Dr. Palmer's analysis used scientific best practices; and

(2) whether Dr. Palmer's methodology and his presentation of results were reliable enough that they could be trusted to produce accurate assessments.

By extension, I was expected to analyze both the enacted New York congressional districts and the illustrative alterations put forward by plaintiff.

Finally, counsel also asked me to consider, to the extent possible, whether requiring the dissolution of New York's 11th Congressional District ("CD11") based on racial grounds might have the perverse effect of diluting the vote of other groups on a broader scale.

Successful Verification of Palmer's Estimations

The first step in verifying an expert's analysis is to determine whether it can be replicated by another expert: to see if the analyst performed the work as claimed, and to see if the results match what the analyst reported.

To verify and debug the Palmer analysis itself, I use the same programming language (R), the same ecological-inference package (eiPack with command ei.MD.bayes), and the same data that Dr. Palmer employed. In fact, Dr. Palmer disclosed materials with such a high level of transparency—clear code, clear file organization, and generally a direct connection to the results appearing in his report—that the verification stage was simpler than any replication I have attempted (either for litigation or research) in my lengthy career. Dr. Palmer's work showed a high degree of professionalism, and the critiques I will lay out do not impugn the quality of Dr. Palmer's work, only the appropriateness of his choices to the questions at hand.

I successfully replicated Dr. Palmer's analysis of CD11 and the illustrative map. The results were substantively similar to Dr. Palmer's, with my results falling within the narrow "confidence intervals" he reported in every case (see Table 1).[1] Dr. Palmer did what he said he did, and his results were as he characterized them—so any significant differences produced by my extension of Dr. Palmer's method will be the result of my explicit deviations from his approach, not due to data or software.

TABLE 1 – Dr. Palmer's Results Replicated Easily and Almost Perfectly

PALMER RESULTS

		Black		White		Hispanic		Asian		Other	
Year	Office	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)
2017	City Comptroller	91.10%	88.9 93.1	34.80%	33.6 36.1	87.10%	83.8 89.9	50.90%	39.8 62.8	67.50%	46.3 81.1
2017	Mayor	89.10%	86.4 91.3	13.50%	12.2 14.8	79.80%	74.7 84.2	51.00%	40.4 61.1	61.00%	45.1 73.8
2017	Public Advocate	88.80%	86.3 91	26.90%	25.4 28.3	83.00%	79.1 86.2	47.50%	36.6 57.9	67.00%	51.5 78.1
2018	Attorney General	94.10%	92.7 95.3	35.90%	34.7 37.2	92.60%	90.4 94.2	79.20%	72.2 84.3	75.30%	63.7 85
2018	Governor	93.50%	91.9 94.7	36.90%	35.5 38.2	92.00%	89.9 93.6	77.50%	70 82.5	73.30%	61 82
2018	State Comptroller	94.70%	93.4 95.9	39.70%	38.5 41	93.60%	91.4 95	80.60%	73.3 85.7	77.40%	61.6 89.2
2018	U.S. Senate	94.50%	92.4 96.2	39.70%	37.6 41.5	92.20%	89 94.6	74.80%	64.9 82.9	83.00%	70.3 91.4
2019	Public Advocate	90.20%	87.2 92.8	18.70%	16.2 21	86.90%	82.2 90.4	65.10%	49.1 76.8	70.80%	56.9 82.1
2020	President	93.10%	90.6 94.9	27.00%	25.7 28.4	90.00%	86.5 93.4	73.50%	65.9 80.9	73.40%	59.4 84.6
2021	City Comptroller	86.50%	83 89.5	23.70%	22.4 24.9	77.80%	72.2 82.5	34.00%	25.6 45.5	49.20%	25.8 68
2021	Mayor	87.30%	83.8 90.2	20.50%	19.3 21.6	82.10%	77.3 86.4	43.50%	33.1 53.9	54.60%	36.3 72.1
2021	Public Advocate	88.20%	85.2 90.7	21.00%	19.8 22.2	81.90%	77.9 85.3	40.70%	30.5 53	48.20%	29.3 62.8
2022	Attorney General	90.50%	85.7 94.1	22.80%	21 25.1	89.90%	85.3 93.4	60.40%	43.8 73.3	75.70%	55.1 90.3
2022	Governor	89.80%	85 93.6	22.00%	20.1 23.9	89.30%	84.7 92.9	53.20%	37.5 69.2	77.50%	60.6 89.4
2022	State Comptroller	89.50%	84.5 93.6	25.60%	23.7 27.8	90.40%	85.9 93.8	65.50%	54.2 76.4	73.60%	51 88.6
2022	U.S. House	90.40%	85.1 94.1	24.10%	22.1 26.4	89.10%	83.9 93	57.50%	44.8 71.5	78.80%	61.4 89.5
2022	U.S. Senate	91.00%	87.1 93.9	26.40%	24.7 28	92.90%	89 95.2	64.30%	46.2 78.2	75.30%	56.3 89
2024	President	88.70%	83.1 93.4	22.20%	20.4 23.9	88.10%	81.1 92.4	49.00%	38.4 59.2	65.30%	47 85.8
2024	U.S. House	88.70%	83.6 92.9	20.00%	18.1 21.9	87.70%	81.1 92.8	51.60%	41 62	60.00%	34.8 79.3
2024	U.S. Senate	89.80%	85 93.4	25.40%	23.8 27	88.40%	82.4 93.1	58.80%	47.1 71.4	66.30%	43.4 83.6

VERIFICATION OF PALMER RESULTS

		Black		White		Hispanic		Asian		Other	
Year	Office	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)	Estim.	(C.I.)
2017	City Comptroller	90.98	88.5 92.9	34.77	33.5 36.0	86.70	82.6 90.0	53.49	39.9 66.4	66.74	52.7 77.5
2017	Mayor	88.37	85.4 90.8	13.60	12.4 14.8	79.55	74.7 83.4	53.11	40.1 64.1	59.12	43.2 71.7
2017	Public Advocate	88.53	85.5 91.1	26.94	25.4 28.4	83.11	78.8 86.5	45.89	34.6 57.8	64.45	47.8 75.2
2018	Attorney General	94.39	93.0 95.6	35.89	34.7 37.4	92.13	90.3 93.6	81.22	74.8 85.8	72.51	56.4 83.9
2018	Governor	93.62	92.0 95.0	36.79	35.5 38.2	91.94	89.9 93.7	77.71	71.2 82.6	73.83	62.0 82.9
2018	State Comptroller	94.66	93.2 95.8	39.65	38.4 40.9	93.29	91.1 94.9	81.50	73.0 86.8	78.73	67.0 86.8
2018	U.S. Senate	94.83	92.8 96.4	39.33	37.4 41.3	92.38	88.5 94.9	76.12	67.9 83.3	88.98	76.1 94.2
2019	Public Advocate	90.28	86.6 93.1	18.24	15.8 20.5	88.49	84.8 91.3	69.64	58.8 78.4	71.24	54.2 82.7
2020	President	92.87	90.7 94.7	26.95	25.7 28.2	89.73	85.7 93.2	73.80	67.4 80.4	75.37	61.3 86.4
2021	City Comptroller	86.71	83.2 89.6	23.45	22.1 24.8	77.85	72.4 82.5	40.16	30.4 50.9	48.21	29.1 65.2
2021	Mayor	86.97	83.2 89.9	20.54	19.3 21.7	81.06	76.3 85.6	42.20	32.7 53.6	55.01	37.0 70.2
2021	Public Advocate	87.41	84.5 90.0	21.27	20.1 22.4	83.49	79.3 86.7	33.00	25.3 45.7	47.68	28.9 65.6
2022	Attorney General	90.46	85.9 94.2	22.66	20.6 24.6	90.59	86.5 93.7	56.63	42.7 69.3	76.80	60.2 88.8
2022	Governor	89.64	84.3 93.7	22.23	20.5 24.0	88.69	83.5 92.5	48.88	39.1 58.3	76.48	52.2 91.3
2022	State Comptroller	90.82	85.4 94.7	26.08	23.9 28.1	89.29	84.1 93.0	58.73	43.8 73.0	73.38	51.5 86.9
2022	U.S. House	90.03	85.0 93.9	24.16	22.0 26.2	88.57	82.7 92.6	59.12	44.1 73.1	81.68	67.6 90.1
2022	U.S. Senate	91.33	87.4 94.3	26.40	24.8 28.1	91.75	87.7 94.8	65.33	45.5 78.7	79.53	62.8 90.9
2024	President	87.50	81.5 92.0	21.94	20.1 23.6	90.94	86.6 94.2	48.26	35.3 60.7	64.13	34.5 84.7
2024	U.S. House	86.63	80.9 91.2	20.17	18.3 21.9	88.32	83.2 92.2	48.00	38.9 57.3	61.44	28.2 78.0
2024	U.S. Senate	90.60	86.6 93.6	25.53	23.9 27.3	87.91	81.7 92.6	57.51	44.2 70.5	64.69	42.6 85.2

NOTE: The top table repeats the ecological inferences reported on page 10 of Dr. Palmer's report. The bottom table is my verification of his results using his data, code, and approach to post-estimation calculations. All my verification estimates fall within his reported confidence intervals, as they should. Later differences will be as a result of modelling choices.

What Is Ecological Inference?

Before critiquing Dr. Palmer's analysis and ecological inferences, I will offer in this section a basic overview of how Dr. Gary King's EI works. I will describe the original version, not RxC version, for simplicity's sake. Understanding this part is not strictly necessary for understanding the rest of the report—so a reader could skip it without misunderstanding my conclusions—but by "showing receipts," I am trying to minimize the extent to which a reader needs to take my criticism of Dr. Palmer's method and conclusions on authority.

Voting by secret ballot complicates any attempt to assess the racial or ethnic implications of legislative districts. We know how a locale voted, and we know the racial/ethnic makeup of the place, but we do not know the cross-tabulation between those two things. We cannot follow voters into the booth. We cannot calculate how voting differed by race and ethnicity.

Even in the best of circumstances, therefore, an analyst is stuck trying to infer how race/ethnicity cross-tabulates with vote choice—that is, how social groups differed in their voting behavior. We might know that 55.7% of CD11 usually vote Republican, and we might know that 54.1% of CD11's population is White, but we can only estimate what percentage of White voters prefer Republicans. Some of those White voters no doubt are Democrats, and some of those Republican votes no doubt came from Asian, Hispanic, and African-American voters in the district—but we are stuck estimating how each racial/ethnic group voted.

Notice the implication for voting-rights cases. Neither the level of group voting cohesion nor the level of racially polarized voting—the gap between races in how they voted—can ever be known factually. It can only be estimated using quantitative inference, and the success or failure of those inferences cannot be confirmed with certainty because we do not know the truth. Guess too high for one group, and the analyst likely is guessing too low for the other, either exaggerating or minimizing polarization.

Attempting to estimate such hidden quantities goes under the jargon "ecological inference." Inferences of this sort, while necessary for many purposes, are problematic because they can go astray easily. A vibrant research literature going back to before my birth documents the risks associated with such analysis (*i.e.*, the risk of committing "ecological fallacies"). The methodology enjoyed a landmark breakthrough in the late 1990's, when my mentor Dr. Gary King offered "a solution to the ecological inference problem," popularly called EI (after the implementing software), that lessened the risk of faulty ecological inferences. Later, Dr. King and collaborators developed the so-called RxC version of EI that made EI more flexible. King's method stood head and shoulders above anything in regular use before, because it employed more of the information available in low-level areal units (*e.g.*, precincts) and because it allowed researchers a

direct way to compensate for "aggregation bias" that led to fallacious conclusions.

Dr. King's EI does not start out by estimating what is happening across the entire area of interest (for example, across an entire state, city, or congressional district). Instead, the method ideally starts with the smallest units of aggregation available at which demographic information and voting behavior can be matched (*e.g.*, a low-level Census or the precinct level), picking up on how political behavior changes as the composition of the place changes. For each smaller unit, EI takes advantage of inputs the analyst *knows to be true*—the population demographics of that small area and the election returns from that small area—to restrict what it can guess for each little unit. Ensuring that the method will not guess impossible results for each of these little spaces implicitly ensures that any estimate developed for a larger place also will be mathematically possible.

Figure 1 presents the inputs that would go into ecological inference for a hypothetical tract, expressed both as counts and as proportions, and shows as question marks the cross-tabulations we might need to know: how Hispanics voted, and how everyone else did. Here is how Dr. King's method ensures estimates will be mathematically possible for each of these little units, a process called the method of bounds:

1. Hispanics: Trump received 1,129 votes, but only 854 non-Hispanic voters turned

FIGURE 1 – The Method of Bounds in a Heavily Hispanic Precinct

Raw Counts

	Hispanic	Non-Hispanic	
Biden	?	?	916
Trump	?	?	1129
	1191	854	2045

Vote Proportions

	Hispanic	Non-Hispanic	
Biden	?	?	0.45
Trump	?	?	0.55
	0.58	0.42	2045

out, so Trump's Hispanic support there could not have been 0%. At a minimum, he picked up $1,129 - 854 = 275$ Hispanic votes. That is, at least $275/1,191 = 23.1\%$ of Hispanic voters backed Trump. At the same time, more Hispanics showed up than Trump received votes in the tract, so Trump could not have received 100%; at least $1,191 - 1,129 = 62$ Hispanic voters picked Biden.

2. Non-Hispanics: We cannot narrow down how other voters behaved. Anything from 0% to 100% Trump support would be mathematically possible here. Still, we know a lot about how those non-Hispanic voters could have behaved because once we know Trump's rate of Hispanic support, then only one rate of non-Hispanic support would be possible. Combined Trump support is linear:

Trump Vote	= Votes from Hispanics	+	Votes from Non-Hispanics	
	= Hispanic Turnout	x	Rate of Hispanic Support	+
	Non-Hispanic Turnout	x	Rate of Non-Hispanic Support	

If we know the two turnout rates in the precinct, then once we hypothesize a particular level of Hispanic support, the corresponding level of non-Hispanic support could be only one number:

Non-Hispanic Rate = (Trump Vote – Number of Hispanic Votes) / Non-Hispanic Turnout

Obviously neither of these rates can fall below 0% or go higher than 100%, so if we were going to graph what is possible for this particular precinct, the result would be a line segment rather than a line. The line segment for this hypothetical precinct appears as Figure B, illustrating possible rates of support for Biden rather than Trump. The location of that line segment indicates

FIGURE B – Heavily Hispanic Precinct
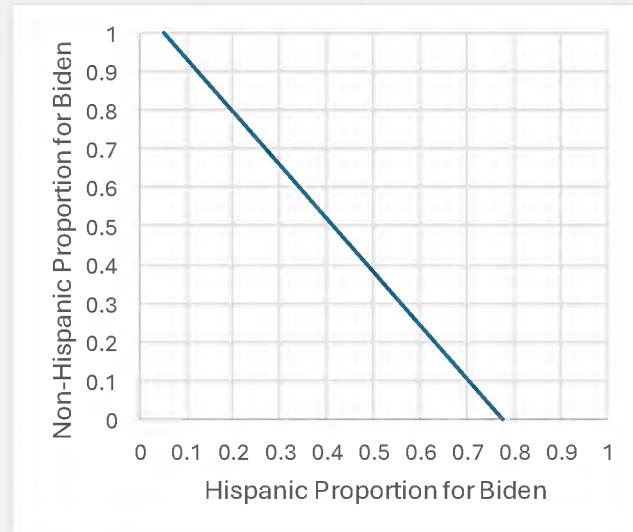
what we have already determined from simple calculations: because the line segment extends from top to bottom, the non-Hispanic rate of support for Biden can range from 0 – 100%, whereas the line segment does not extend all the way from left to right—showing that Biden's Hispanic support could not have been greater than $100 - 23.1 = 77.9\%$ (because that is the farthest right that the segment reaches), but also was not zero (because the left-hand side of the segment never reaches the left-hand side of the box).

Note that what is possible for each group depends on the size of that group in the unit's population, with our certainty about how the group voted depending on the relative size of the group. Thus, the slope of the line segment also tells us which racial/ethnic group is most numerous in the locale. A line that is either vertical or horizontal is almost homogenous; we know precisely how one group voted but have no idea about the other group. A locale that is almost equally balanced between the two groups, as this first example was, will cut diagonally across the box, because either group could have given high or low support to the candidate. We know less about tracts such as this one. But the true combination of Hispanic and non-Hispanic support for Biden must appears somewhere on that line segment, and when Dr. King's method tries to estimate what those rates were, it will only pick a spot somewhere along that segment.

A second example shows a second way that a small area can be especially informative. It is also closely balanced, but it is heavily lopsided toward Joe Biden. Figure

FIGURE C – The Method of Bounds in a Pro-Biden Precinct

Raw Counts

	Hispanic	Non-Hispanic	
Biden	?	?	798
Trump	?	?	242
	416	543	959

Vote Proportions

	Hispanic	Non-Hispanic	
Biden	?	?	0.83
Trump	?	?	0.25
	0.43	0.57	959

FIGURE D – Heavily Pro-Biden Precinct
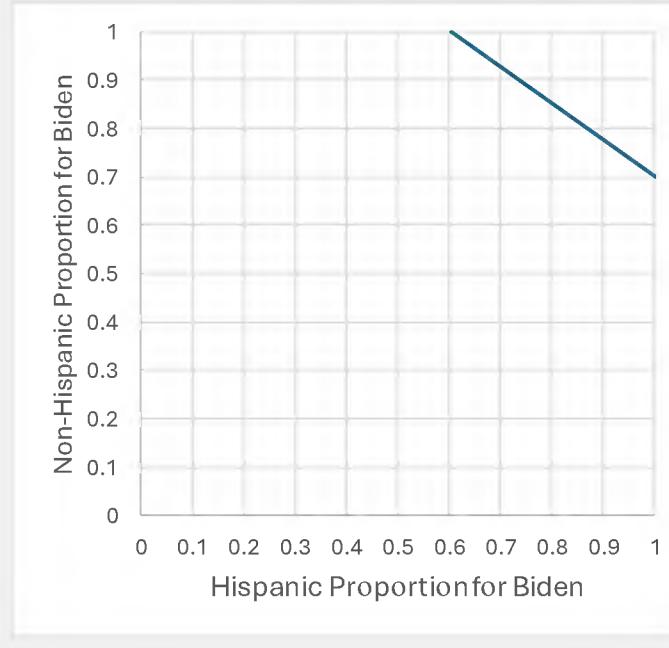
C shows why we will have a much easier time estimating political behavior in such a precinct, compared to the last. Joe Biden received 798 votes here (or 83%). Even if every Hispanic cast a vote for Biden, at least $798 - 416 = 382$ non-Hispanics (or 70.3% of them) must have sided with him. Even if every non-Hispanic backed Biden, at least $798 - 543 = 255$ (or 61.3%) of Hispanics must have backed him. So even though the line segment for this tract will be angled about like the last one, because the population is fairly evenly balanced like in the last one, we are still going to be able to narrow what is mathematically possible to a much greater extent here because of the very high level of Biden support. It will be crammed up in the top right of the square. Biden did so well that both groups mathematically must have supported him at high levels. Figure D shows all possible combinations of Hispanic and Non-Hispanic Biden support in that precinct.

If we put all the line segments for every single precinct into a single box—collecting everything that's mathematically possible for all the precincts in one place—we get what Dr. King calls a tomography plot. The contents of such plots contain no guesses, inferences, or estimations—only what is known to be true (assuming the source data are good). An experienced EI user, who has looked at a lot of tomography plots and analyzed a large variety of datasets, can tell a lot about whether ecological inference is likely to work—and what problems might plague it—from the visualization of all those segments.

For example, Figure E shows a tomography plot capturing the White vote in a recent Florida attorney general primary. Each line segment represents one Census tract in Hillsborough County, with each tract's true combination of White and non-White support for candidate Shaw appearing somewhere on the line segment associated with that tract.

FIGURE E –

A Well-Behaved Tomography Plot:
The White Vote for AG Candidate Shaw

(x-axis: Proportion of Whites for Shaw; y-axis: Proportion of Non-Whites for Shaw)
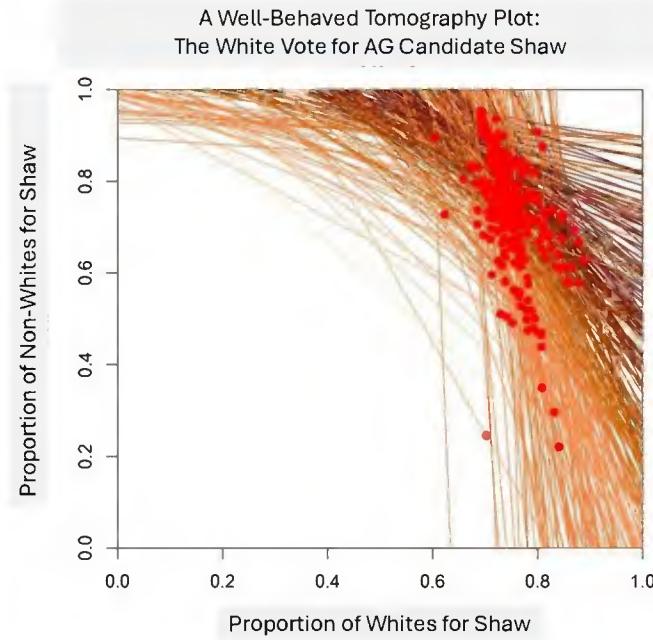
NOTE: The horizontal, lateral, and vertical lines all tend to converge around the same spot in the upper-right-hand corner of this tomography plot. For that reason, it is fairly easy to identify the region of the square where the combination of White and non-White candidate support is most likely to appear.

This circumstance lent itself to fairly strong ecological inferences because the line segments—horizontal, lateral, and vertical—all appear to pass through roughly the same section of the square, with most segments either fairly vertical (*i.e.*, heavily white tracts), fairly horizontal (*i.e.*, tracts with a large minority populations), or stuffed so far into the top-right corner that voters of both groups heavily favored Shaw. Homogeneous units and those with extreme outcomes make life easier. Having that arrangement of line segments tells me that EI will not have a hard time inferring support rates. I can also tell polarization is likely to be low. Polarization normally would cause the segments to converge either on the top left or the bottom right in a segregated place like Hillsborough.

The red dots represent EI's best guess as to what happened in each tract: what the likely combination of White and Non-White support actually was. Because this estimation was relatively easy, those red dots are able to cluster where the line segments tend to come together. The county estimate basically comes from combining those dots.

The reason I needed to start with a Florida example is that New York City does not lend itself as well to ecological inference. Figure F shows support for Governor Kathy Hochul in New York City in the 2022 general election, with Hispanic citizens along the

FIGURE F – An Ill-Behaved Tomography Plot from New York City
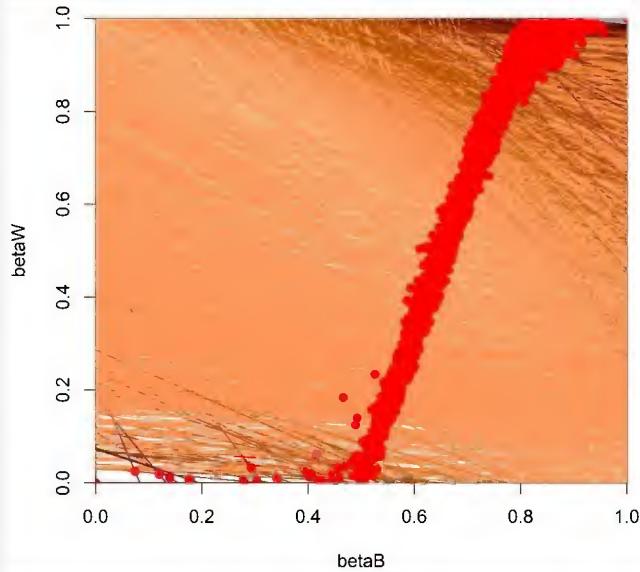
NOTE: The horizontal axis (betaB) represents precinct-level support for Democrat Kathy Hochul in the 2022 gubernatorial election among Hispanic citizens, while the vertical axis (betaW) represents non-Hispanic support for Hochul. The red dots show best guesses for each precinct drawn from naïve ecological inference.

bottom axis (betaB) and other citizens along the left axis (betaW). Both the spread of lines all over the square, and the rightward drift in red dots as they move upward—not to mention the many segments on the bottom left and top right—all tell me that an analyst needs to be much more careful when conducting ecological inferences in this region. Such signs of trouble led me to doubt Dr. Palmer's simple inferences.

Once Dr. King's method picks a spot on each of these line segments, with each spot representing a mathematically possible level of combined White and non-White support for Shaw or Hispanic and non-Hispanic support for Hochul, those guesses are added up (weighted by population size) to represent an estimate for how groups voted across the whole area. Because the higher-level estimates build directly from a whole series of lower-level estimates that are mathematically possible, the method's overall guess for how groups behaved also will be possible, too. Indeed, disciplining each step using those bounds means that the method may perform well, coming close to the truth, even if some of the method's underlying assumptions are not met. That is, EI can be robust to some level of assumption violations.

Having laid that groundwork, I now can explain why Dr. Palmer's analysis does not conform to best practices when conducting ecological inference—and therefore why his conclusions are unreliable.

Contextual Effects and Aggregation Bias

The simple or naïve version of Dr. King's method, like the main approach that it replaced (ecological regression), makes a simplifying assumption: it assumes that each group has the same basic underlying political preferences everywhere being analyzed, give or take the presence of one or two quirky neighborhoods and the usual randomness in human behavior. With the RxC version Dr. Palmer used, building from citizen voting-age population (CVAP), EI also assumes that a group's turnout rate will be uniform across the region, aside from randomness. Hispanics and Asians must have the same basic turnout rate. Whites should be equally Republican, Hispanics equally Democratic.

Trying to make ecological inferences if racial/ethnic group behavior varies geographically can blow up the estimation. Such error appears when a group's turnout or partisanship is higher or lower from place to place depending on the size of other groups around them (a "contextual" pattern). If African Americans living in heavily Black communities turn out at a different rate from those in mixed-race locales, then the assumption is violated in a way likely to bias estimates. If Asians living in heavily minority neighborhoods are more Democratic than Asians living in heavily White areas, then estimates likely will be biased. If Hispanics living near fewer Whites are more Democratic than those in White neighborhoods, then inferences can go astray.

Ignoring contextual effects can result in "aggregation bias" that skews conclusions. Changes in a group's behavior from place to place will be attributed, falsely, to other groups—with the joint effect of: (1) making the level of polarization between the groups look either higher or lower than it really is; and (2) distorting conclusions about whether each group's candidate of choice will win when they are mixed together in a district. For that reason, the first thing I did after being provided Dr. Palmer's materials was to check whether he had adjusted his ecological inferences to avoid such aggregation bias. Unfortunately, judging from the code he provided, Dr. Palmer only employed the simple or "naïve" version of ecological inference, assuming that members of each racial/ethnic group participate and vote more or less the same way everywhere.

I have no doubt that the naïve version of ecological inference is inappropriate for New York City. Assuming uniformity for purposes of ecological inference among White voters makes no sense. New York 10th Congressional District ("CD10") and CD11 are adjacent districts with approximately the same share of the population being White—they are within 5 percentage points of each other—yet the former is overwhelmingly Democratic while the latter tilts to the GOP. The inappropriateness of Dr. Palmer's assumption shows up in his own analysis: he reports big differences in the White vote between CD11 and the illustrative version, despite both having the same Staten Island core. White voters on Staten Island (and in the part of Brooklyn in CD11) clearly are more

TABLE 2 – Illustrative CD11 Mostly Decreases the Asian Population Share

DRA DISTRICT ANALYSIS

	VAP	White	Hispanic	Black	Asian	Other
CD10	633,635	49.71	18.43	8.14	23.87	1.87
CD11	612,426	54.05	16.47	8.19	21.67	1.61
Illus CD10	608,667	44.52	18.33	6.37	30.89	1.87
Illus CD11	637,394	58.83	16.63	9.87	15.05	1.63

CVAP DISTRICT ANALYSIS

Location in:		Citizen Voting-Age Population					Citizen Voting-Age Population (%)				
Enacted	Cooper	Whites	Hispanics	Blacks	Asians	Others	Whites	Hispanics	Blacks	Asians	Others
10	10	157,329	52,337	22,043	53,246	2,677	54.70	18.20	7.66	18.51	0.93
10	11	126,367	33,152	12,858	30,255	1,447	61.92	16.24	6.30	14.83	0.71
11	10	84,191	20,678	3,947	48,642	1,059	53.11	13.04	2.49	30.69	0.67
11	11	220,290	57,520	30,736	34,830	1,512	63.87	16.68	8.91	10.10	0.44

NOTE: The proposed remedy for CD11 tacitly recognizes contextual patterns in the vote.

Republican than White voters in Manhattan. Indeed, known variation in White political preferences within New York City are one reason Democratic partisans would prefer that CD11 hop across the water to the Financial District (eroding district compactness) instead of simply following I-278 across the Verrazzano-Narrows Bridge into Brooklyn.[2] The White voters in Manhattan are notably more Democratic than those in Brooklyn.

What stands out about the change in CD11 imposed by the illustrative map is not that it reduces the number of White voters, but instead that it strips CD11 of Asians. That conclusion holds up regardless of whether I look at VAP in DRA or at citizen voting-age population (CVAP) data, as provided to me by counsel. The population moved into CD11 would be much less Asian than the population taken out. Almost a third of the citizens stripped from CD11 would be Asian. *See* Table 2.

I also suspected that Asians and Hispanics in New York should not be treated as an undifferentiated mass—both because of a well-known partisan sorting that has taken place in where people live, with Democrats and Republicans more likely to live near people who share their politics, and because I have seen such patterns myself analyzing vote choice in other metro areas.[3] Minority support for Republicans varies with the size of the White population nearby. Also, I was suspicious of Dr. Palmer's claim that Hispanics in CD11 have voted almost identically to African Americans since 2020, including in the 2024 presidential election, contrary to well-known national patterns[4]—and contrary to what pre-election surveys were showing specifically for New York.[5]

The statistical package Dr. Palmer employed provides a simple way to: (1) soften assumptions of uniformity within racial/ethnic groups; and instead (2) invite the methodology to take into account contextual patterns. (I have needed to make such adjustments in all my peer-reviewed work using EI, because racial and ethnic groups rarely

vote the same way everywhere in a state or region.). After replicating Dr. Palmer's own analysis, therefore, I tried to verify his estimates while allowing vote choice to covary by the size of the combined Black and Hispanic population. That is, EI RxC was asked to allow for the possibility that people vote differently when they live in heavily minority areas than if they live in places without much of a minority population.

Normally, I do not include computer code in a report like this. But it is important for the reader to understand how easy it was to check whether adding this wrinkle to the analysis made a difference.[6] Here is a line from Dr. Palmer's code:

md.out <- ei.MD.bayes(formula=f, data = dat, sample = ei.samples,

Here is my replacement for that line, identical except for the option added at the end:

md.out <- ei.MD.bayes(formula=f, data = dat, sample = ei.samples, covariate=f_cov,

where f_cov is the proportion of the electorate that is Black or Hispanic.

When I repeated Dr. Palmer's analysis with that simple adjustment, the ecological inferences changed, sometimes dramatically. The differences were greatest when it came to Hispanic voters: the share of the Hispanic vote received by Democratic candidates (*i.e.,* the candidates of choice for African Americans) sometimes plummeted by double digits. *See* Table 3. Rather than Hispanic and Black voters converging over the time period, as Dr. Palmer claims, these more nuanced results suggest that the two groups have diverged recently, consistent with national patterns.

I know of no polling data focused solely on CD11 that could verify whether my estimates might be more accurate than Dr. Palmer's. Public-opinion polls sometimes divide results from New York City by borough or by race/ethnicity, but they do not present the cross-tabulations between location and demographic group, presumably because the sample sizes would be irresponsibly small and the margins of error unhelpfully large.[7] And I have already mentioned that statewide polls, like my results here, contradict Dr. Palmer's conclusion that New York's Hispanic population is just as Democratic as African Americans are. (It would be strange for some of the most-Republican areas of New York City to contain a remarkably Democratic Hispanic population.). But it is not possible to turn to polling data for a second opinion.

One possible resource is VoteHub. That organization conducted ecological inferences for the 2024 Presidential Election, against which we can compare Dr. Palmer's estimates as well as mine. VoteHub's ecological inferences may not be perfect, but their methodology actively sought to capture possible aggregation bias and correct for it—and in a more tailored way than my solution.[8] VoteHub's results have been available online

TABLE 3 – Dropping the Assumption that People are the Same Everywhere

PALMER RESULTS

Year	Office	Black			White			Hispanic			Asian			Other		
2017	City Comptroller	91.10%	88.9	93.1	34.80%	33.6	36.1	87.10%	83.8	89.9	50.90%	39.8	62.8	67.50%	46.3	81.1
2017	Mayor	89.10%	86.4	91.3	13.50%	12.2	14.8	79.80%	74.7	84.2	51.00%	40.4	61.1	61.00%	45.1	73.8
2017	Public Advocate	88.80%	86.3	91	26.90%	25.4	28.3	83.00%	79.1	86.2	47.50%	36.6	57.9	67.00%	51.5	78.1
2018	Attorney General	94.10%	92.7	95.3	35.90%	34.7	37.2	92.60%	90.4	94.2	79.20%	72.2	84.3	75.30%	63.7	85
2018	Governor	93.50%	91.9	94.7	36.90%	35.5	38.2	92.00%	89.9	93.6	77.50%	70	82.5	73.30%	61	82
2018	State Comptroller	94.70%	93.4	95.9	39.70%	38.5	41	93.60%	91.4	95	80.60%	73.3	85.7	77.40%	61.6	89.2
2018	U.S. Senate	94.50%	92.4	96.2	39.70%	37.6	41.5	92.20%	89	94.6	74.80%	64.9	82.9	83.00%	70.3	91.4
2019	Public Advocate	90.20%	87.2	92.8	18.70%	16.2	21	86.90%	82.2	90.4	65.10%	49.1	76.8	70.80%	56.9	82.1
2020	President	93.10%	90.6	94.9	27.00%	25.7	28.4	90.00%	86.5	93.4	73.50%	65.9	80.9	73.40%	59.4	84.6
2021	City Comptroller	86.50%	83	89.5	23.70%	22.4	24.9	77.80%	72.2	82.5	34.00%	25.6	45.5	49.20%	25.8	68
2021	Mayor	87.30%	83.8	90.2	20.50%	19.3	21.6	82.10%	77.3	86.4	43.50%	33.1	53.9	54.60%	36.3	72.1
2021	Public Advocate	88.20%	85.2	90.7	21.00%	19.8	22.2	81.90%	77.9	85.3	40.70%	30.5	53	48.20%	29.3	62.8
2022	Attorney General	90.50%	85.7	94.1	22.80%	21	25.1	89.90%	85.3	93.4	60.40%	43.8	73.3	75.70%	55.1	90.3
2022	Governor	89.80%	85	93.6	22.00%	20.1	23.9	89.30%	84.7	92.9	53.20%	37.5	69.2	77.50%	60.6	89.4
2022	State Comptroller	89.50%	84.5	93.6	25.60%	23.7	27.8	90.40%	85.9	93.8	65.50%	54.2	76.4	73.60%	51	88.6
2022	U.S. House	90.40%	85.1	94.1	24.10%	22.1	26.4	89.10%	83.9	93	57.50%	44.8	71.5	78.80%	61.4	89.5
2022	U.S. Senate	91.00%	87.1	93.9	26.40%	24.7	28	92.90%	89	95.2	64.30%	46.2	78.2	75.30%	56.3	89
2024	President	88.70%	83.1	93.4	22.20%	20.4	23.9	88.10%	81.1	92.4	49.00%	38.4	59.2	65.30%	47	85.8
2024	U.S. House	88.70%	83.6	92.9	20.00%	18.1	21.9	87.70%	81.1	92.8	51.60%	41	62	60.00%	34.8	79.3
2024	U.S. Senate	89.80%	85	93.4	25.40%	23.8	27	88.40%	82.4	93.1	58.80%	47.1	71.4	66.30%	43.4	83.6

PALMER DATA & CODE WITH COVARIATES ALLOWED

Year	Office	Black			White			Hispanic			Asian			Other		
2017	City Comptroller	88.80	84.0	92.2	33.75	31.3	36.2	81.37	72.3	88.4	48.05	32.0	64.5	79.69	68.5	86.7
2017	Mayor	88.40	83.6	91.6	12.83	11.0	14.9	70.99	56.2	79.5	50.02	37.2	61.7	45.90	23.4	69.7
2017	Public Advocate	86.04	81.1	90.1	27.56	24.4	31.0	73.11	63.7	80.8	41.89	30.6	54.5	65.86	47.6	80.6
2018	Attorney General	92.42	89.5	94.5	36.44	33.8	39.0	79.71	70.9	90.2	78.92	73.1	83.6	74.06	63.2	87.7
2018	Governor	91.46	86.0	94.8	37.83	34.8	40.5	73.44	64.8	81.5	79.93	73.5	84.6	69.36	45.8	90.3
2018	State Comptroller	93.05	87.6	95.5	40.20	37.7	42.5	76.30	66.3	88.3	81.56	75.2	87.1	84.29	75.7	90.0
2018	U.S. Senate	94.04	91.0	96.3	37.01	33.6	39.9	91.81	87.5	94.8	68.44	58.9	78.0	77.41	59.6	86.8
2019	Public Advocate	89.55	84.2	93.4	18.78	14.5	22.1	85.54	77.8	89.7	60.64	48.2	72.9	63.21	33.6	84.7
2020	President	82.55	77.8	86.7	31.37	29.5	33.4	54.75	48.2	60.4	87.70	82.7	91.4	61.28	50.1	71.1
2021	City Comptroller	81.75	73.9	87.2	25.68	22.8	28.7	58.88	44.9	68.7	33.94	23.8	50.7	46.91	29.3	63.0
2021	Mayor	87.54	83.0	91.1	20.69	18.3	23.1	65.96	51.8	77.2	38.92	28.3	52.5	49.14	24.9	70.6
2021	Public Advocate	85.16	79.7	89.5	22.89	19.9	25.4	57.70	46.7	66.8	40.52	29.6	52.9	49.68	30.3	69.8
2022	Attorney General	90.43	82.1	94.7	17.87	15.9	20.6	87.00	68.6	94.4	40.33	29.6	51.7	62.10	35.8	84.3
2022	Governor	92.97	89.2	95.9	18.25	15.5	22.5	76.95	54.9	92.0	44.20	31.7	58.2	54.60	27.2	75.9
2022	State Comptroller	90.25	81.2	94.9	20.89	17.8	25.1	80.34	62.6	93.3	46.58	34.2	60.4	53.95	31.9	76.4
2022	U.S. House	91.40	86.7	95.0	19.55	16.9	22.9	75.26	59.4	91.1	54.01	40.5	67.4	64.50	32.1	85.4
2022	U.S. Senate	87.60	78.2	94.3	25.49	22.8	28.2	60.40	52.7	69.1	53.76	39.1	71.0	60.47	46.5	75.6
2024	President	89.61	78.5	95.1	20.56	16.5	23.4	65.13	53.6	92.3	47.59	36.5	61.6	51.99	27.7	73.9
2024	U.S. House	88.90	79.4	94.1	17.42	14.7	21.2	74.05	55.8	91.7	43.07	29.3	61.4	46.80	26.9	71.0
2024	U.S. Senate	88.21	72.2	95.3	26.36	24.1	28.7	57.75	52.9	64.3	63.99	49.1	76.2	39.40	28.7	57.7

NOTE: The bottom table is my extension of his results. I use his data, almost all his code, and his approach to post-estimation calculations—but I add a single option that allowed the ecological inference method to estimate a "covariate" for quantities of interest, permitting them to be higher or lower depending on the size of the combined Black/Hispanic population share. More than half of my estimates are not outside of Dr. Palmer's confidence intervals.

for a while now, and they are part of a nationwide package of ecological inferences—and so clearly not generated for this litigation. So, I consulted that resource to see if they were coming up with numbers closer to Dr. Palmer's. If anything, however, VoteHub's estimate of Hispanic support for Kamala Harris in CD11 was even lower than mine. VoteHub's estimates, like mine, suggest that Dr. Palmer's ecological inferences are pretty far off.

TABLE 4 – Dr. Palmer Likely Exaggerates Racially Polarized Voting in CD11

Source	Blacks	Whites	Hispanics	Asians	Others
Palmer Report Table	88.7	22.2	88.1	49.0	65.3
Palmer Replication	87.5	21.9	90.9	48.3	64.1
Voss with Covariates	89.6	20.6	65.1	47.6	52.0
VoteHub	86.4	28.0	48.0	46.3	54.7

NOTE: The top three rows use the same data and, aside from the addition of the covariate option in one instance, use the same code. The VoteHub results, which like the row above it also attempt to remove aggregation bias, use different data and methodology. My analysis shows greater racial polarization than Dr. Palmer's, but only when we are talking RPV between Whites and the small African-American population in CD11. In keeping with national polling and analysis, as well as VoteHub's estimates, I find that Hispanics vote GOP much more than Dr. Palmer reports.

Table 4 displays the results of my new ecological inferences for the four definable racial/ethnic groups. Those results can be compared to Dr. Palmer's from his report (page 10), what I generated running Dr. Palmer's exact code on his exact data, and what VoteHub estimates. Dr. Palmer apparently missed some of the rich contextual variation in how Hispanics vote—specifically, that those who live in whiter neighborhoods are more Republican than those in heavily minority areas, something both my analysis and VoteHub's detected. *See* Figure G. Implication of this error? Dr. Palmer makes the Hispanic vote look more cohesive, makes the Black and Hispanic voters of Staten Island look more politically alike, and makes racial voter polarization in CD11 look wider than appears to be true.

Asians, similarly, tend to be more Republican beneath the interstate loop. *See* Figure H. Dr. Palmer pays little attention to Asian voters. They appear in a pair of tables near the end of his report, as well as in a turnout graph, but they are excluded entirely from his discussion and from most of his graphs/figures. Their erasure is remarkable, given that the main thing separating an analysis of racially polarized voting from an analysis of whether the Black/Hispanic candidate of choice usually will lose is how everyone else votes. Ignoring Asians also is remarkable because the main change Dr. Cooper makes to CD11 is not to decrease the size of the White population or increase the share of the Black/Hispanic voting-age population—in fact, he increases the former and diminishes the latter—but instead to slice the share of Asians. Leaving aside any concern a court might have with the possibility that a redistricting remedy would dilute the vote of Asian citizens, if Dr. Palmer is not estimating Asian voting patterns correctly across the region, then he is also unable to give reliable conclusions about whether redrawing a district in fact would give protected groups success in electing their candidate of choice (the supposed purpose

FIGURE G – VoteHub's Map of the 2024 Presidential Vote among Hispanics in CD11
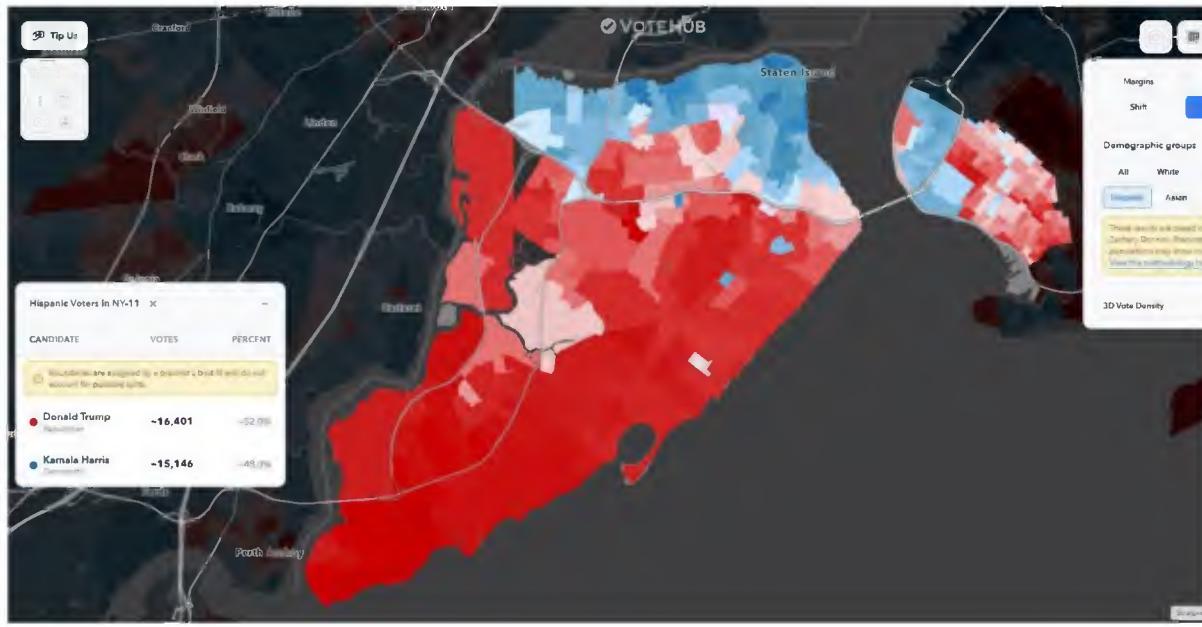
NOTE: VoteHub's methodology focused specifically on trying to eliminate aggregation bias in their ecological inferences. The result is an estimate of Harris support among CD11 Hispanics that is even farther from Dr. Palmer's than my contextual model, due to the tendency of Staten Island Hispanics to vote similarly to their White neighbors.

of his table on page 12 of his report).

I need to be clear about something. If one accepted the VoteHub estimates at face value, they would invalidate Dr. Palmer's report and conclusions almost entirely. VoteHub's numbers dispute the claim of racially polarized voting between White voters and Hispanic voters, as well as the claim that Hispanic voters are politically cohesive in CD11. I am not advocating such a dramatic conclusion based on a methodology that I have not probed in detail. The sole purpose of referencing those publicly available ecological inferences (aside from the utility of their mapping function) was to back up the plausibility that an analyst who actively tries to target aggregation bias can get big estimation differences from someone who ignores it. My own ecological inferences, although not as tailored as VoteHub's, do still show some racial polarization in CD11 between the White majority and the quarter of the electorate that is Hispanic or African American, although the gap is not nearly as wide and the level of cohesion not nearly as strong as Dr. Palmer claims. I do not know the extent to which my ecological inferences would converge on what VoteHub has reported if I had time to explore, develop, and optimize the model. What I am advocating is that Dr. Palmer's ecological inferences be recognized for what they are:

FIGURE H – VoteHub's Map of the 2024 Presidential Vote among Asians in CD11
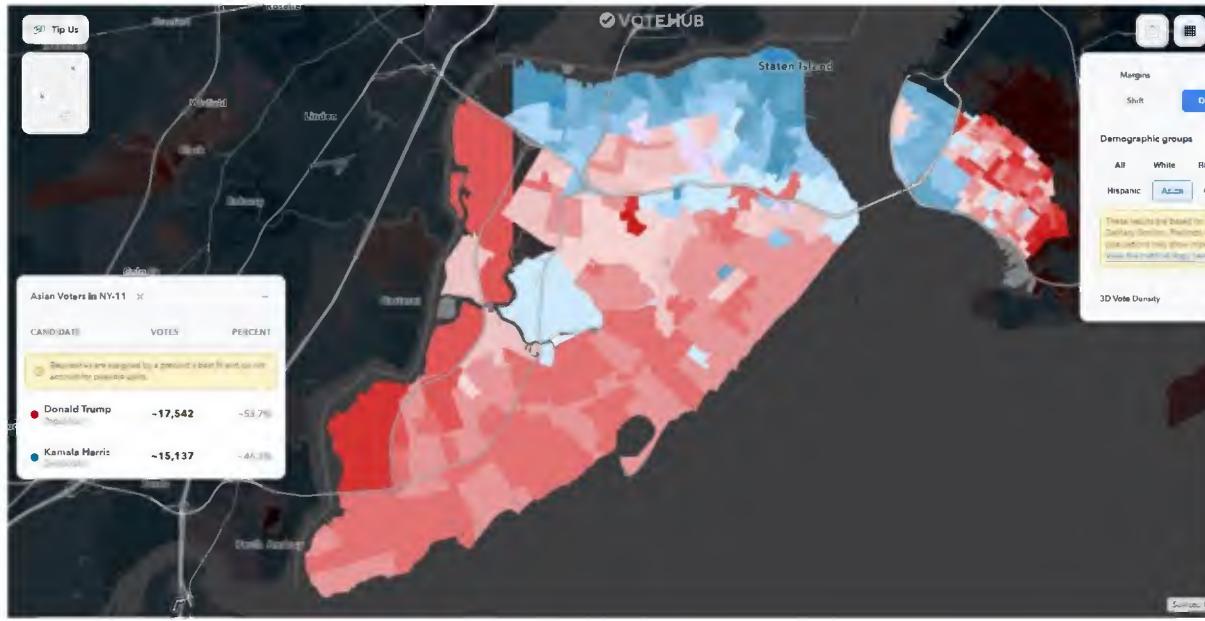
NOTE: VoteHub's methodology focused specifically on trying to eliminate aggregation bias in their ecological inferences. The result is an estimate of Harris support among Asians that, like mine, shows them voting Republican in many areas of CD 11.

a series of basic analyses, produced in bulk, that are in no way tailored to the time period, the political context, or the possibility that racial/ethnic groups differ across a diverse metropolitan area.

The narrow confidence intervals that come with Dr. Palmer's ecological inferences, meanwhile, pretend to a level of certainty in the estimates that surely cannot be supported given how unstable the simulations are to a single change in the programming code. (One way to catch when simulations are unreliable is to see whether they show instability across similar approaches.[9]). At best, Dr. Palmer's ecological inferences are reported with false precision, and his report runs the risk of confusing laypeople by claiming a greater degree of confidence than warranted.

Estimating Who Votes

One feature of my covariate-based analysis concerned me, which is that I estimated lower support for Kamala Harris among most of the racial/ethnic groups in the data. The exception, African Americans, constitute a small portion of Staten Island. Having all the percentages drift downward raised a red flag because each group's Democratic voting rate, when weighted by their size of the electorate, needs to add up to the actual vote totals reported for the Democratic candidate. Having all my numbers drop raised the specter of some kind of error in the data handling, before or after running ecological inferences. Such

results seemed mathematically unlikely.

My exploration to solve this mystery ended up exposing what I believe to be another flaw in Dr. Palmer's report, one that was hidden from me during my initial verifications of his analysis. To generate his ecological inferences after using citizen voting-age population to capture the size of different racial/ethnic groups, Dr. Palmer's RxC analysis needs to do more than only estimate vote choice. He also must estimate turnout by these demographic groups, to determine their share of the electorate. Notably, Dr. Palmer did not report what his analysis was claiming about the relative mobilization of these social groups, and he specifically instructed his code (contrary to his package's default) to hide the turnout part of his analysis (inserting an option to make it True that the turnout column would be deleted when the results were preserved):

ei_output(md.out, formula=f, drop_last_col = T)

Significant differences in our turnout estimates would explain how voting choices of different groups could rise or fall consistently, instead of moving in different directions to balance out.

So, I took a step back and reran my verification of Dr. Palmer's work, this time asking it to keep voter turnout in the mix. (This adjustment, regrettably, took more than half a day to run on my computer, so I was only able to complete it shortly before needing to submit this report.). What I found is that Dr. Palmer was estimating turnout rates for each group that did not make much sense. *See* Table 5. African American voters, for example, not only show up as having sat out the 2024 presidential contest, compared to their engagement in the congressional elections, they supposedly preferred to vote in the 2022 House race over New York's two top-ticket contests, and voted in the 2021 Public Advocate race more than in the mayoral race. Hispanics who showed up in 2022 and voted for attorney general and state comptroller supposedly sat out the senatorial election, and they supposedly preferred to vote for comptrollers and public advocates—in both 2017 and 2021—than they preferred to vote in the city's mayoral election. Asians, similarly, show up as preferring down-ballot races over top-ticket contests. All these results fly in the face of the well-known tendency of voters to "roll off" when voting, participating at higher rates for top-ticket offices but not necessarily casting votes in less-visible contests.

I am not saying that my estimates using covariates would be free of these sorts of counterintuitive patterns, if I had had time to rerun that analysis as well. Having only made one tweak to the code to allow more nuance—rather than having worked my way to the best estimates—likely my results would have similar anomalies. Still, the point, as before, is that these ecological inferences are much less stable, when run in bulk across

TABLE 5 – Turnout Estimates from the Palmer Verification

Year	Contest	Black	White	Hispanic	Asian
2017	Mayor	26.1	33.2	17.3	5.7
2017	City Comptroller	23.5	31.4	18.0	3.9
2017	Public Advocate	24.6	30.8	19.0	5.1
2018	United States Senator	44.5	41.7	35.8	13.2
2018	Governor	46.0	42.9	33.6	14.5
2018	Attorney General	46.8	42.2	32.9	13.9
2018	State Comptroller	45.1	42.7	32.1	13.5
2019	Public Advocate	18.2	17.3	13.8	4.5
2020	President	55.1	64.2	53.2	34.7
2021	Mayor	22.0	36.2	17.2	4.7
2021	City Comptroller	21.7	34.2	18.7	5.5
2021	Public Advocate	22.7	34.7	17.5	4.8
2022	United States Senator	25.7	47.5	28.4	9.3
2022	Governor	24.5	47.5	32.5	8.0
2022	Congress	26.0	47.0	30.7	9.6
2022	Attorney General	24.9	46.3	31.9	9.6
2022	State Comptroller	23.8	46.6	30.7	8.9
2024	President	40.7	63.3	47.7	20.6
2024	United States Senator	41.8	61.6	47.6	20.9
2024	Congress	41.6	62.2	47.8	16.1

NOTE: One possible explanation for Dr. Palmer's unrealistic estimates, and his deviation from my estimates using covariates, is that he likely had errors in his estimation of voter turnout by race/ethnicity. While he estimated that White voters, in general, voted more heavily for candidates at the top of the ballot, he generally estimates (wrongly I believe) that minority candidates would increase their participation for lower-ballot races.

years and contests, than Dr. Palmer's report would lead a layperson to believe.

The Proper Scope of Analysis

The other immediate concern I had with Dr. Palmer's report was when I discovered that he was only conducting his ecological inferences within a single congressional district, even when the election was taking place on a broader scale. Purely as a technical matter, ecological inferences usually will improve when the analyst takes advantage of more data. Even if, at the end of the analysis, the researcher will only care about the results produced for a smaller subdivision of the data—say, a congressional district—the superior approach is to caste a wider net so that the estimates can "borrow strength" from similar nearby locations.

I should stress: the principle in favor of more data can be taken too far. The broader the scope of an ecological inference, the more likely the analyst will be combining dissimilar places, creating all the difficulties with internal group variation discussed earlier in my response. A single, statewide ecological inference rarely will be the optimal choice,

even if the end goal is to estimate how groups are behaving statewide. Ideally, an analyst identifies meaningful subdivisions within a state—such as regions with a shared history or that share known economic or cultural commonalities—and conducts the ecological inferences within those regions, combining them into statewide results if desired. The need for identifying a socially, culturally, or politically meaningful region can be essential when the area of interest is transient and manipulable, like a legislative or city council district.

My understanding is that Petitioners are relying on the New York Voting Rights Act for their legal arguments, so I consulted that source to see if it would provide guidance as to the proper scope of analysis. But the language I found there positioned vote-dilution claims within entire political subdivisions. If an analysis of local elections would consider the entire locality at once, then the parallel for congressional elections would be the entire state—and that is too much territory to run through the ecological-inference software at once.

Instead, I settled on what I often endorse for ecological inference, which is to conduct the analysis within a broader metro area. New York City, as a construct, is meaningful socially, culturally, and politically. Counsel provided me with data for congressional districts 5-15, the districts that had most of their populations in New York City—data that included both citizen voting-age population (CVAP) and the returns from a handful of recent elections.

In the interests of time, I needed to select a focal contest to see how results changed when conducted on a broader scale. I selected for that purpose the 2022 gubernatorial election, won by Democrat Kathy Hochul, because it was competitive enough to bring out variations in how people were voting. Because the purpose is to contrast my results with Dr. Palmer's, I dropped the covariate option again, despite its advisability. That simplification also allowed me to produce results in a timely fashion. Even after that simplification, the analysis took more than 12 hours to complete.

Results appear in Table 6. In the interest of brevity, I will underscore some key features of that analysis, but note that since then, I have been able to replicate the analysis for other statewide elections and these conclusions are supported in other elections.

First, results from CD11 for racial polarization look more like what I reported from my covariate analysis than like what Dr. Palmer reports. African American support for the Democrat is significantly higher than Hispanic support, the latter being more dominant on Staten Island. Polarization between Whites and Hispanics in CD11 therefore is weaker than the impression Dr. Palmer gives. It is only with the smaller groups—Asians and Others—that these results look more like the analysis performed without covariates. Note the implication: had Dr. Palmer widened the scope of his analysis, having more data could have corrected for unrealistically high Hispanic vote-choice estimates without him needing to run a covariate analysis.

Second, Asian voters in CD11 apparently did not prefer the Democratic choice for governor. She was, in fact, apparently not popular with Asian voters citywide. This conclusion fits with polling from 2022, which showed her job approval with Asians was almost as poor as it was with Whites.[10] My ecological inferences here of course contain some random noise—guesses above 50% do appear within the confidence intervals—but either way, it is clear that CD11 contains a majority of White and Asian voters who prefer Republican representation. As a result, these results suggest that submerging the White and Asian voters into illustrative districts 10 and 11 would dilute their vote enough that they would likely be represented by a pair of Democratic members of Congress instead.

Third, racially polarized voting between White voters and Black/Hispanic voters appears in some, but not all, of New York City's current congressional districts. Specifically, in the case of this contest, we see racially polarized voting in congressional districts 5, 6, 8, and 9 but not in districts 7, 10, 12, 13, 14, and 15. Late in this process, I was asked whether such polarization was appearing in other contests, especially for districts 5, 8, and 9. The answer is yes, it appeared in other contests. Table 7 shows similar polarization in the 2020 presidential election.

Fourth, the racial nature of the illustrative maps, and therefore their partisan implications, can be seen in the breakdown of precincts across four subdivisions: precincts that appear in CD10 and CD11 in both the enacted and the illustrative maps, but also the precincts that Dr. Cooper either shifted to CD11 or shifted to CD10. Dr. Cooper cracks CD11's Republican White voters and Asian voters and spreads them between illustrative CD10 and illustrative CD11 so that they will be submerged. Both the White voters and the Asian voters that Dr. Cooper considers moving out of CD11 are more Republican (only giving Hochul around 32% and 46% of their support) than the voters pulled in, burying those voters in the heavily Democratic CD10. Meanwhile, the voters joined to Staten Island tilt Democratic across the board. The result is that both illustrative maps submerge White voters, who lean Republican, with populations expected to cohere against them.

Looking at those subcategories of CD10 and CD11 brings to light another, more substantive, problem with conducting ecological inferences only within a single district—at least when it comes to trying to decide how to configure districts that will impact a wider area. Those same voters can be made to look polarized, or not polarized, depending on how one draws the lines. A cohesive White and Asian population in Staten Island can be brought into relief, or hidden, depending on the other precincts tossed into the district. Fairly cohesive Republican communities in Brooklyn can be made to look less cohesive by merging them into CD10.

TABLE 6 – Citywide Ecological Inferences by Race and Congressional District

Location	Subdivision	Blacks Estim.	(C.I.)		Whites Estim.	(C.I.)		Hispanics Estim.	(C.I.)		Asians Estim.	(C.I.)		Other Estim.	(C.I.)	
NYC		0.962	0.959	0.965	0.600	0.596	0.605	0.765	0.758	0.772	0.518	0.501	0.535	0.810	0.729	0.880
CD05		0.960	0.956	0.964	0.338	0.319	0.357	0.749	0.736	0.763	0.548	0.526	0.568	0.814	0.735	0.887
CD06		0.945	0.929	0.961	0.423	0.399	0.446	0.744	0.730	0.757	0.468	0.447	0.490	0.761	0.672	0.847
CD07		0.949	0.940	0.959	0.700	0.691	0.709	0.774	0.764	0.785	0.561	0.536	0.587	0.822	0.743	0.896
CD08		0.971	0.967	0.975	0.408	0.399	0.417	0.782	0.772	0.793	0.524	0.492	0.554	0.838	0.770	0.903
CD09		0.962	0.959	0.966	0.379	0.371	0.388	0.776	0.764	0.787	0.519	0.486	0.549	0.815	0.733	0.891
CD10	TOTAL	0.956	0.946	0.965	0.841	0.834	0.847	0.764	0.752	0.776	0.539	0.517	0.561	0.816	0.736	0.892
	Part that stays	0.955	0.944	0.966	0.807	0.798	0.815	0.759	0.744	0.773	0.531	0.506	0.555	0.814	0.731	0.896
	Moves to CD11	0.956	0.939	0.971	0.884	0.874	0.894	0.773	0.756	0.790	0.553	0.516	0.588	0.818	0.723	0.906
	Illustrative	0.955	0.945	0.965	0.636	0.625	0.645	0.759	0.746	0.771	0.495	0.472	0.518	0.814	0.733	0.892
CD11	TOTAL	0.950	0.933	0.966	0.201	0.192	0.210	0.751	0.736	0.766	0.481	0.451	0.511	0.810	0.724	0.897
	Moves to CD10	0.955	0.933	0.974	0.316	0.293	0.339	0.759	0.738	0.780	0.455	0.418	0.493	0.811	0.709	0.907
	Part that stays	0.949	0.930	0.967	0.157	0.148	0.165	0.748	0.731	0.765	0.517	0.476	0.556	0.810	0.712	0.905
	Illustrative	0.951	0.937	0.965	0.422	0.415	0.429	0.757	0.744	0.771	0.533	0.504	0.562	0.814	0.727	0.894
CD12		0.952	0.938	0.965	0.842	0.836	0.847	0.762	0.747	0.777	0.501	0.469	0.532	0.803	0.712	0.889
CD13		0.972	0.967	0.977	0.884	0.870	0.897	0.783	0.775	0.790	0.635	0.608	0.663	0.829	0.754	0.901
CD14		0.952	0.942	0.963	0.544	0.529	0.560	0.743	0.734	0.752	0.490	0.459	0.521	0.810	0.723	0.894
CD15		0.961	0.955	0.967	0.614	0.590	0.637	0.766	0.758	0.773	0.532	0.491	0.573	0.808	0.721	0.892

NOTE: Using data provided by counsel, I ran a single ecological RxC ecological inference for most of New York City. The precinct-level estimates developed in producing citywide numbers can be reaggregated to produce voting estimates for lower-level places as well. The numbers in all of the rows, therefore, come from the same estimation procedure.

TABLE 7 – Racial Polarization in Presidential Voting

2020 Presidential	Cong. District 5	8	9
Black Vote	96.77	97.06	97.46
Hispanic Vote	82.20	87.44	85.52
White Vote	45.22	49.45	46.45
Asian Vote	72.48	61.92	63.95
Other Vote	79.68	81.62	80.63

NOTE: Shows the level of racial polarization in the 2020 presidential contest in districts 5, 8, and 9, taken from an analysis parallel to that in Table 6.

(References listed on following page)

REFERENCES

[1] The same was true of his analysis of the illustrative district (not shown). Theoretically, because Dr. Palmer set a seed as part of his code – another rare sign of professionalism in how he conducted his work – my results should not just be like Dr. Palmer's. They should be identical. We're guessing that the differences are not a sign of trouble with Dr. Palmer's table generation, just a computer issue: They're not identical because the analysis spreads out over multiple cores, and my computer works at a different speed from Dr. Palmers, so likely the cores are trying to draw "random" numbers at a different pace than when he did his work. If that hypothesis is correct, then this only adds to the reliability of the verification: It means Dr. Palmer's results were robust to a different pacing through the random-number generator.

[2] DRA provides three measures of compactness: the Reock (which captures the extent the district resembles a perfect circle), the Polsby-Popper (which functions like the Reock but punishes the score for zigzags and tendrils that add to the district perimeter), and the KIWYSI score (which summarizes over the various considerations that people take into account when judging whether a district has been gerrymandered. Districts are judged to be tidier if the scores are higher. All three scores worsen, for both CD10 and CD11, in the illustrative plan compared to the enacted versions. For CD11, the scores drop from .45 to .29 (Reock), from .54 to .28 (P-P), and from 100 to 37 (KIWYSI). For CD10, they drop from .56 to .39 (Reock), from .36 to .19 (P-P), and from 66 to 41 (KIWYSI). Some degree of compactness is being sacrificed on behalf of the mapmaker's goals.

[3] Bishop, Bill, 1953-. 2008. The Big Sort: Why the Clustering of Like-minded America Is Tearing Us Apart. Houghton Mifflin.

[4] Fraga, Bernard L., Yamil R. Velez, and Emily A. West. 2024. "Reversion to the Mean, or Their Version of the Dream? Latino Voting in an Age of Populism." American Political Science Review. doi:10.1017/S0003055424000406.

[5] https://www.cygn.al/wp-content/uploads/2024/10/22669-Cygnal-National-NVT-Oct24-2-Deck-Public.pdf.

[6] Note that I say "check" for the error because if it were necessary to generate authoritative estimates for these voting rates – rather than just seeing whether allowing for a covariate made a big difference – I would not have stopped here. To get optimal estimates for the effect of covariates, I could have run the model in various ways, with different possible "priors" related to the covariate – the sort of thing that Dr. Palmer's code, by embedding everything within an R function that discards intermediate results, did not accommodate exploring in a timely way.

[7] I did not put in a ton of effort looking for polling data, because it only would have been for verification purposes, and poll results shouldn't necessarily be treated as trustworthy anyhow. But for what it's worth, I did set ChatGPT looking, and ChatGPT had no more luck than I did. I received the following response to my query: "I poked around, and I have not found any publicly-available poll (2017–2025) that gives what you're asking for: that is, vote-choice or political-orientation data broken out by both borough and race/ethnicity — e.g. 'Hispanic Staten Island' vs 'Black Staten Island.'"

[8] https://votehub.com/2025/09/15/2024-precinct-map-demographics-methodology/.

[9] Elliott, Corrine F., James PC Duncan, Tiffany M. Tang, Merle Behr, Karl Kumbier, and Bin Yu. 2025. "Designing a Data Science simulation with MERITS: A Primer." https://arxiv.org/abs/2403.08971.

[10] https://scri.siena.edu/wp-content/uploads/2022/06/NYC0522-Crosstabs-Final.pdf.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

--X

Michal Williams; José Ramírez-Garofalo; Aixa Torres; and
Melissa Carty,

                                   Petitioners,

            -against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the State of
New York; Raymond J. Riley, III, in his official capacity as
Co-Executive Director of the Board of Elections of the
State of New York; Peter S. Kosinski, in his official
capacity as Co-Chair and Commissioner of the Board of
Elections of the State of New York; Henry T. Berger, in his
official capacity as Co-Chair and Commissioner of the
Board of Elections of the State of New York; Anthony J.
Casale, in his official capacity as Commissioner of the
Board of Elections of the State of New York; Essma
Bagnuola, in her official capacity as Commissioner of the
Board of Elections of the State of New York; Kathy
Hochul, in her official capacity as Governor of New York;
Andrea Stewart-Cousins, in her official capacity as Senate
Majority Leader and President *Pro Tempore* of the New
York State Senate; Carl E. Heastie, in his official capacity
as Speaker of the New York State Assembly; and Letitia
James, in her official capacity as Attorney General of New
York,

                                  Respondents,
            -and-

Nicole Malliotakis; Edward L. Lai, Joel Medina, Solomon
B. Reeves, Angela Sisto, and Faith Togba,

                       Intervenors-Respondents,

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Index No. 164002/2025

Hon. Jeffrey H. Pearlman

Motion Seq.

VERIFICATION

3296a

D. Stephen Voss, being duly sworn, deposes and says:

1.   I am over 18 years of age and am not a party to this case.

2.   I swear under penalty of perjury to the faithfulness of the opinions expressed in the foregoing Response to Petitioners' Expert Report of Maxwell Palmer, and to the best of my knowledge, to the truth and accuracy of the factual statements made therein.

3.   If asked to testify on these matters, I could and would testify under oath to their contents, under penalty of perjury.

4.   I affirm this 8th day of December 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.
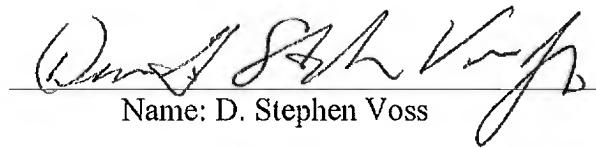
Name: D. Stephen Voss

3297a

EXHIBIT V

EXHIBIT A

Expert Demographic Report

of

Thomas M. Bryan

¶

Michael Williams, José Ramírez-Garofalo, Aixa Torres, and Melissa Carty v. Board of Elections of the State of New York, et al.

"Williams v. NYBOE"

January 2, 2026

TABLE OF CONTENTS

3301a

EXPERT QUALIFICATIONS

1. I am an expert in demography with 30 years of experience in demographic consulting and advanced analytic expertise in litigation support, state and local redistricting, and census data. I graduated with a Bachelor of Science in History from Portland State University in 1992 and obtained a Master's Degree in Urban Studies (MUS) from Portland State University in 1996. In 2002, I completed my second graduate degree in Management and Information Systems (MIS) from George Washington University and concurrently earned a Chief Information Officer certification from the General Services Administration. I recently served on the 2030 Census Advisory Committee.[1]

2. My background and experience in demography, census data, and advanced analytics with statistics and population data began in 1996 with an analyst role for the Oregon State Data Center. I continued to accumulate my broad range of experience in 1998 when I began working as a statistician for the U.S. Census Bureau in the Population Division, developing population estimates and innovative demographic methods. In 2001, I joined the Environmental Systems Research Institute's (ESRI)[2] Business Information Solutions team, where I served as a professional demographer working with Geographic Information Systems (GIS) for population studies. Over the next 20 years, I continued developing extensive cross-industry experience serving in various advanced analytic and leadership roles as a demographer and data scientist for companies such as Altria and Microsoft.

3. In 2001, I founded my consultancy, BryanGeoDemographics (BGD), to meet the expanding demand for advanced analytic expertise in applied demographic research and analysis. My consultancy has broadened to include litigation support, state and local redistricting, school redistricting, and municipal infrastructure initiatives. Since 2001, I have undertaken over 160 such engagements in three broad areas:

   1. state and local redistricting,
   2. applied demographic studies, and
   3. school redistricting and municipal infrastructure analysis.

4. My expertise in redistricting began with McKibben Demographics, where I provided expert demographic and analytic support in over 120 separate school redistricting projects between 2004 and 2012. During this time, I informally consulted on redistricting projects with Dr. Peter

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[1] https://www.census.gov/newsroom/press-releases/2024/members-2030-census-advisory-committee.html. My membership on this committee does not constitute an endorsement of BGD or this report by the Committee, the Census Bureau, the Department of Commerce, or the U.S. Government. The views expressed herein are my own and do not represent the views of the Committee, the Census Bureau, the Department of Commerce, or the U.S. Government.

[2] The global market leader in geographic information system (GIS) software, location intelligence, and mapping, see: https://www.esri.com/en-us/about/about-esri/overview

Morrison. In 2012, I formally began performing redistricting analytics, and I continue my collaboration with Dr. Morrison to this day. I have been involved in over 45 redistricting projects, serving in roles of increasing responsibility from population and statistical analyses to report writing, to directly advising and supervising redistricting initiatives. In many of these roles, I performed *Gingles* analyses, risk assessments, and Federal and State Voting Rights Act (VRA) analyses in state and local areas. In each of those cases, I personally built or supervised the building of one or more databases combining demographic data, local geographic data, and election data from sources including the 2000, the 2010, the 2020 Decennial Census, and numerous vintages of the American Community Survey.

5. In 1996, I began publicly presenting my work at professional conferences. I have presented on the Census, using Census data, measuring effective voting strength, developing demographic accounting models, measuring voting strength and voter registration, and turnout statistics. I have also led numerous presentations and tutorials on redistricting. My recent demographic and redistricting work includes:

    - Chairing the "Uses of Census Data and New Analytical Approaches for Redistricting" session at the 2023 Population Association of America meetings in Annapolis, MD.;

    - Chairing the "Population Projections" session at the 2024 Population Association of America meetings, February 2024 (remote conference);

    - Presenting "Uses of Demographic Data and Statistical Information Systems in Redistricting and Litigating Voting Rights Act Cases: Case studies of the CPS and CES, and the ACS and EAVS" at the 2024 Population Association of America Applied Demography Conference, February 2024 (remote conference).

    - Presenting "Use of Current Population Survey (CPS) and Cooperative Election Study (CES) in Analyzing Registered Voter Turnout" at the American Statistical Association Symposium on Data Science and Statistics (SDSS), Richmond, VA. June 2024

6. I have been published since 2004. My works include "Population Estimates" and "Internal and Short Distance Migration" in the definitive demographic reference "The Methods and Materials of Demography." In 2015, I served alongside a team of advanced demographic experts in *Evenwel et al. v. Texas*. In *Evenwel*, I served in a leadership role in writing an Amicus Brief on the use of the American Community Survey (ACS) in measuring and assessing one person, one vote. In 2019, I co-authored "Redistricting: A Manual for Analysts, Practitioners, and Citizens," which provides a comprehensive overview of U.S. Census data and demographic methods for redistricting applications.

7. I have significant expertise in the collection, management, analysis, and reporting of complex demographic, economic, voting, and electoral data, including the Decennial Census, the American Community Survey and associated Public Use Microdata (or "ACS PUMS" https://www.census.gov/programs-surveys/acs/microdata.html), the Current Population Survey Voting Supplement (or "CPS" https://www.census.gov/topics/public-

3306a

sector/voting.html), the Cooperative Election Study (or "CES" https://cces.gov.harvard.edu/), the Election Administration and Voting Survey (or "EAVS" https://www.eac.gov/research-and-data/studies-and-reports).

8. I have been previously retained to provide expert analytics of the Current Population Survey Voting Supplement and the Cooperative Election Study in the matter of *White et al. v. Mississippi State Board of Election Commissioners* (2022-2024) in support of Defendants' demographic expert, Dr. David A. Swanson. These voter turnout analytics were used to rebut and correct erroneous analytics by the Plaintiffs' expert - and were accepted by the court. I was also retained to use these election datasets to provide analytics of Arizona voter registration and turnout in *Swoboda v. Fontes* (2024) and analytics of North Carolina voter registration in *Green v. Bell* (2024).

9. In addition to my expert witness work in redistricting, I have a long history of developing expert applied demographic analyses, ranging from public health data analysis of mortality statistics related to opioid use and tobacco use, public housing discrimination, municipal infrastructure, and small-area population estimates and forecasts.

10. I have been deposed in the matter of *Harding v. County of Dallas* and have been deposed and/or testified in the matters of *Milligan v. Merrill, Thomas v. Merrill,* and *Singleton v. Merrill* over Alabama's 2020 Congressional redistricting initiatives; *Robinson v. Ardoin* and *Galmon v. Ardoin* over Louisiana's 2020 Congressional redistricting initiatives; *Christian Ministerial Alliance v. State of Arkansas* over their 2020 Congressional Redistricting Initiative, *Navajo Nation v. San Juan County Board of Commissioners* over San Juan County, New Mexico's commissioner districts, *Petteway v. Galveston County, TX* over their county commissioner districts, and *Bautista v. Humble ISD* (2025) and *Jaso v. Angleton ISD* over their school district board of trustees.

11. I have provided bipartisan expert witness support of redistricting cases, including being retained by Democratic counsel as the demographic and redistricting expert for the State of Illinois in the matter of *McConchie v. State Board of Elections.*

12. I maintain affiliations with several professional demographic organizations, including:
   - American Statistical Association
   - Population Association of America
   - Southern Demographic Association

13. I, Thomas M. Bryan, affirm the conclusions I express in this report and that these opinions are provided to a reasonable degree of professional certainty. My compensation for my work on this case is not dependent on the substance of my opinions or the outcome of this case.

I. REPORT OVERVIEW

15. *Section II* provides the background 2020 redistricting in New York and an introduction to the *Williams v. NYBOE* case

16. *Section III* provides a summary of the report

17. *Section IV* provides major demographic concepts and the demographics of New York's congressional districts.

18. *Section V* provides an analysis of the compactness of each plan.

19. *Section VI* provides an analysis of New York City's Communities of Interest.

20. *Section VII* provides a Differential Core Retention Analysis (or "DCRA").

21. *Section VIII* provides political performance for the 2018, 2020, 2022, and 2024 elections.

22. *Section IX* provides conclusions

23. *Section X* provides references.

24. *Section XI* provides appendices.

25. *Section XII* provides my complete Vitae.

26. In forming my opinions, I have considered all materials cited in this report, as well as:
    1. Original Petition "Dkt.1 – Petition (35192942.1)" dated 10/27/25 and received from counsel on 11/18/2025.
    2. Plaintiffs' demographic expert witness report "Dkt. 62 - Aff Celli Ex. C (Expert Report of William S. Cooper)" dated 11/17/2025 and received from counsel on 11/18/2025.
    3. Report of the Special Master Jonathan Cervas from *Harkenrider v. Hochul* received from counsel on 11/18/2025
    4. New York City Board of Elections precinct shapefiles (https://www.nyc.gov/content/planning/pages/resources/datasets/election-districts)
    5. "The Dynamics of Racial/Hispanic Composition in NYC Neighborhoods" (https://storymaps.arcgis.com/stories/46a91a58447d4024afd00771eec1dd23)
    6. The 2024 U.S. Supreme Court decision in *Alexander v. South Carolina* (see https://www.supremecourt.gov/opinions/23pdf/22-807_3e04.pdf)
    7. *Schneider v. Rockefeller* opinion, 31 N.Y.2d420 (1972)
    8. *Bay Ridge Community Council, Inc. v. Carey*, 103 A.D.2d 280 (1984)
    9. *Clarke v Town of Newburgh*, 237 A.D.3d 14 (2025)
    10. *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, 700 F.Supp.3d 1136 (2023)

27. Information was also used from Morrison, P. and T. Bryan (2019). Redistricting: A Manual for Analysts, Practitioners, and Citizens. Springer. Cham, Switzerland

28. I reserve the right to further supplement my report and opinions.

II. N.Y. 2020 REDISTRICTING BACKGROUND and *WILLIAMS v. NYBOE* INTRODUCTION

A. Redistricting Background

29. After the 2018 mid-term elections, the Democrats held a 21 to 6 edge in representation over the Republicans. The Democrats won the 11th, 19th, and 22nd in close races. Despite having a Black-Hispanic minority population of under 15%, a Black-Hispanic, Anthony Delgado, won the 19th with 51.4% of the vote. Two Democrats in other districts ran unopposed.

30. After the 2020 Census, New York lost one Congressional seat, going from 27 to 26 Congressional members. The Independent Redistricting Commission (I.R.C.), created in 2014 through a ballot initiative, was tasked to draw a new map. However, after the I.R.C. could not reach an agreement on the final map, the Democratic-controlled New York State Legislature adopted its own Congressional districts. In April 2022, the New York State Court of Appeals struck down the map as an unconstitutional partisan gerrymander, as it improperly superseded the authority of the I.R.C. in releasing a new map. An Independent Special Master, Jonathan Cervas, was then assigned by the court to draw a new map. In his report, Dr. Cervas wrote (Cervas Report of the Special Master, ¶1):

> In *Harkenrider v. Hochul* (2022), the State of New York Supreme Court ruled that the congressional and state senate plan passed by the Legislature and signed by the Governor had bypassed the Redistricting Commission and thus were not enacted through a constitutionally valid process. For the congressional plan, the Court also held that the Respondents "engaged in prohibited gerrymandering when creating the districts" (2022.03.21 [243] *Harkenrider v. Hochul* DECISION and ORDER at 1). The findings that there were no constitutional maps for either New York's Congressional delegation or for the New York State Senate triggered the new provision of the State Constitution that shifted the burden to state courts to specify a process for creating constitutional maps for each body. On April 18, 2022, I was asked by Judge and Acting Supreme Court Justice Patrick McAllister to serve as Special Master in preparing a remedial plan for the New York congressional delegation to be considered by the Court; after the State of New York Court of Appeals heard the case on appeal, my responsibilities were extended by Justice McAllister to include preparing a remedial plan for the state senate for the Court's consideration on April 27, 2022.

31. Under these new districts, the Republican Party flipped three seats in the 2022 general election: the 3rd, the 17th, and the 19th, reducing the seat count of the Democrats to 15 and bringing their total to 11 seats. Two Hispanics, George Santos and Anthony D'Esposito, won the 3rd and 4th, respectively, running as Republicans. Nicole Malliotakis, a Cuban-American Hispanic, held her Republican seat in the 11th. The Democrats lost 4 races in which they received 48% of the vote or higher: the 4th, 17th, 19th, and 22nd.

32. In March 2023, New York Democrats challenged the 2022 map, claiming the Special Master had superseded the constitutional authority of the State Legislature and the I.R.C. in drawing the 2022 map. In July 2023, an intermediate appeals court ruled that the I.R.C. must draw a new map for the 2024 Congressional Elections. The New York State Republicans lost their challenge to the State Court of Appeals, and the 2022 map was to be redrawn by the I.R.C. or the State Legislature. On February 27, 2024, the State Legislature rejected the bipartisan I.R.C. map and drew a new map that favored the Democrats. On February 28, 2024, the state legislature passed the new map. As a result, the Democrats flipped four seats (one in a special election held on February 13, 2024, as a result of the resignation of Republican George Santos), bringing their total to 19 while the Republicans held just 7 seats. Democrats performed well in some low-minority districts, winning the 3rd, 12th, 19th, 20th, and 22nd. They also won 4 elections with under 55% of the vote: the 3rd, 4th, 19th, and 22nd. Two of the three Hispanic Republican incumbents, George Santos and Anthony D'Esposito, failed to retain their seats as Rep. Santos resigned and D'Esposito lost re-election. Republican Hispanic Nicole Malliotakis expanded her margin of victory for the third election in a row.

B. Williams v. NYBOE Introduction

33. Against this backdrop, even more litigation is now being brought under the N.Y. VRA over the only congressional district in or around New York City (NYC) that currently has an elected Republican representative: the 11th: *Williams v. NYBOE*.

34. My assignment in this case was to assess the key features of the Plaintiffs' complaint in *Williams v. NYBOE*. To do so, I assess the demographic, geographic, and political performance characteristics of congressional districts in and around New York City (NYC) for:

- The plan *prior* to the 2020 census, which I refer to throughout as the pre-2020 Census, or "116th" plan,
- The first post-2020 Census plan (which I refer to throughout as the "2021 Plan" and "118th"),
- The second post-2020 Census plan (which I refer to throughout as the "2024 Plan" and "119th"), and
- The Plaintiffs' expert, William Cooper's proposed Congressional Districts 10 and 11

35. In their Petition, Plaintiffs state (10/27/25 Petition, ¶1):

Petitioners bring this action to challenge New York's congressional district map, SB S8653A, codified at New York State Law §§ 110-112 (McKinney 2024) (the "2024 Congressional Map"). Black and Latino Staten Islanders have less opportunity than other members of the electorate to elect a representative of their choice and influence elections in New York's 11th Congressional District ("CD-11"), in violation of the prohibition against racial vote dilution in Article III, Section 4(c)(1) of the New York Constitution.

36. As a legal framework for the case, Plaintiffs first cite the 2014 redistricting amendments N.Y. Const. Art. III, § 4(c)(1), which states (10/27/25 Petition, ¶1):

> expressly prohibit race discrimination and racial vote dilution in voting in state assembly, senate, and congressional elections. In particular, Article III, Section 4(c)(1) provides that: "districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement" of minority voting rights. N.Y. Const. Art. III, §4(c)(1). Further, "[d]istricts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.

37. Then, Plaintiffs pivoted to the John R. Lewis Voting Rights Act of New York, stating (10/27/25 Petition, ¶7):

> The language of the NY VRA mirrors the language of the constitutional prohibition against vote dilution in Article III, Section 4(c)(1): it provides that "[n]o voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy shall be enacted or implemented by any board of elections or political subdivision in a manner that results in a denial or abridgment of the right of members of a protected class to vote.

38. The N.Y. VRA is consistent with the N.Y. Constitution and the U.S. VRA in protecting against vote dilution. But it differs in other important regards, such as precluding the consideration of compactness and core retention in the development of a remedy. Unlike federal law, the N.Y. VRA allows any minority population of any size to claim dilution (the minority population does not need to be a majority). Further, different minority populations are not only *allowed* to be considered in combination to create influence or majority districts, but the N.Y. VRA *requires* these combinations to create coalitions (10/27/25 Petition, ¶46). See *Appendix B* for a detailed discussion comparing the U.S. VRA and N.Y. VRA.

39. Plaintiffs are quite right when they state (10/27/25 Petition, ¶48): "no court has yet ruled on what precisely constitutes impermissible vote dilution under that provision. This case thus presents an issue of first impression for New York courts."

40. This report follows a model of investigation under the U.S. VRA and the aforementioned N.Y. Constitution, which reveals numerous differences from the N.Y. VRA. Through a rigorous investigation, the report documents the features, as well as the errors and consequences of the Illustrative Plan proposed by Plaintiffs' expert William Cooper.

III. REPORT SUMMARY

A. Demographic Analysis

41. In this report, the area in and around New York City (NYC) is demographically assessed using total population and the citizen voting age population (CVAP). The total population is the metric used to balance the population, while CVAP is used to measure the universe of potential voting strength in each district. Within these metrics, I assess the White non-Hispanic (WNH), Any Part Black, non-Hispanic (APBNH), Asian non-Hispanic (ANH), and Hispanic (HISP)[3] populations. Other populations, such as Native Hawaiian and Pacific Islander, American Indian, "other", and multi-race (not including Black), are generally grouped in an "Other" (meaning all other) category or are not included.

42. Both of New York's 2021 and 2024 redistricting plans rebalanced the total population from the pre-2020 Census plan to within one person (see *Table IV.E.1* and *Table IV.G.1*), in compliance with legal requirements. In both the 2021 and 2024 Plans, numerous enhancements were made beyond simply balancing the population.

43. Compared to the existing 2024 plan, Cooper's Illustrative Plan *increases* the CVAP percentage of White, non-Hispanic (WNH) in D11 by +2.6PP[4], from 59.7% to 62.3%. APBNH CVAP increases by +1.1PP from 7.3% to 8.4%. Hispanic CVAP increases by +0.9PP, from 15.3% to 16.3%. While Asian CVAP is reduced by -4.6PP, from 17.0% to 12.4%. That is, all of Cooper's efforts to redraw a district benefitting APBNH and Hispanics result in significantly increased representation of WNH, a fractional increase for APBNH and Hispanics combined, and the slashing of the largest single minority CVAP in D11: Asians. See *Section IV: Demographic Analysis*.

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[3] Throughout this report, "Hispanic" and "Latino" are used interchangeably. Demographically, "Hispanic" refers to people of Spanish-speaking origin or descent, while "Latino" refers to people from or descended from Latin America, encompassing a broader geographical area and including non-Spanish speakers such as Portuguese-speaking Brazilians. The Decennial Census form asks if persons are of "Hispanic, Latino, or Spanish origin" – and my analysis captures all of these reported populations by all definitions and characterizations.

[4] PP represents "Percentage Points."

B. Compactness

44. Compactness is a traditional redistricting criterion and is a requirement of the first Gingles precondition under the U.S. VRA, stating that a minority group must be able to demonstrate that it is sufficiently large and **geographically compact** to constitute a majority in a single-member district.[5] [emphasis added]   The New York Constitution closely parallels this guidance. N.Y. Const. Art. III, §4(c)(1)[6] states, "**Each district shall be as compact in form as practicable.**"[emphasis added] And in N.Y. Const. Art. III, §5[7] it states:

> the body exercising the powers of a common council, shall assemble at such times as the legislature, making an apportionment, shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of **convenient and contiguous territory in as compact form as practicable.** [emphasis added]

45. However, the N.Y VRA specifically instructs (Section 2(c)) "evidence concerning whether members of a protected class are geographically compact or concentrated shall not be considered." Putting it in direct conflict with New York's Constitution and the U.S. VRA.

46. What is compactness? The definition of "compact" has historically been elusive and difficult for courts. Little has been written about what compactness definitively "is" by a court until 2023, when, in the matter of *Alpha Phi Alpha v. Raffensperger* (Georgia, 2023), the court provided a clear and useful framework that included empirical compactness scores, added an "eyeball test," and clarified that the U.S. VRA's definition of compactness was really population compactness, not geographic compactness.[8] While the case was not in New York, this opinion is valuable and relevant because it is the first comprehensive framework for compactness outlined by a court, and the illustrative districts drawn in that case (*APA*) were drawn by the same William Cooper as is the Plaintiffs' expert in this case.

47. Analysis of Cooper's D10 and D11 was conducted using empirical compactness scores. Cooper's report contains numerous errors in the reporting of these statistics. When corrected, it is revealed that Cooper's Illustrative Plan reduces the geographic compactness of the 10th and 11th *significantly*. Using a comparable illustrative district (D23) from the *APA* case, I conclude that Cooper's Illustrative draw of D11 does not pass the "eyeball test". The court described Cooper's D23 as an "oddly shaped, sprawling district," which is language that could easily be used to characterize Cooper's Illustrative D11.

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[5] https://supreme.justia.com/cases/federal/us/478/30/#F16

[6] Readjustments and reapportionments; when federal census to control

[7] Apportionment of assembly members; creation of assembly districts

[8] *Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia*, 11th Cir., November 28, 2023

48. Further, Cooper's D11 does not exhibit population compactness. The populations Cooper connects in Manhattan are five miles away and are connected to Staten Island by Ferry – while the population under the existing 2024 plan is just one mile away and connected directly by the Verrazano Bridge. Therefore, Cooper's choice to join Staten Island with Lower Manhattan significantly dilutes geographic compactness (compared to the 2024 Plan) by multiple empirical measures. It does not pass the "eyeball test" and significantly reduces population compactness.

49. Further, Cooper's conclusion that his draw of D11 is compact because the two separate pieces of it (Staten Island and Lower Manhattan) are compact is a novel approach that I believe lacks precedent. If held under the N.Y. VRA, which directs map drawers to ignore compactness, this argument could easily be carried to the point of absurdity. Compact places with high minority populations hundreds of miles away (separated by water) could be considered fair game to be paired to create a district. See *Section V: Compactness*.

C. Communities of Interest

50. A comprehensive dissertation on New York City's numerous and vast communities of interest is beyond the scope of this report.[9] Communities of interest are assessed in three ways. First, voting precincts, or Voting Tabulation Districts splits.[10] Second, neighborhood splits, as measured by NTAs. Third, by examining the impact of Cooper's proposed changes on the Asian, specifically the Chinese population.

51. Cooper assesses the political geography splits of his Illustrative Plan and the 2024 Plan by using antiquated VTDs from 2020. He concludes that the 2024 Plan splits four VTDs (see *Figure VI.A.1*) and that his Illustrative Plan splits 20 (see *Figure VI.A.2*). This is misleading, because VTDs are not the current political boundaries in NYC. Using *current* voting precinct

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[9] I note the *How Communities of Interest Are Evolving in New York City Today* document, produced by members of the CUNY Research Consortium on Communities of Interest, provided as an Appendix in Cooper's expert report.

[10] Precincts commonly refer to the administrative electoral geography of a county and are typically contiguous areas within which all electors go to a single polling place to cast their ballots. VTDs are similar to precincts and are often identical. But there are two important distinctions. First, the term covers other commonly used electoral geography. The Census Bureau characterizes a VTD as "a generic term adopted by the Bureau of the Census to include the wide variety of small polling areas, such as election districts, precincts, or wards, that State and local governments create for the purpose of administering elections." VTDs can also differ from actual election precincts because precincts do not always follow census geography. Since these electoral geographies serve the purpose of bounding a group of eligible voters for the purpose of casting their ballots, they are typically small, with no more than 5,000 people.[10] Both precincts and VTDs can and do change over time, along with changes in the population in an area and the availability of places that can effectively serve as a polling place. Finally, Census VTDs for some areas are an amalgamation of two or more electoral geographies. Conceptually, precincts are the geography that votes are collected in, and VTDs (tabulation districts) are geographies that voting data can be reported in that are consistent with Census geography and population data.

boundaries, I find that the 2021 and 2024 plans split no precincts, while Cooper's Illustrative Plan splits 12. Either way, the 2024 Plan complies with the traditional redistricting criteria by maintaining political geography, while Cooper's Illustrative Plan does not (see *Section VI.A*).

52. New York City is a vast tapestry of neighborhoods and local communities, each with a rich history, unique characteristics, and distinctive populations. Neighborhoods are measured here using Neighborhood Tabulation Areas, or "NTAs."[11] because they are a stable and reliable geography for statistical reporting and enable comparison with statistics that Cooper produces. Analysis shows that both the 2024 Plan and Cooper's Illustrative Plan have two NTA splits between D10 and D11 (see *Section VI.B*). There are numerous other neighborhood splits on the outer border of D10 and D11 with other districts, but these are not being considered because those districts are not litigated here.

53. As for racial and ethnic communities of interest, I focused on the population Cooper discusses in his report: Asians, and specifically the Chinese. Cooper's characterization of his Illustrative Plan being somehow unifying is significantly misleading. In Lower Manhattan, Cooper's draw may maintain the formal boundaries of Chinatown in D10 – but his draw structurally separates large numbers of contiguous Chinese population (see *Figure VI.C.2*) and unites parts of Lower Manhattan's Chinatown with discontiguous Sunset Park (which is majority Hispanic) and Bensonhurst (also known as Brooklyn's Little Italy and is majority White). These Asian neighborhoods in Brooklyn are not only separated by the East River, but also by neighborhoods such as Brooklyn Heights, Carroll Gardens, and Park Slope, with minimal Asian population, and Downtown Brooklyn, with a moderate Asian population. See *Section VI Communities of Interest*.

D. Differential Core Retention

54. Differential Core Retention Analysis (DCRA) analyzes the size of population moves that were made, in total and by race and ethnicity, to rebalance population between a prior and new plan. While the total number of people moved as an outcome of balancing these principles is relevant, *who* was moved is also important. *Table VII.A.1* shows the core retention rates between the pre-2020 Census (116th) Plan and the 2024 Plan (119th) for the total population, white, non-Hispanic, Any Part Black, Asian, and Hispanic. District 10 (with 803,803 population) was overpopulated by nearly 27,000 people – making that draw an exercise in *decreasing* its footprint.

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[11] New York City Planning reports that Neighborhood Tabulation Areas (or "NTAs") are "2020 and 2010 Neighborhood Tabulation Areas (NTAs) are medium-sized statistical geographies for reporting Decennial Census and American Community Survey (ACS)."

55. The 2024 Plan moved significant numbers of people from D10 – and this impact was relatively equally distributed by race and ethnicity. Since D11 needed to increase its population – its core retention was very high – approximately 90% and again well distributed between different population groups (see *Section VII.A*). As a result, Asians in D10 and D11 have nearly equal population (169K in D10 and 160K in D11), which makes them the largest single minority group in each district (see *Table IV.G.1*).

56. By comparison, Cooper's Illustrative Plan moves large numbers of the population, and there are significant differences by race and ethnicity. The Asian population (the largest minority in D10 and D11) is moved far more than other racial and ethnic groups in Cooper's Illustrative Plan (*Table VII.B.1*). In D11, 31.5% of CVAP were moved overall, but this is an average between 12.9% of APBNH being moved, compared to *57.1%* of Asians.

57. As a result, the Asian population is significantly *increased* to 224K in D10, and significantly *decreased* to 105K in D11 (see *Table IV.I.2*). Cooper's combination of Blacks and Hispanics to create a district that somehow benefits them comes at the cost of subordinating the strength of the Asian population in D11. In this regard, the significant dilution of the largest single minority population's representational rights in Cooper's Illustrative D11 would likely be a violation under the N.Y. VRA. See *Section VII Differential Core Retention*.

E. Political Performance

58. The subjects of political performance and partisan benefit have been the subject of rich discussion and litigation in New York. While the New York Constitution expressly forbids partisan redistricting, stating N.Y. Const. Art. III, §4(c)(5)

> Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. The commission shall consider the maintenance of cores of existing districts, of pre-existing political subdivisions, including counties, cities, and towns, and of communities of interest.

59. Yet the post-2020 redistricting process has been partisan to an extreme. On Feb 26, 2024, the New York Times reported[12]

> Democrats seized control over drawing New York's congressional districts on Monday, rejecting a map proposed by the state's bipartisan redistricting commission in favor of drafting new lines that could make key swing seats more Democratic.

> On a day of high drama inside the State Capitol in Albany, party leaders argued that the Senate and Assembly had no choice but to reject the commission map in lopsided votes because it improperly split counties, broke up naturally occurring communities and favored incumbents.

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[12] https://www.nytimes.com/2024/02/26/nyregion/redistricting-maps-ny-congress.html

But in private conversations, they made little effort to hide their true objective. With the battle for control of the House likely to run through New York this fall, Democrats here and in Washington are determined to use their supermajority in the State Legislature to tilt the playing field against Republicans from Long Island to Syracuse.

60. This followed a series of electoral events, where Democrats won every district in and around NYC in 2018, but lost one of these districts in each subsequent election: the 11th, being litigated here. Not only has a Republican won D11 in each successive election, but their Representative, Nicole Malliotakis, has done so by increasing margins:

61. In the 2020 election, Republican candidate Nicole Malliotakis (see *Figure VIII.B.3*) won with 53.1% of the votes, or a +6.5PP increase over Republican candidate Dan Donovan in 2018.

62. The new configuration of D11 under the 2021 Plan had 22.7% combined APBNH and Hispanic CVAP. In this election, candidate Nicole Malliotakis won 62.1% of the vote (see *Figure VIII.C.3*) – an increase of +9.0PP over 2020.

The new 2024 configuration of D11 also had 22.7% combined APBNH and Hispanic CVAP (see *Figure IV.H.1*). But in this election, candidate Nicole Malliotakis won 64.1% of the vote (see *Figure VIII.D.3*) – an increase of *+11.0PP* over 2020.

63. Cooper's Illustrative Plan significantly increases WNH CVAP representation in D11, fractionally increases APBNH and Hispanics, and significantly lowers Asian representation compared to the 2024 plan. Since the majority of the Cooper's population change is WNH, and the political characteristics of the precincts he moved skew heavily for Democrats in D11 - it is difficult to arrive at any other conclusion than Cooper's draw benefits Democrats because of an increase in White, non-Hispanic Democrats – and not because of the fractional changes to the two smaller minority populations in and around the district. See *Section VIII Political Performance*.

64. The current landscape of the New York Congressional Delegation is diverse and heavily Democratic. In 26 districts, there are five Black / African American representatives – each representing a Black majority Democratic district. Two of these (Adriano Espailla and Ritchie Torres) are Black *and* Hispanic. There is one Asian representative, and three Hispanic alone representatives (all but one Democratic). One of these, Republican Nicole Malliotakis, represents the D11 being litigated here.

65. There are 11 White, non-Hispanic Representatives of Democratic districts, all of whom were elected to some degree from APBNH + Hispanic influence districts.

66. There are six remaining districts (1, 2, 17, 21, 23, and 24) that are represented by White Republicans and have a WNH majority. Four of these (1, 2, and 17) have enough APBNH + Hispanic minority representation to plausibly qualify as "influence". Meaning that under the N.Y. VRA, only two U.S. House Republican districts (21, 23, and 24) have a sufficiently small

minority population (<10%) to have any chance of not being interrogated. And since under the N.Y. VRA, there is no lower limit on the size of the minority population that can claim relief, even these districts are exposed (see *Appendix A*).

67. I note for the record that I was both retained and provided Plaintiffs' petitions and expert reports on Monday, November 18, 2025, and was given a deadline of Monday, December 8, 2025. This represents three weeks exactly, including the Thanksgiving holiday. The content of this type of report typically takes several months to develop, not considering the incredible complexity of New York geography, demography, communities of interest, the New York political landscape, and the evolution of the N.Y. Voting Rights Act. Every effort was made to ensure the accuracy of the data and reliability of the conclusions herein under this extraordinary deadline, but I reserve the right to address and remediate errors identified between this delivery date of December 8, 2025, and the expected testimony dates of January 6 and 7, 2026.

IV. DEMOGRAPHIC ANALYSIS

68. In this section, I introduce the demographic measures of total population, voting age population (VAP), and citizen voting age population (CVAP). The use of each of these measures is important because they offer a different view of the populations and assess different parts of the Plaintiffs' complaint. Total population is used for determining apportionment and representation. VAP is used to assess the population who could be eligible to vote, and CVAP is used to measure who is currently eligible to vote. Using these metrics, I measure New York's U.S. House districts under the different plans and assess the differences between them.

A. Decennial Census

69. The Decennial Census counts people in the United States on a De Jure basis[13] (Wilmoth, 2004: 65) and the U.S. Census Bureau attempts to count everybody once, only once, and in the right place (Cork and Voss, 2006). It is mandated by the U.S. Constitution to occur every 10 years, in years ending in zero, to provide the numbers needed to reapportion the House of Representatives, which also results in a reapportionment of the Electoral College. The decennial census numbers are also used by state governments to redraw legislative districts, and the federal government uses the numbers in various funding formulas to distribute some $2.8 trillion in funding for highways, hospitals, schools, and many other purposes.[14]

70. In order for states to redraw legislative and other districts, the U.S. Census Bureau issues the PL 94-171 redistricting data file.[15] Because the decennial census itself does not ask a "citizenship" question or questions about voting activities, other sources of data produced by the U.S. Census Bureau are often used in redistricting activities to include the American Community Survey (ACS) and the Current Population Survey (Morrison and Bryan, 2019).

B. ACS Citizen Voting Age Population

71. The American Community Survey (ACS) is the national source of record for CVAP data. The ACS is a set of "rolling" annual sample surveys conducted by the U.S. Census Bureau (Morrison and Bryan, 2019; U.S. Census Bureau, 2020a). It is distinct and different from the decennial census and the Current Population Survey, which are also conducted by the U.S. Census Bureau. While the American Community Survey CVAP data are not commonly used to draw districts as part of decennial redistricting, they are used in redistricting litigation to determine voting strength – particularly among minority populations.

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[13] all of its usual residents, regardless of whether they are present or legal.

[14] https://www.census.gov/newsroom/press-releases/2023/decennial-census-federal-funds-distribution.html#:~:text=The%20Census%20Bureau%20does%20not,census%2C%20ACS%20and%20other%20surveys

[15] https://www.census.gov/programs-surveys/decennial-census/about/rdo/summary-files.html

72. The U.S. DOJ provides guidance to use CVAP to quantify voting strength for the purposes of Section 2 cases.[16] That guidance states: "Section 2 prohibits both voting practices that result in *citizens* being denied equal access to the political process on account of race, color, or membership in a language minority group, and voting practices adopted or maintained for the purpose of discriminating on those bases."[17] That is – the DOJ states explicitly that Section 2 assesses the concern of the *eligible* voting age population (that is: eligible citizens), not just the voting age population. To that end, the DOJ requests a "special tabulation" of the U.S. Census Bureau's American Community Survey(ACS), which includes a question on citizenship (the decennial census does not).[18] For the purpose of evaluating districting plans' compliance under Section 2 of the Voting Rights Act, the DOJ provides specific guidance on how to measure minority populations: [19]

> The Department of Justice will follow both aggregation methods defined in Part II of the Bulletin. The Department's initial review will be based upon allocating any response that includes White and one of the five other race categories identified in the response. Thus, the total numbers for "Black/African American," "Asian," "American Indian/Alaska Native," "Native Hawaiian or Other Pacific Islander," and "Some other race" reflect the total of the single-race responses and the multiple responses in which an individual selected a minority race and White race.

> The Department will then move to the second step in its application of the census data by reviewing the other multiple-race category, which is comprised of all multiple-race responses consisting of more than one minority race. Where there are significant numbers of such responses, the Department will, as required by both the OMB guidance and judicial opinions, allocate these responses on an iterative basis to each of the component single-race categories for analysis. *Georgia v. Ashcroft*, 539 U.S. 461, 473, n.1 (2003)

73. In response to this guidance, the U.S. Census Bureau reports CVAP statistics for race and ethnicity alone (non-Hispanic) and select non-Hispanic races in combination (non-Hispanic), as seen in **Figure IV.B.1**:

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[16] Refining a CVAP estimate to a VEP by removing felons, those judged mentally incapacitated or incarcerated (who are all included in the DOJ CVAP estimates) is a difficult exercise not commonly undertaken and is not required by the DOJ.

[17] https://www.justice.gov/opa/press-release/file/1429486/download

[18] https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.2021.html#list-tab-1518558936

[19] https://www.justice.gov/opa/press-release/file/1429486/dl#:~:text=§§%2010303(f)(,of%20discriminating%20on%20those%20bases.

Figure IV.B.1 American Community Survey DOJ VRA Race and Ethnicity Reporting Classifications

1	Total CVAP
2	Not Hispanic or Latino (NH)
3	American Indian or Alaska Native Alone (NH)
4	Asian Alone (NH)
5	Black or African American Alone (NH)
6	Native Hawaiian or Other Pacific Islander Alone (NH)
7	White Alone (NH)
8	American Indian or Alaska Native and White (NH)
9	Asian and White (NH)
10	Black or African American and White (NH)
11	American Indian or Alaska Native and Black or African American (NH)
12	Remainder of Two or More Race Responses (NH)
13	Hispanic or Latino

Source:https://www2.census.gov/programs-surveys/decennial/rdo/technical-documentation/special-tabulation/CVAP_2016-2020_ACS_documentation_v3.pdf.

74. The DOJ directs that two levels of minority population be produced. In order to create the first-level required DOJ estimate of the Black or African American population alone or in combination with white, the following groups are aggregated:

- Group 5 Black or African American Alone; and
- Group 10 Black or African American alone and White (NH – or "Not Hispanic").

75. In recent cases, this first level has proven just to be a demographic exercise. Plaintiffs in cases such as these are commonly going straight to the second-level "any part" definition (see *Robinson v. Ardoin* in Louisiana, for example). In order to create the second-level "any part" estimate of the Black or African American population, the following groups are aggregated:

- Group 5 Black or African American alone,
- Group 10 Black or African American alone and White (NH); and
- Group 11 American Indian or Alaska Native and Black or African American (NH).

The addition of Group 11 (adding American Indian or Alaska Natives) frequently adds little to no population to the first-level estimate of Black alone or in combination with white. Since these groups do not capture all of the possible Black or African American multi-race combinations, and do not include Black Hispanics, this aggregation can be thought of as a lower bound of the actual any-part Black or African American CVAP. The Census Bureau does not provide a true "Any Part Black" CVAP estimate.

76. Again, we have two sources of population data: (1) the decennial census from 2020 provides the total and Voting Age Population, or "VAP" and separately (2) the most recent ACS provides Citizen Voting Age Population, or "CVAP".[20] Here, I will analyze and compare the total population and Citizen Voting Age Population (CVAP) for:

- The plan *prior* to the 2020 census, which I refer to throughout as the pre-2020 Census, or "116th" plan,
- The first post-2020 Census plan (which I refer to throughout as the "2021 Plan" and "118th"),
- The second post-2020 Census plan (which I refer to throughout as the "2024 Plan" and "119th"), and
- The Plaintiffs' expert, William Cooper's proposed Congressional Districts 10 and 11

C. Pre-2020 Census Plan Total Population

77. The prior (pre-2020 Census) plan for NYC is shown in *Figure IV.C.1*. By 2020, the total population in each house district deviated significantly from an equal distribution, as measured by the 2020 Census. *Table IV.C.1* shows the 2020 total population and by race and ethnicity for the pre-2020 Plan (or that of the 116th Congress). With the demographic changes in population in New York since 2010, it was in need of significant moves of district boundaries to rebalance the population.[21]

78. The 2020 target population per district was 776,971. Under the prior plan, District 10 (with 803,803 population) was overpopulated by nearly 27,000 people – making that draw an exercise in *decreasing* its footprint. While District 11 (with 766,236 population) was underpopulated by over 10,000 people – making that draw an exercise in *increasing* its footprint.

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[20] For the purposes of this exercise, I procured the ACS 2019-2023 DOJ CVAP Special Tabulation, which is published at the Census Block Group level of geography. I then disaggregated these data with an iterative proportional fitting (IPF) algorithm using PL94-171 block-level data by race and ethnicity as "marginals." See Morrison and Bryan, 2019 Section 3.6.1 for more information on iterative proportional fitting.

[21] Note, this table does not include other races such as American Indian and Alaska Natives, Native Hawaiian and Pacific Islander, and "other".

Figure IV.C.1: Pre-2020 Census Plan: 13 Districts in and Around NYC
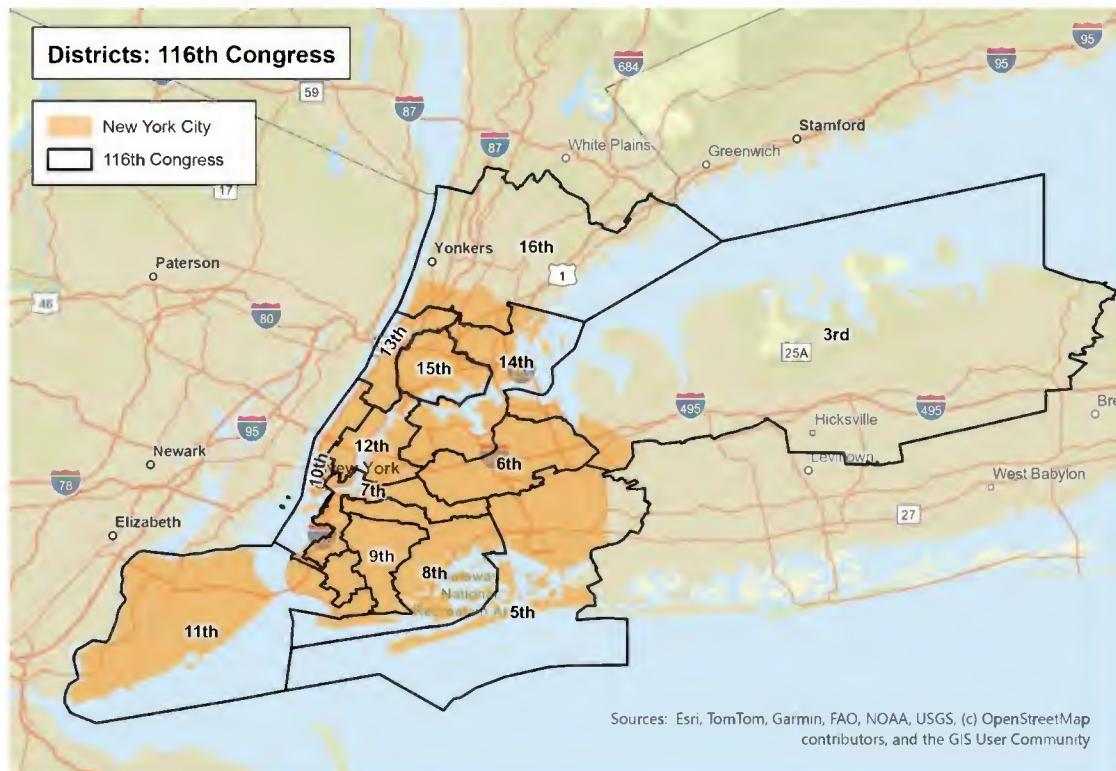
Source: U.S. Census TIGER shapefile for 116th Congress

Table IV.C.1: Pre-2020 Census Plan Total Population: : 13 Districts in and Around NYC

116th	Total	WNH	APBNH	ANH	HISP	APBNH + HISP
3	739,197	456,745	25,452	143,371	94,411	119,863
5	778,780	77,603	371,157	115,152	152,479	523,636
6	769,247	228,178	33,132	334,874	151,703	184,835
7	762,833	237,068	65,755	146,708	287,100	352,855
8	804,400	195,145	379,726	60,080	146,876	526,602
9	755,842	236,338	344,470	60,633	89,503	433,973
10	**803,803**	**463,818**	**38,103**	**161,969**	**104,973**	**143,076**
11	**766,236**	**421,112**	**60,010**	**129,745**	**136,847**	**196,857**
12	811,688	499,146	46,301	123,239	110,046	156,347
13	736,348	107,171	187,744	37,261	388,290	576,034
14	750,025	156,499	68,085	142,055	363,991	432,076
15	767,335	19,507	222,154	19,019	494,246	716,400
16	770,401	251,664	239,811	40,989	216,245	456,056
Total	**10,016,135**	**3,349,994**	**2,081,900**	**1,515,095**	**2,736,710**	**4,818,610**

Sources: 2020 U.S. Census, PL94-171, BGD calculations

79. In the 13 congressional districts covering NYC, the White, non-Hispanic (WNH) population makes up 33.4% of the total population, and the Any Part Black, non-Hispanic (APBNH) makes up 20.8% of the total population. The Asian alone, non-Hispanic, make up 15.1% of the total population. And Hispanics make up 27.3% of the total population. Combined, the APBNH and Hispanic population make up 48.1% of the population (see *Table IV.C.2*).

80. In District 10, there were 57.7% White, non-Hispanic (WNH), 4.7% Any Part Black, non-Hispanic (APBNH), and 13.1% Hispanic, for a combined total of 17.8%. In addition, there were 20.2% Asian (non-Hispanic, alone).

81. In District 11, there were 55.0% White, non-Hispanic (WNH), 7.8% Any Part Black, non-Hispanic (APBNH), and 17.9% Hispanic, for a combined total of 25.7%. In addition, there were 16.9% Asian (non-Hispanic, alone).

Table IV.C.2: Pre-2020 Plan Total Pop. Percentages: 13 Districts in and Around NYC

116th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	61.8%	3.4%	19.4%	12.8%	16.2%	0	0
5	10.0%	47.7%	14.8%	19.6%	67.2%	1	1
6	29.7%	4.3%	43.5%	19.7%	24.0%	0	0
7	31.1%	8.6%	19.2%	37.6%	46.3%	1	0
8	24.3%	47.2%	7.5%	18.3%	65.5%	1	1
9	31.3%	45.6%	8.0%	11.8%	57.4%	1	1
10	57.7%	4.7%	20.2%	13.1%	17.8%	0	0
11	55.0%	7.8%	16.9%	17.9%	25.7%	1	0
12	61.5%	5.7%	15.2%	13.6%	19.3%	0	0
13	14.6%	25.5%	5.1%	52.7%	78.2%	1	1
14	20.9%	9.1%	18.9%	48.5%	57.6%	1	1
15	2.5%	29.0%	2.5%	64.4%	93.4%	1	1
16	32.7%	31.1%	5.3%	28.1%	59.2%	1	1
Total	33.4%	20.8%	15.1%	27.3%	48.1%		

Sources: 2020 U.S. Census, PL94-171, BGD calculations

D. Pre-2020 Census Plan CVAP

82. In the 13 congressional districts covering NYC, the White, non-Hispanic (WNH) population makes up 39.9% of the total population. This represents a higher share compared to the total population because of higher rates of citizenship among White, non-Hispanics than other population groups. The APBNH makes up 22.8% of CVAP. The Asian alone, non-Hispanic, make up 13.0% of the total population. And Hispanics make up 23.4% of CVAP. Combined, the APBNH population and Hispanic population make up 46.2% of the population (see *Table IV.D.1*). Numeric counts of CVAP by district for the pre-2020 Census are provided in *Appendix C.1*.

Table IV.D.1: Pre-2020 Plan CVAP Percentages: 13 Districts in and Around NYC

116th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	70.4%	3.3%	15.8%	9.7%	13.0%	0	0
5	13.2%	52.0%	16.5%	16.4%	68.4%	1	1
6	39.4%	5.4%	35.0%	19.1%	24.5%	0	0
7	37.3%	11.2%	16.0%	34.7%	45.8%	1	0
8	27.4%	49.1%	6.7%	15.9%	65.0%	1	1
9	34.7%	46.6%	7.4%	10.5%	57.1%	1	1
10	65.2%	5.6%	16.6%	11.9%	17.4%	0	0
11	62.1%	7.7%	14.4%	15.3%	23.0%	0	0
12	67.7%	6.2%	12.5%	12.5%	18.7%	0	0
13	18.6%	29.2%	5.4%	46.1%	75.2%	1	1
14	29.0%	11.8%	17.1%	41.2%	53.1%	1	1
15	3.7%	34.1%	2.0%	59.3%	93.4%	1	1
16	37.9%	31.4%	5.3%	24.7%	56.1%	1	1
Total	**39.9%**	**22.8%**	**13.0%**	**23.4%**	**46.2%**		

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

83. In District 10, there were 65.2% White, non-Hispanic (WNH), 5.6% APBNH, and 11.9% Hispanic, for a combined total of 17.4%. In addition, there were 16.6% Asian (non-Hispanic, alone) (see *Table IV.D.1*).

84. In District 11, there were 62.1% WNH, 7.7% APBNH, and 15.3% Hispanic, for a combined total of 23.0%. In addition, there were 14.4% Asian (non-Hispanic, alone) (see *Table IV.D.1*).

85. Out of the 13 districts, eight had more than 25% combined APBNH and Hispanic, and seven had more than 50% combined APBNH and Hispanic (see *Table IV.D.1* and *Figure IV.D.1*). In this environment, *every one* of the 13 districts elected a Democratic representative in 2018 (see *Figure VIII.A.1*).

86. It is instructive to examine the minority CVAP characteristics of the 13 congressional districts in and around NYC, and how they changed through each of the two rounds of post-2020 Census redistricting. Prior to the 2020 Census (during the 116th Congress), the percent combined APBNH and Hispanic ranged from 13.0% in District 3 to 93.4% in District 15 – or a range of 80.4PP.[22] If not for the fact that the congressional districts in and around NYC vote almost uniformly Democratic, these statistics bear the hallmarks of "packing" and "cracking" minority vote-eligible populations.

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[22] PP: "Percentage Points"

Figure IV.D.1: Pre-2020 Plan CVAP Percentages: 13 Districts in and Around NYC
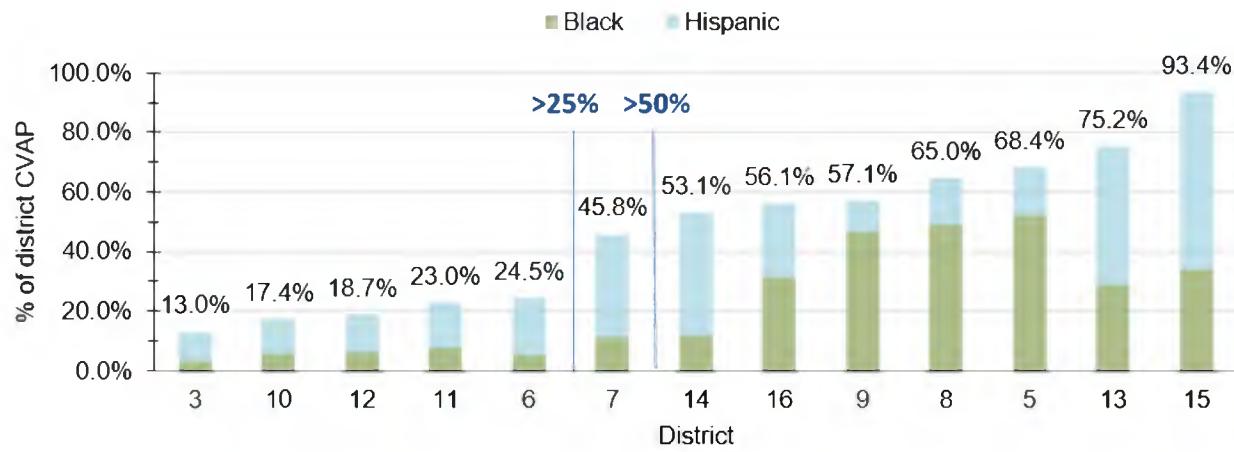
Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD tabulations

E. 2021 Plan Total Population

Figure IV.E.1: 2021 Plan: 13 Districts in and Around NYC
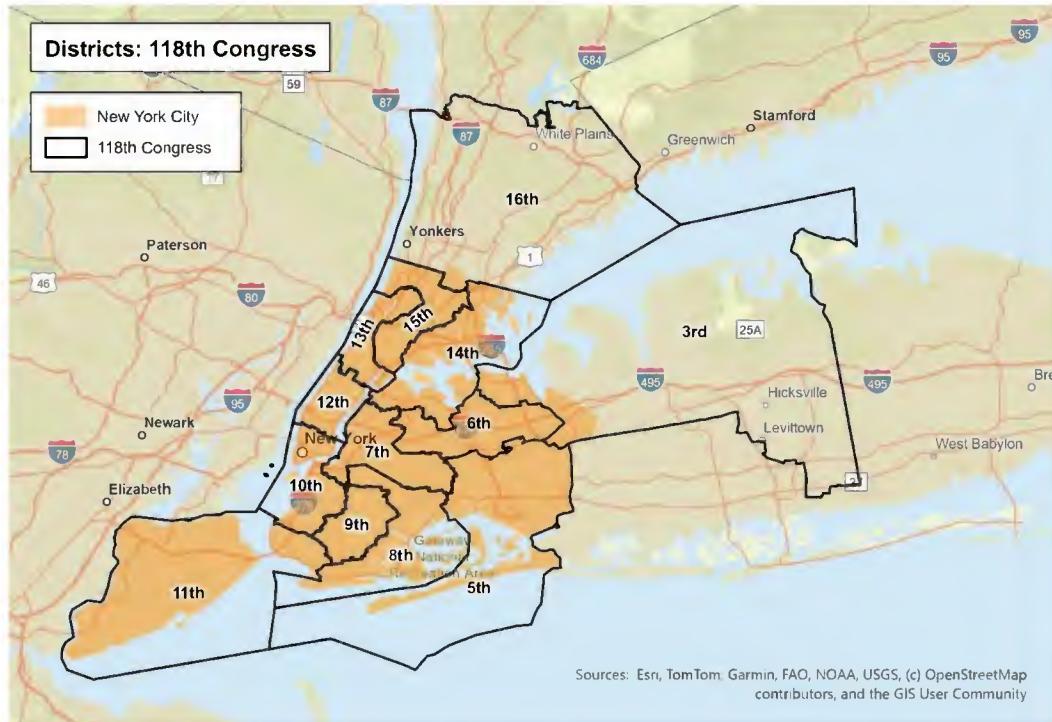
Source: U.S. Census TIGER shapefile for 118th Congress

87. The brief history of redistricting in New York is that after the 2020 Census, the State of New York lost one Congressional seat, going from 27 to 26 Congressional members. The Independent Redistricting Commission (I.R.C.), created in 2014 through a ballot initiative, was tasked to draw a new map. However, after the I.R.C. could not reach an agreement on the final map. An Independent Special Master was then assigned by the court to draw a new map, resulting in the "2021 Plan", shown in *Figure IV.E.1*.

88. In the 2021 Plan, the total population in each of the 13 districts in and around New York was balanced to within one person of the population target of 776,971. *Table IV.E.1* shows the 2020 total population by race and ethnicity, illustrating that the population by race and ethnicity still differed significantly by district – although less so than pre-2020 Census.

Table IV.E.1: 2021 Plan Total Population: 13 Districts in and Around NYC

118th	Total	WNH	APBNH	ANH	HISP	APBNH + HISP
3	776,971	432,998	31,489	181,776	108,842	140,331
5	776,971	99,311	339,806	115,728	159,791	499,597
6	776,971	188,182	32,441	352,461	183,275	215,716
7	776,971	281,488	89,136	102,318	274,246	363,382
8	776,972	214,213	347,228	65,998	130,271	477,499
9	776,972	252,005	338,272	70,920	88,290	426,562
10	**776,971**	**377,605**	**51,624**	**167,500**	**148,997**	**200,621**
11	**776,971**	**399,675**	**57,363**	**160,301**	**142,031**	**199,394**
12	776,971	506,527	43,487	109,511	87,200	130,687
13	776,971	119,776	194,410	39,265	406,407	600,817
14	776,972	137,512	131,571	89,031	398,657	530,228
15	776,971	72,152	241,880	24,983	424,926	666,806
16	776,971	307,809	169,600	51,734	224,212	393,812
Total	**10,100,626**	**3,389,253**	**2,068,307**	**1,531,526**	**2,777,145**	**4,845,452**

Sources: 2020 U.S. Census, PL94-171, BGD calculations

89. In District 10, the 57.7% WNH decreased by -9.1PP, from 57.7% to 48.6% (compared to the pre-2020 Census Plan). The Any Part Black, non-Hispanic (APBNH) increased by +1.9PP, from 4.7% to 6.6%. Hispanics increased by +6.1PP, from 13.1% to 19.2%. The combined APBNH and Hispanic reflected an increase of +8.0PP, from 17.8% to 25.8%. In addition, the 20.2% Asian (non-Hispanic, alone) increased by +1.4PP, from 20.2% to 21.6%.[23] (See *Table IV.E.2*).

90. In District 11, the WNH decreased to -3.5PP, from 55.0% to 51.4%. The APBNH decreased by -0.4PP, from 7.8% to 7.4%, while Hispanics increased by +0.4PP, from 17.9% to 18.3%. APBNH and Hispanics combined for a total of 25.7% - identical to the 11th prior to

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[23] Some numbers may not foot due to rounding

redistricting. In addition, Asian (non-Hispanic, alone) increased by +3.7PP. from 16.9% to 20.6% (see *Table IV.E.2*).

Table IV.E.2: 2021 Plan Total Population Percentages: 13 Districts in and Around NYC

118th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	55.7%	4.1%	23.4%	14.0%	18.1%	0	0
5	12.8%	43.7%	14.9%	20.6%	64.3%	1	1
6	24.2%	4.2%	45.4%	23.6%	27.8%	1	0
7	36.2%	11.5%	13.2%	35.3%	46.8%	1	0
8	27.6%	44.7%	8.5%	16.8%	61.5%	1	1
9	32.4%	43.5%	9.1%	11.4%	54.9%	1	1
10	48.6%	6.6%	21.6%	19.2%	25.8%	1	0
11	51.4%	7.4%	20.6%	18.3%	25.7%	1	0
12	65.2%	5.6%	14.1%	11.2%	16.8%	0	0
13	15.4%	25.0%	5.1%	52.3%	77.3%	1	1
14	17.7%	16.9%	11.5%	51.3%	68.2%	1	1
15	9.3%	31.1%	3.2%	54.7%	85.8%	1	1
16	39.6%	21.8%	6.7%	28.9%	50.7%	1	1
Total	33.6%	20.5%	15.2%	27.5%	48.0%		

Sources: 2020 U.S. Census, PL94-171, BGD calculations

F. 2021 Plan CVAP

91. As with the total population, the distribution of CVAP changed significantly during the first round of post-2020 redistricting in 2021. Numeric counts of CVAP by district for the 2021 Plan are provided in *Appendix C.2*.

92. In District 10, WNH decreased by -8.5PP, from 65.2% to 56.7% (compared to the pre-2020 Census plan). The APBNH was increased by +2.3PP, from 5.6% to 7.8%. Hispanics increased by +5.2PP from 11.9% to 17.1%. The combined APBNH and Hispanics reflected a total increase of +7.5PP, from 17.4% to 24.9%. In addition, Asians (non-Hispanic, alone) increased by +1.0PP from 16.6% to 17.5%.[24] (see *Table IV.F.1*)

93. In District 11, WNH decreased by -2.3PP, from 62.1% to 59.7%. The APBNH decreased by -0.4PP, from 7.7% to 7.3%, while Hispanics remained flat at 15.3%. The combined APBNH and Hispanic reflected a decrease of -0.3PP, from 23.0% to 22.7%. In addition, Asian (non-Hispanic, alone) increased by +2.6PP, from 14.4% to 17.0% (see *Table IV.F.1*).

94. It is instructive to examine the minority CVAP characteristics of the 13 congressional districts in and around NYC, and how they changed through each of the two rounds of post-2020 Census redistricting. Under the 2021 plan, the percent combined APBNH and Hispanic ranged

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[24] Some numbers may not foot due to rounding

from 15.2% in District 3 to 84.5% in District 15 – or a range of 69.3PP. Large, but a significant reduction from the 80.4PP range prior to 2020 redistricting.

95. Out of the 13 districts in and around NYC, nine had more than 25% combined APBNH and Hispanic, while D11 (with 24.9%) very nearly made ten. Six districts had more than 50% combined APBNH and Hispanic (a decrease of one district compared to the pre-2020 Plan) (see *Figure IV.F.1*). In this environment, *all but two* of the 13 districts elected a Democratic representative in the 2022 election (see *Figure VIII.C.1*)

*Table IV.F.1: 2021 Plan CVAP Percentages: 13 Districts in and Around NYC*

118th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	64.1%	3.8%	19.8%	11.5%	15.2%	0	0
5	16.7%	48.0%	16.2%	17.3%	65.3%	1	1
6	34.7%	5.7%	37.4%	21.2%	26.8%	1	0
7	41.3%	13.9%	12.1%	31.6%	45.5%	1	0
8	30.2%	47.0%	7.5%	14.6%	61.6%	1	1
9	33.6%	48.0%	7.5%	10.1%	58.1%	1	1
10	56.7%	7.8%	17.5%	17.1%	24.9%	0	0
11	59.7%	7.3%	17.0%	15.3%	22.7%	0	0
12	71.8%	5.7%	11.0%	10.7%	16.4%	0	0
13	19.9%	28.8%	5.3%	45.1%	73.9%	1	1
14	23.1%	20.9%	10.6%	44.5%	65.4%	1	1
15	11.6%	34.2%	3.0%	50.3%	84.5%	1	1
16	47.1%	22.7%	6.1%	23.4%	46.1%	1	0
Total	40.1%	22.5%	13.0%	23.5%	46.0%		

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

Figure IV.F.1: 2021 Plan CVAP Percentages: 13 Districts in and Around NYC
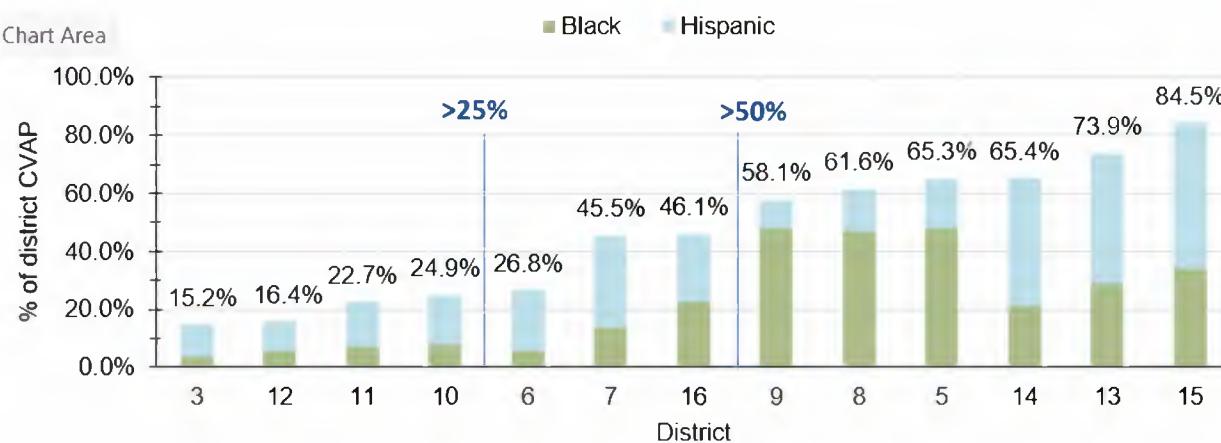
Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD tabulations

G. 2024 Plan Total Population

96. In March 2023, New York Democrats challenged the 2022 map, claiming the Special Master had superseded the constitutional authority of the State Legislature and the I.R.C. in drawing the 2022 map. In July 2023, an intermediate appeals court ruled that the I.R.C. must draw a new map for the 2024 Congressional Elections. The New York State Republicans lost their challenge to the State Court of Appeals, and the 2022 map was to be redrawn by the I.R.C. or the State Legislature. On February 27, 2024, the State Legislature rejected the bipartisan I.R.C. map and drew a new map that favored the Democrats. On February 28, 2024, the state legislature passed the new map. The 2024 Plan for NYC is shown in *Figure IV.G.1*.

Figure IV.G.1: 2024 Plan
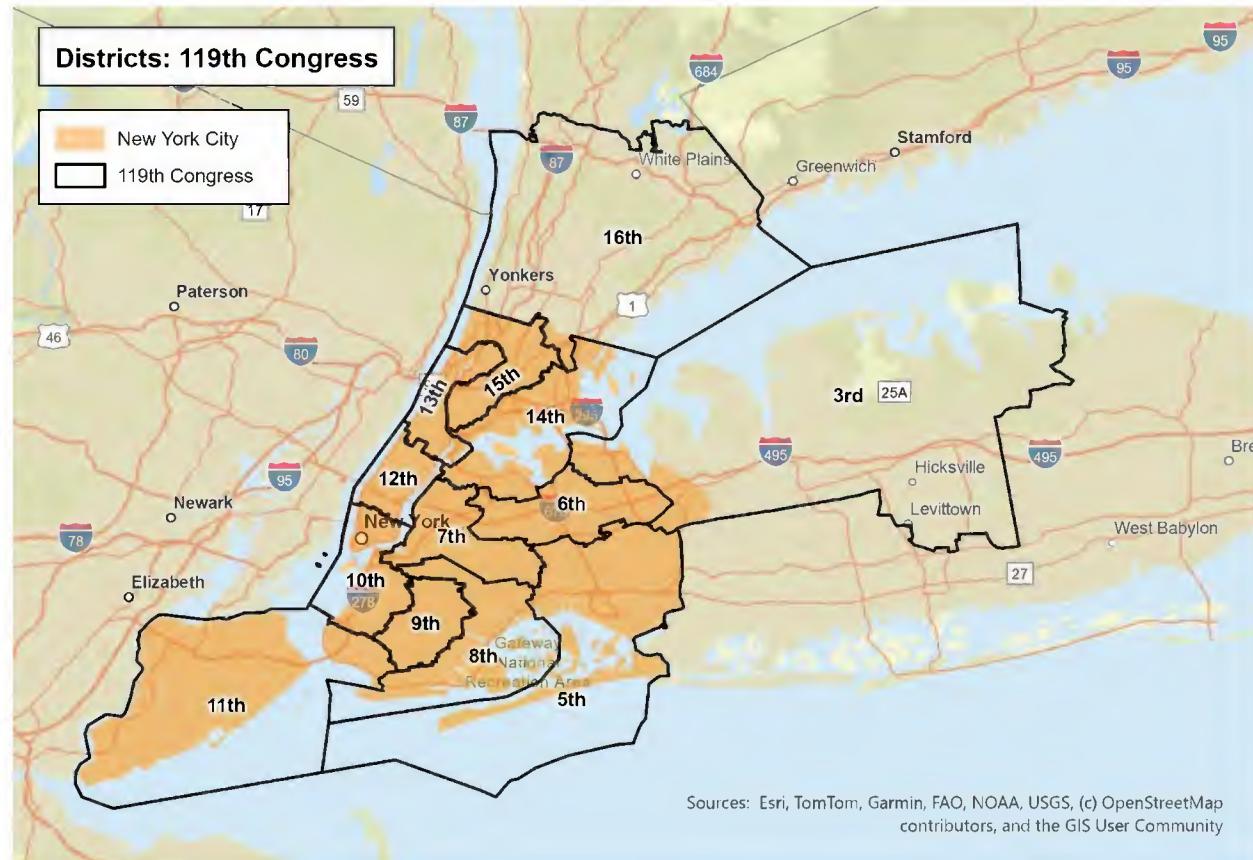
Source: U.S. Census TIGER shapefile for 119th Congress

97. The changes between the 2021 and 2024 Plan for NYC are shown in *Figure IV.G.2*.

98. *Table IV.G.1* shows the 2020 total population and by race and ethnicity for the 2024 Plan.

Figure IV.G.2: 2021 vs 2024 Plans: 13 Districts in and Around NYC
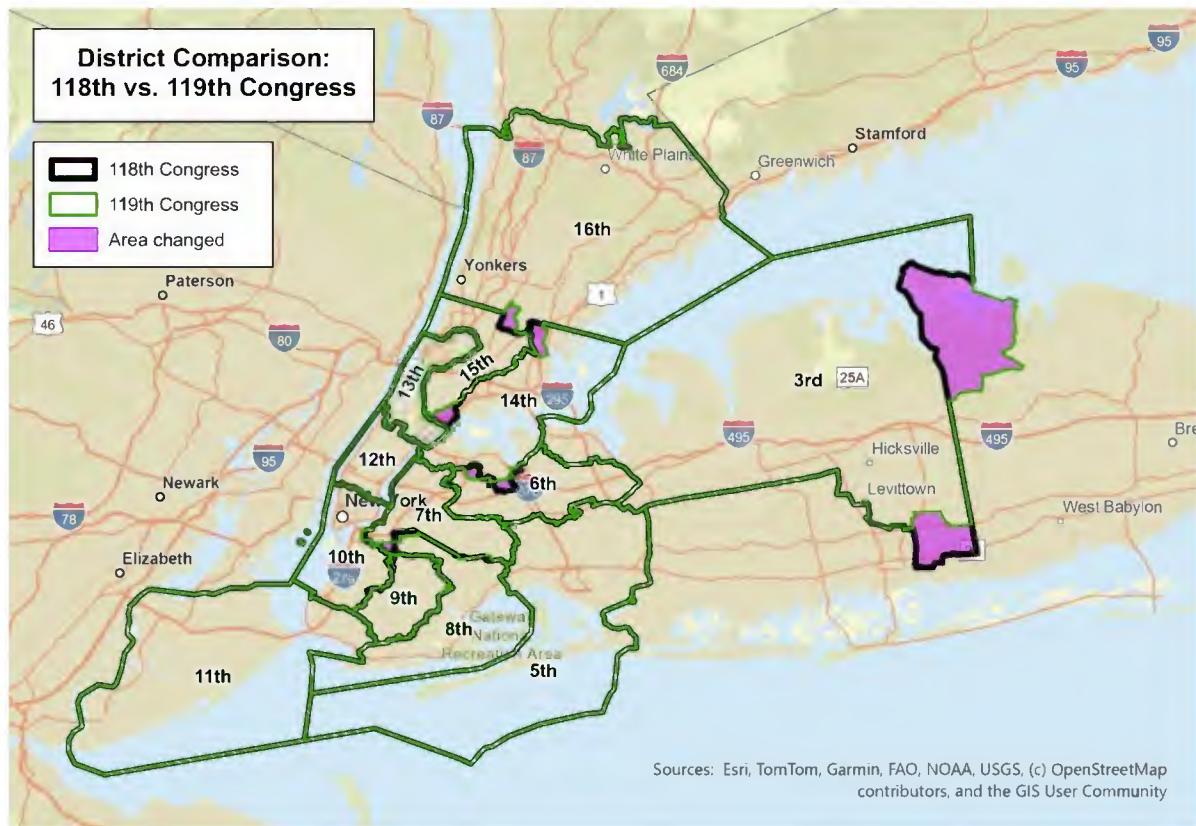
Source: U.S. Census TIGER shapefile for 118th and 119th Congress

Table IV.G.1: 2024 Plan Total Population: 13 Districts in and Around NYC

119th	Total	WNH	APBNH	ANH	HISP	APBNH + HISP
3	776,971	423,148	33,153	182,215	116,410	149,563
5	776,971	99,311	339,806	115,728	159,791	499,597
6	776,972	181,840	34,407	347,637	193,052	227,459
7	776,972	283,418	85,446	99,265	279,031	364,477
8	776,971	212,838	350,554	68,740	125,497	476,051
9	776,971	250,805	340,028	70,152	88,516	428,544
10	**776,972**	**378,250**	**50,232**	**168,579**	**148,760**	**198,992**
11	**776,971**	**399,675**	**57,363**	**160,301**	**142,031**	**199,394**
12	776,971	506,527	43,487	109,511	87,200	130,687
13	776,971	119,776	194,410	39,265	406,407	600,817
14	776,970	142,925	112,697	93,720	406,921	519,618
15	776,971	72,234	257,042	25,974	407,458	664,500
16	776,972	308,656	171,346	50,878	223,639	394,985
Total	**10,100,626**	**3,379,403**	**2,069,971**	**1,531,965**	**2,784,713**	**4,854,684**

Sources: 2020 U.S. Census, PL94-171, BGD calculations

99. In District 10, WNH decreased by -9.0PP, from 57.7% to 48.7% (compared to the pre-2020 Census Plan). Any Part Black, non-Hispanic (APBNH) was increased by +1.7PP, from 4.7% to 6.5%. Hispanics increased by +6.1PP, from 13.1% to 19.1%. The combined total of APBNH and Hispanic reflected a combined total increase of +7.8PP, from 17.8% to 25.6%. In addition, the Asian (non-Hispanic, alone) was increased by +1.5PP, from 20.2% to 21.7%.[25] (see *Table IV.G.2*)

100. In District 11, WNH was decreased to -3.5PP, from 55.0% to 51.4%. The APBNH decreased by -0.4PP, from 7.8% to 7.4%. Hispanics increased by +0.4PP, from 17.9% to 18.3%. The combined APBNH and Hispanic total of 25.7% is again identical to the 11th prior to redistricting. The Asian (non-Hispanic, alone) increased by +3.7PP, from 16.9% to 20.6% (see *Table IV.G.2*). These differences from 2024 for the D11 are invariant from the 2021 differences.

Table IV.G.2: 2024 Plan Total Population Percentages: 13 Districts in and Around NYC

119th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	54.5%	4.3%	23.5%	15.0%	19.2%	0	0
5	12.8%	43.7%	14.9%	20.6%	64.3%	1	1
6	23.4%	4.4%	44.7%	24.8%	29.3%	1	0
7	36.5%	11.0%	12.8%	35.9%	46.9%	1	0
8	27.4%	45.1%	8.8%	16.2%	61.3%	1	1
9	32.3%	43.8%	9.0%	11.4%	55.2%	1	1
10	**48.7%**	**6.5%**	**21.7%**	**19.1%**	**25.6%**	**1**	**0**
11	**51.4%**	**7.4%**	**20.6%**	**18.3%**	**25.7%**	**1**	**0**
12	65.2%	5.6%	14.1%	11.2%	16.8%	0	0
13	15.4%	25.0%	5.1%	52.3%	77.3%	1	1
14	18.4%	14.5%	12.1%	52.4%	66.9%	1	1
15	9.3%	33.1%	3.3%	52.4%	85.5%	1	1
16	39.7%	22.1%	6.5%	28.8%	50.8%	1	1
Total	**33.5%**	**20.5%**	**15.2%**	**27.6%**	**48.1%**		

Sources: 2020 U.S. Census, PL94-171, BGD calculations

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[25] Some numbers may not foot due to rounding

H. 2024 Plan CVAP

101.   As with the total population, the distribution of CVAP changed only slightly during the second round of post-2020 redistricting. Numeric counts of CVAP by district for the 2024 Plan are provided in *Appendix C.3*.

102.   In District 10, WNH was decreased by -8.5PP, from 65.2% to 56.7% (compared to the pre-2020 Census plan). APBNH increased by +2.3PP, from 5.6% to 7.8%. Hispanics increased by +5.2PP, from 11.9% to 17.1%. The combined total of APBNH and Hispanic reflected an increase of +7.5PP, from 17.4% to 24.9%. In addition, Asian (non-Hispanic, alone) increased by +1.1PP, from 16.6% to 17.7%.[26] (see *Table IV.H.1*)

103.   In District 11, WNH decreased by -2.3PP, from 62.1% to 59.7%. The APBNH decreased by -0.4PP, from 7.7% to 7.3%, while Hispanics remained flat at 15.3%. The combined APBNH and Hispanic reflected a decrease of -0.3PP, from 23.0% to 22.7%. In addition, Asian (non-Hispanic, alone) increased by +2.6PP, from 14.4% to 17.0% (see *Table IV.H.1*). These differences from 2024 for the D11 are invariant from the 2021 differences.

104.   Under the 2024 plan, the percent combined APBNH and Hispanic CVAP ranged from 15.9% in District 3 to 84.2% in District 15 – or a range of 68.4PP. Large, but a further reduction from the 69.2PP range under the 2021 Plan.

105.   Out of the 13 districts, nine had more than 25% combined APBNH and Hispanic (an increase of one compared to the 116th pre-2020 Plan), while District 11 (with 24.7%) very nearly made ten districts with more than 25% combined. Six had more than 50% combined APBNH and Hispanic (a decrease of one compared to the 116th pre-2020 Plan). In this environment, *all but one* of the 13 districts elected a Democratic representative in the 2024 election.

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[26] Some numbers may not foot due to rounding

Table IV.H.1: 2024 Plan CVAP Percentages

119th	WNH	APBNH	ANH	HISP	APBNH + HISP	>25% BNH + HISP	>50% BNH + HISP
3	63.2%	4.1%	20.1%	11.8%	15.9%	0	0
5	16.7%	48.0%	16.2%	17.3%	65.3%	1	1
6	33.9%	6.1%	37.4%	21.6%	27.7%	1	0
7	41.1%	13.6%	11.9%	32.5%	46.1%	1	0
8	30.7%	47.0%	7.7%	13.9%	60.9%	1	1
9	33.5%	48.2%	7.4%	10.1%	58.3%	1	1
10	56.7%	7.6%	17.7%	17.1%	24.7%	0	0
11	59.7%	7.3%	17.0%	15.3%	22.7%	0	0
12	71.8%	5.7%	11.0%	10.7%	16.4%	0	0
13	19.9%	28.8%	5.3%	45.1%	73.9%	1	1
14	24.2%	17.7%	11.1%	45.9%	63.6%	1	1
15	11.7%	36.3%	3.3%	47.9%	84.2%	1	1
16	46.6%	22.9%	5.9%	23.8%	46.7%	1	0
Total	**40.0%**	**22.5%**	**13.0%**	**23.5%**	**46.1%**		

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

Figure IV.H.1: 2024 Plan CVAP Percentages
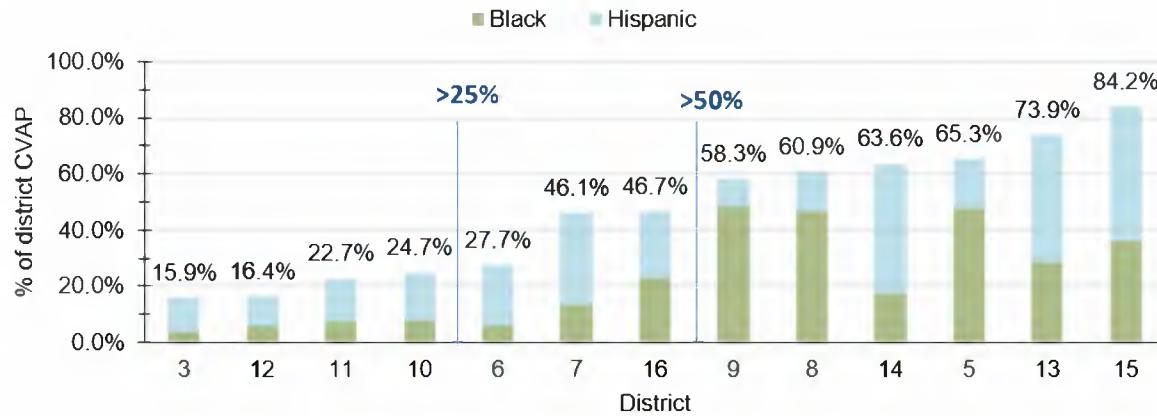
Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD tabulations

Total Population of Cooper Illustrative Plan

106.   Cooper's plan is a radical departure from the 2024 Plan (see *Figure IV.I.1*). D11 is changed from a nearly perfectly compact district to an elongated and contorted one.

Figure IV.I.1: Cooper Alternative Plan and 2024 Plan
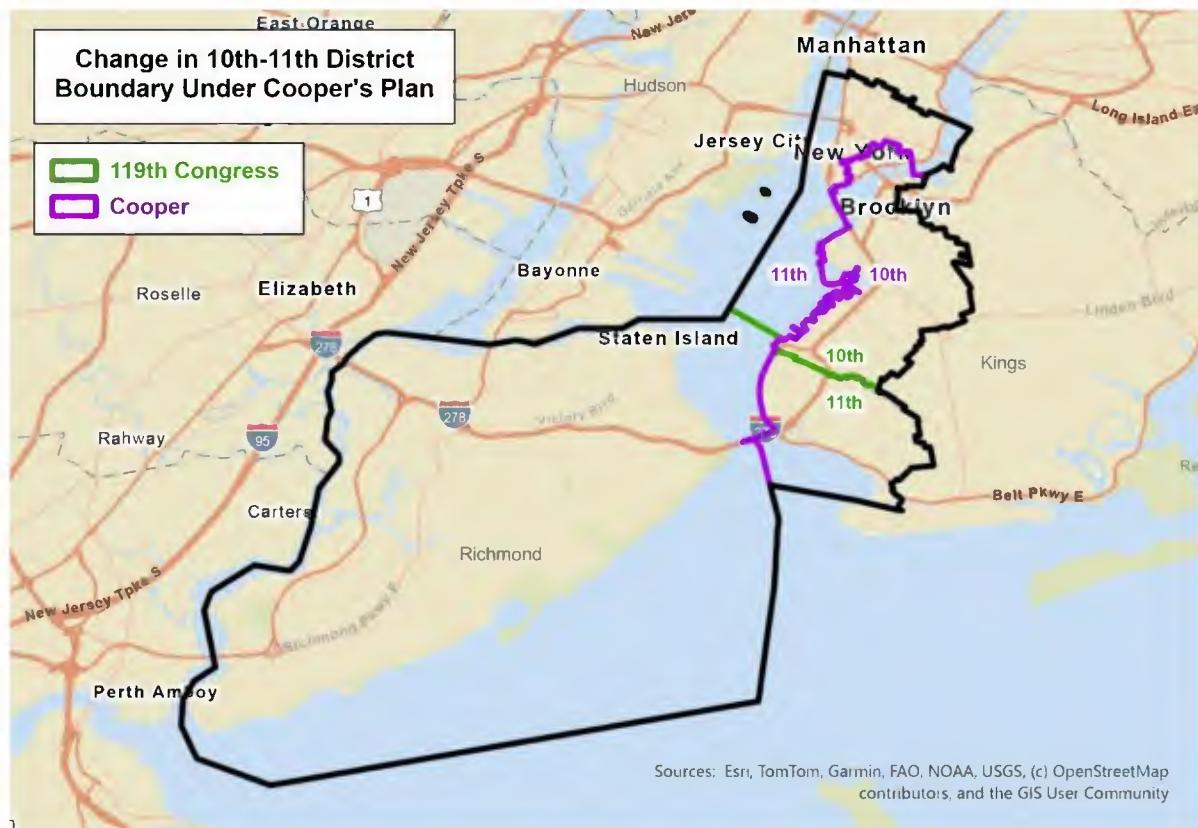
Source: U.S. Census TIGER shapefile for 119th Congress

107.   Cooper does not share his population totals in his report, only the percent distribution of race for the total population by borough, and part of his Illustrative plan (see *Table IV.I.1*). In examining his percentages, I find that his calculation of percentages in Lower Manhattan CD10 is impossible. His NH AP Black + Latino (27.09%) plus NH SR Asian (49.57%) plus NH White (56.447%) is 133.1%. While the remaining pieces of his plan are mathematically possible (because they sum to values less than 100%), each piece of CD10 and CD11 must sum to a correct whole for each congressional district. If one piece is wrong, so must the others. Cooper does not provide the actual population values to determine if and where the other errors lie. This error follows through the rest of his analysis and undermines an accurate characterization of his plan. This type of error does not meet the minimum best practices and standards of demographers and statisticians, and leads to questions about the reliability of his analysis and report.

Table IV.I.1: Cooper Illustrative Plan Figure 10 Population Percentages by Borough

3-Borough Focus Area	NH AP Black	Latino	NH AP Black + Latino	NH SR Asian	NH White
Staten Island: CD 11	10.45%	19.56%	30.01%	11.85%	56.07%
Lower Manhattan: CD 11	6.19%	16.03%	22.21%	16.4%	57.08%
Lower Manhattan: CD 10	8.91%	18.28%	27.09%	49.57%	56.447%
Brooklyn: CD 10 (Part)	4.94%	19.15%	24.08%	26.97%	43.695

Source: Cooper Report, P.19

108.   The total correct population for Cooper's Illustrative Plan, by race and ethnicity, is shown in *Table IV.I.2*. The total populations of 776,971 and 776,972 are balanced.

Table IV.I.2: Cooper Illustrative Plan Total Population

Cooper	Total	WNH	APBNH	ANH	HISP	APBNH + HISP
10	776,971	339,426	38,368	224,005	148,763	187,131
11	776,972	438,499	69,227	104,875	142,028	211,255
Total	**1,553,943**	**777,925**	**107,595**	**328,880**	**290,791**	**398,386**

Source: 2020 Census PL94171

109.   The percentage by race and ethnicity of the total population is shown in *Table IV.I.3*. Comparing the percentages with those of the 2024 Plan for D10, Cooper significantly *reduces* the percentage of White, non-Hispanic (WNH) by -5.0PP, from 48.7% to 43.7%. APBNH decreases by -1.5PP, from 6.5% to 4.9%. Hispanics remain flat at 19.1%. While Asians are increased by +7.1PP, from 21.7% to 28.8%.

110.   Comparing the percentages with those of the 2024 Plan for D11, Cooper significantly *increases* the percentage of White, non-Hispanic (WNH) by +5.0PP, from 51.4% to 56.4%. APBNH increases by +1.5PP, from 7.4% to 8.9%. Hispanics remain flat at 18.3%. While Asians are reduced by -7.1PP, from 20.6% to 13.5%.

111. That is – all of Cooper's efforts result in significantly *increased* representation of WNH, a fractional increase for APBNH, no increase for Hispanics, and the slashing of the largest single minority population in D11: Asians. In this regard, the largest single minority population's representational rights in Cooper's Illustrative D11 (Asians) would likely be violated under the N.Y. VRA.

Table IV.I.3: Cooper Illustrative Plan Total Population Percentages

Cooper	WNH	APBNH	ANH	HISP	APBNH + HISP
10th	43.7%	4.9%	28.8%	19.1%	24.1%
11th	56.4%	8.9%	13.5%	18.3%	27.2%
Total	**50.1%**	**6.9%**	**21.2%**	**18.7%**	**25.6%**

Sources: 2020 Census PL94171

I. CVAP of Cooper Illustrative Plan

112. Cooper also does not provide CVAP populations in his report, only percentages (see *Table IV.J.1*). In examining the statistics in his Figure 9 – the sum of his percentages for District 11 is 100.7%, which again is not possible. And this is without considering "other" populations not included outside of his demographic groupings. This is deeply concerning because these are *the* statistics the court is being asked to rely on to determine the influence of minorities in Cooper's Illustrative Plan. As with his total population statistics, Cooper's CVAP statistics are also likely in error. According to the professional standards of demographers and statisticians, these repetitive errors are again unacceptable and lead to questions about the reliability of his analysis and report.

Table IV.J.1: Cooper Plan CVAP Percentages: Cooper Figure 9

District	NH AP Black CVAP	Latino CVAP	NH AP Black+ Latino CVAP	NH SR Asian CVAP	NH White CVAP
11	8.42%	16.30%	24.71%	13.7%	62.31%
10	6.39%	16.11%	22.50%	22.40%	53.30%

Source: Cooper Report, P.18

113. The corrected CVAP percentages for Cooper's Illustrative Plan are shown in *Table IV.J.2*.

Table IV.J.2: Cooper Plan CVAP Percentages

Cooper	WNH	BNH	ANH	ONH	HISP	APBNH + HISP
10th	53.2%	6.4%	23.4%	0.9%	16.1%	22.5%
11th	62.3%	8.4%	12.4%	0.6%	16.3%	24.7%
Total	58.2%	7.5%	17.3%	0.7%	16.2%	23.7%

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

114. Comparing the percentages with those of the existing 2024 Plan for D10, Cooper *decreases* the percentage of White, non-Hispanic (WNH) CVAP by -3.5PP from 56.7% to 53.2%. APBNH decreases by -1.3PP, from 7.6% to 6.4%. Hispanics decrease by -1.0PP from 17.1% to 16.1%. While Asians are increased by +5.7PP from 17.7% to 23.4%.

115. Comparing the percentages with those of the existing 2024 Plan for D11, Cooper *increases* the percentage of White, non-Hispanic (WNH) CVAP by +2.6PP from 59.7% to 62.3%. APBNH increases by +1.1PP from 7.3% to 8.4%. Hispanics increase by +0.9PP from 15.3% to 16.3%. While Asians are reduced by -4.6PP from 17.0% to 12.4%.[27] That is – all of Cooper's efforts result in significantly increased representation of WNH, a fractional increase for APBNH and Hispanics, and the slashing of the largest single CVAP minority population in D11: Asians.

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[27] The change in percentages between D10 and D11 do not offset exactly, as they do for total population, because the size of the total population is identical (within 1 person) in D10 and D11, while CVAP differs.

V. COMPACTNESS

A. What is Compactness

116.   The National Conference of State Legislatures (NCSL)[28] reports: Some principles have been adopted and used for decades by many states.[29] They are often called "traditional" criteria, including:

> **Compactness**: Based largely on a district's physical shape and on the distance between all parts of a district. A circle is a perfectly compact district under most measures.

> **Contiguity**: All parts of SMD1 are connected. States sometimes make exceptions for parts of a district separated by water.

117.   I previously wrote (Hood, Morrison, and Bryan, 2018, PP.4-8):

> A compact district minimizes the distance between all the parts of a constituency (Butler and Cain, 1992:157). Where race is an important consideration, the courts have viewed bizarrely shaped districts with low levels of compactness as a warning sign that the district may be an unconstitutional racial gerrymander.[30] Even a majority-minority district that is mathematically possible may be viewed as constitutionally questionable if it is noncontiguous and/or is not compact.

118.   The discussion of compactness in federal VRA cases typically focuses on the first Gingles precondition, which states that a minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district.[31] The definition of what is sufficiently compact has been the subject of earnest debate in numerous cases.

119.   The New York Constitution closely parallels this guidance. N.Y. Const. Art. III, §4(c)(1)[32] states, **"Each district shall be as compact in form as practicable**."[emphasis added] And in N.Y. Const. Art. III, §5[33] it states:

> the body exercising the powers of a common council, shall assemble at such times as the legislature, making an apportionment, shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of

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[28] The National Conference of State Legislatures, created by state legislators and legislative staff in 1975, serves America's 50 states, commonwealths, territories and the District of Columbia. Every state legislator and staffer is a member of the organization and has complete access to the latest in bipartisan policy research, training resources, and technical assistance tailored specifically to their needs. https://www.ncsl.org/about-us

[29] https://www.ncsl.org/redistricting-and-census/ncsl-redistricting-and-census-resources

[30] See Bullock (2010) and Pildes and Niemi (1993) on the constitutionality of districts and the issue of compactness.

[31] https://supreme.justia.com/cases/federal/us/478/30/#F16

[32] Readjustments and reapportionments; when federal census to control

[33] Apportionment of assembly members; creation of assembly districts

convenient and contiguous territory in as compact form as practicable. [emphasis added]

120.   The subject of compactness has been addressed in litigation in New York previously. In 1972, the N.Y Court of Appeals opined in *Schneider v. Rockefeller*:[34]

> The term 'compact', on the other hand, has no precise meaning within the context of the constitutional mandate. Moreover, the Constitution does not provide unqualifiedly for compactness. (Matter of *Sherrill v. O'Brien*, Supra.) At a minimum, the Legislature may, in good faith, take account of existing political subdivision lines, topography, means of transportation, and lines of communication without violating this standard. (Matter of *Sherrill v. O'Brien*, Supra.)

121.   In the case of Cooper's draw of a new 11th, the "means of transportation" is relevant because his plan fundamentally changes the mode of transportation between two communities separated by water. Staten Island is directly connected to Brooklyn by the Verrazano Bridge, while it is only connected to Lower Manhattan by ferry.

122.   In 1984, the N.Y Supreme Court opined in   *Community Council v. Carey*:[35] "Legislative districts need only be as compact as practicable."

123.   While often a redistricting requirement, what compactness is has remained elusive. Only recently, in the 2023 federal VRA case of *Alpha Phi Alpha Fraternity v. Raffensperger*,[36] did a court provide a detailed description of what compactness is. The court wrote: [37]

> The compactness inquiry for the Supreme Court's first Gingles precondition for a vote dilution claim under § 2 of the VRA, requiring the plaintiffs to prove that the minority group is sufficiently large and geographically compact to constitute a majority in a reasonably configured district, <u>involves the compactness of the minority population, not the compactness of the contested district</u>. [emphasis added] Voting Rights Act of 1965 § 2, 52 U.S.C.A. § 10301.

124.   According to the *Alpha Phi Alpha Fraternity v. Raffensperger* (*APA*) Court, the relevant factors for compactness under the first Gingles precondition include: population equality, contiguity, empirical compactness scores, the eyeball test for irregularities and contiguity, respect for political subdivisions, and uniting communities of interest.[38] Importantly, the Court

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[34] 293 N.E.2d 67, 340 N.Y.S.2d 889

[35] 479 N.Y.S.2d 746

[36] William Cooper as in this case, was an expert for the Plaintiffs

[37] Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia, 11th Cir., November 28, 2023 Decision [21] https://law.justia.com/cases/federal/district-courts/georgia/gandce/1:2021cv05337/298476/333/

[38] Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia, 11th Cir., November 28, 2023 Decision P.97 [21] https://law.justia.com/cases/federal/district-courts/georgia/gandce/1:2021cv05337/298476/333/

specifically states, "A district that reaches out to grab small and apparently isolated minority communities' is not reasonably compact."[39] [emphasis added].

125.   The N.Y. Constitution requires districts to be compact. However, in stark contrast to both the N.Y. Constitution *and* Gingles, the N.Y. VRA states: "evidence concerning whether members of a protected class are geographically compact or concentrated shall *not* be considered, but may be a factor in determining an appropriate remedy."[40]

B. Cooper's Compactness Analysis

126.   The *APA* Court provided very specific direction that "compactness" pertains to the compactness of population, not physical compactness. Nevertheless, Cooper explains that compactness is a traditional redistricting principle (Cooper Report, ¶26, b.) and only provides a geographic compactness analysis here.

127.   Based on creative and novel logic that because two separate pieces of D11 plan are compact (though separated by five miles of water), Cooper summarily concludes that his plan "is compact" (Cooper Report, ¶31) Cooper acknowledges that his plan is *less* compact (and is in fact significantly less compact than the existing 2024 plan), but explains that this is because of the water features that separate Staten Island and Manhattan (Cooper Report, ¶54):

> By the numbers, the Illustrative Map appears less compact than the 2024 Plan in a head-to-head comparison, though in reality it is comprised of two significantly compact sub-parts, Staten Island and Lower Manhattan-that are connected by around-the-clock free ferry service. There is no population of voters between these two sub-parts of the illustrative CD 11-just Upper New York Bay. The lower compactness score is reflective chiefly of this geographic water and shoreline feature, rather than on-the-ground features of the district.

128.   In the existing 2024 Plan, Staten Island and Brooklyn are connected by the Verrazano Bridge across approximately one mile of water. It usually takes approximately ten minutes to cross, but it can be longer depending on traffic.[41] By comparison, Staten Island is separated from Manhattan by approximately 5 miles of water and is connected by the Staten Island Ferry route, running between the St. George Terminal in Staten Island and the Whitehall Terminal in Manhattan. This route takes approximately 25 minutes[42], not including time to queue, load, and unload at the terminals.

129.   In an effort to defend the significantly greater distance between these component pieces, Cooper focuses on their individual compactness instead, stating (Cooper Report, ¶55):

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[39] Id

[40] NY VRA § 17-206(2)(c)(viii)

[41] Source: author experience

[42] https://www.nyc.gov/html/dot/html/ferrybus/siferryschedule.shtml

Looking more closely at the two components of CD 11 under the Illustrative Map reveals it is in fact significantly compact on land. To start the Staten Island component of the Illustrative Map scores exactly the same as the Staten Island component of the 2024 Plan by any compactness measure. That is not surprising-nothing about this part of the district has changed, but, as under the 2024 Plan, it must be joined with some other part of NYC to achieve sufficient population to form a full district.

130.   Of the lower Manhattan piece he creates in his plan, Cooper states (Cooper Report, ¶56):

The densely populated Lower Manhattan component of CD 11 under the Illustrative Map is compact as well. It scores .48 on Reeck and .33 on Polsby-Popper very respectable compactness score relative to New York's other congressional districts. The Manhattan component of CD 10-including Chinatown, part of the Financial District, and 22 persons in Tribeca (included to zero out the deviation) - scores .51 on Reock and .40 on Polsby Popper. It, too, therefore is quite compact.

131.   Of the Brooklyn piece he creates in his plan, Cooper states (Cooper Report, ¶57):

By the same token, the densely populated Brooklyn component of CD 10 under the Illustrative Map scores high—.43 on Reock and .38 on Polsby-Popper.

132.   Then, Cooper takes a statistical leap and calculates the *average* compactness of the individual, separate pieces (Cooper Report, ¶58):

Taken together (excluding Staten Island), the mean average scores for the two sets of the Illustrative Map equate to .44 Reock and .35 Polsby-Popper, which is slightly better than the mean average across the 26 congressional districts in the 2024 Plan.

133.   In my experience, this approach lacks both precedent and logic. To defend his creative manipulation of conventional compactness measurements, Cooper relies on a novel and counterintuitive narrative that the compactness of his Illustrative Plan should be considered as two separate pieces. This is illogical - since a necessary criterion for all redistricting endeavors is contiguity of geographic space. One cannot simply ignore areas that are either unpopulated or consist solely of water to improve compactness measures.

134.   The water area (essentially Upper New York Bay) in Cooper's Illustrative District 11 is a functional piece of geography that serves as a link between Staten Island and the portion in southern Manhattan, without which his draw would violate the requirement of contiguity. The suggestion that each be considered separately and that the water area between them somehow doesn't count suggests that these pieces of geography are not in fact contiguous.

135.   In addition, his proposal to consider each land portion as separate pieces for the purpose of compactness lacks precedent both in scholarship and court-accepted litigation. In splitting his Illustrative District 11 compactness analysis into two pieces, he is only attempting to mask his plan's obvious failure in preserving any form of prior compactness obtained in recently court-approved plans.

136. If Cooper's logic is held, what are the practical limits? Could Staten Island potentially be connected to the Bronx via the East River? Going further, what about the highly compact Poughkeepsie City (nearly 90 miles up the Hudson), which has a 35.4% Black population and 22.5% Hispanic population?[43] Or perhaps Hudson City (130 miles up the Hudson), with 16.5% Black population and 10.4% Hispanic Population?[44] Those are connected to Staten Island by water? The actual compactness scores of those combinations would be effectively zero – but by Cooper's logic, the compactness would be acceptable – because each distant individual piece is compact. And according to the N.Y. VRA, these combinations are permissible because "evidence concerning whether members of a protected class are geographically compact or concentrated shall not be considered".[45]

C. BGD Compactness Analysis

137. My analysis of compactness takes place in three stages, following the direction provided by the *APA* court. First, I use empirical scores from geographic compactness measures commonly used in redistricting. Second, I use an "eyeball test". Third, I analyze the compactness of minority communities relative to each other.

Empirical Compactness Scores

138. Four of the most common empirical compactness measures are Polsby-Popper, Reock, Convex Hull, and Schwartzberg, and each has unique measurement features (see *Appendix D*). For Polsby-Popper, Reock, and Convex-Hull, the range of possible values is 0-1, where *greater scores* closer to 1 indicate more compactness. For Schwartzberg, the range of possible values descends to 1, where *lower scores* closer to 1 indicate more compactness. *Table V.C.1* shows the compactness values of the pre-2020 Census Plan, the 2021 Plan, the 2024 Plan, and Cooper's Illustrative Plan for D10 and D11 (see *Table V.C.2*).

139. Cooper reports compactness in three different places. First, in the main part of his report in Figure 11, he reports what are implied to be the correct numbers for his districts (Cooper Report, P.21). Second, in his Appendix (Cooper Report, P.252), Cooper reports compactness values from the Dave's Redistricting Application.[46] Third, also in his Appendix (Cooper Report, P.258), he reports values from the Maptitude. BGD calculates compactness scores

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[43] 2020 Census P1

[44] Id

[45] N.Y. VRA § 17-206(2)(c)(viii)

[46] Dave's compactness scores have historically been inconsistent with both results from BGD and Maptitude due to the mathematical properties of their base projection. We believe Dave's uses some variation of the Plate carrée projection with Cartesian coordinates, which distorts shapes and distances. BGD and Maptitude use an equal-area projection, which most accurately preserves area and distances. See Bar-Natan, et al. 2020.

using rigorous and quality-controlled code and have found that our results consistently and reliably replicate results from "Maptitude."

140.   In *Table V.C.1*, Cooper reports a Reock statistic for the existing 2024 Plan from Dave's Redistricting of .56 (shown in green, at A) for D10, which is clearly in error compared to Cooper's own reported Reock statistic of .43 (shown in yellow, at B) and BGD's Reock statistic of .42 (shown in yellow, at C).

Table V.C.1 D10 Compactness Scores of Enacted and Cooper's Illustrative Plan

D10	Reock	Polsby-Popper	Convex Hull	Schwartzberg
116th (BGD)	0.12	0.09	0.46	3.29
118th (BGD)	0.43	0.35	0.79	1.69
119th (Cooper)	0.43	0.35	NA	NA
119th (BGD)	0.42	0.35	0.79	1.68
119th (Daves)	0.56	0.36	NA	NA
Cooper (BGD)	0.30	0.19	0.75	2.32
Cooper (Cooper)	0.30	0.20	NA	NA
Cooper (Maptitude)	0.30	0.19	NA	NA

Sources: BGD Analytics, Cooper's Report
Cooper Report: P. 11 (Cooper's reporting of 2024 Plan)
Cooper Report: P. 21 (Cooper's reporting of Cooper's Illustrative Plan)
Cooper Report: P. 252 (Dave's reporting of 2024 Plan)
Cooper Report: P. 258 (Maptitude reporting of Cooper's Illustrative Plan)

141.   In *Table V.C.2*, Cooper reports a Reock statistic for D11 from Dave's Redistricting for the existing 2024 Plan of .45 (shown in yellow, at A), which again is clearly in error compared to his own reported statistic of .52 (shown in green, at B) and BGD's compactness statistic of .52 (shown in green, at C). Most concerning, Cooper reports a Reock statistic for D11 of his own plan of .18 (shown in red, at D), which again is a significant error compared to BGD's and Maptitude's compactness statistics of .30 (shown at E and F). It is unclear where the .18 statistic came from, or why Cooper would report an erroneous statistic so detrimental to his argument that his plan "is compact". Further evidence that the statistic is in error is the 2-district average (between D10 and D11) Cooper reports right next to it, of .33. If D10 is .30 and .18, then the average cannot be .33. How poor is a Reock compactness score of .18? This would rank D11 at approximately 420th out of 435 congressional districts.[47] Or worse than all

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[47] BGD analytics

but a handful of the very least compact congressional districts in the country. Without any context at all, a redistricting expert would recognize that score as being "very poor" and questionable. This error is again an example of reporting that falls short of acceptable standards for demographers and statisticians, and further undermines the reliability of Cooper's report.

Table V.C.2 D11 Compactness Scores of Enacted and Cooper's Illustrative Plan

D11	Reock		Polsby-Popper	Convex Hull	Schwartzberg
116th (BGD)	0.47		0.47	0.85	1.47
118th (BGD)	0.52		0.57	0.89	1.32
119th (Cooper)	0.52	B	0.57	NA	NA
119th (BGD)	C	0.52	0.57	0.89	1.32
119th (Daves)	0.45	A	0.54	NA	NA
Cooper (BGD)	0.30	E	0.28	0.70	1.91
Cooper (Cooper)	D	0.18	0.27	NA	NA
Cooper (Maptitude)	0.30	F	0.28	NA	NA

Sources: BGD Analytics

Cooper Report: P. 11 (Cooper's reporting of 2024 Plan)

Cooper Report: P. 21 (Cooper's reporting of Cooper's Illustrative Plan)

Cooper Report: P. 252 (Dave's reporting of 2024 Plan)

Cooper Report: P. 258 (Maptitude reporting of Cooper's Illustrative Plan)

142.   Because of these errors in Cooper's work, the following analysis is based on BGD / Maptitude's reported compactness statistics instead.

143.   In the pre-2020 Plan, D10 scored very poorly due to its highly irregular shape. In the 2021 and 2024 Plans, the compactness scores improved significantly. Cooper's Illustrative Plan, in turn, reduces the compactness of the 10th significantly - cutting the Reock score from .42 to .30, and the Polsby-Popper score by half - from .35 to .19.

144.   In the pre-2020 Plan, D11 scored well due to its regular, geometric shape. In the 2021 plan, the compactness scores improved somewhat. In the 2024 plan, the compactness scores were stable. Cooper's draw again reduces the compactness of the 11th significantly – cutting the Reock score from .52 to .30, and the Polsby-Popper score by half - from .57 to .28.

Figure V.C.1 Compactness of D11 from 2024 Plan to Cooper's Illustrative Plan
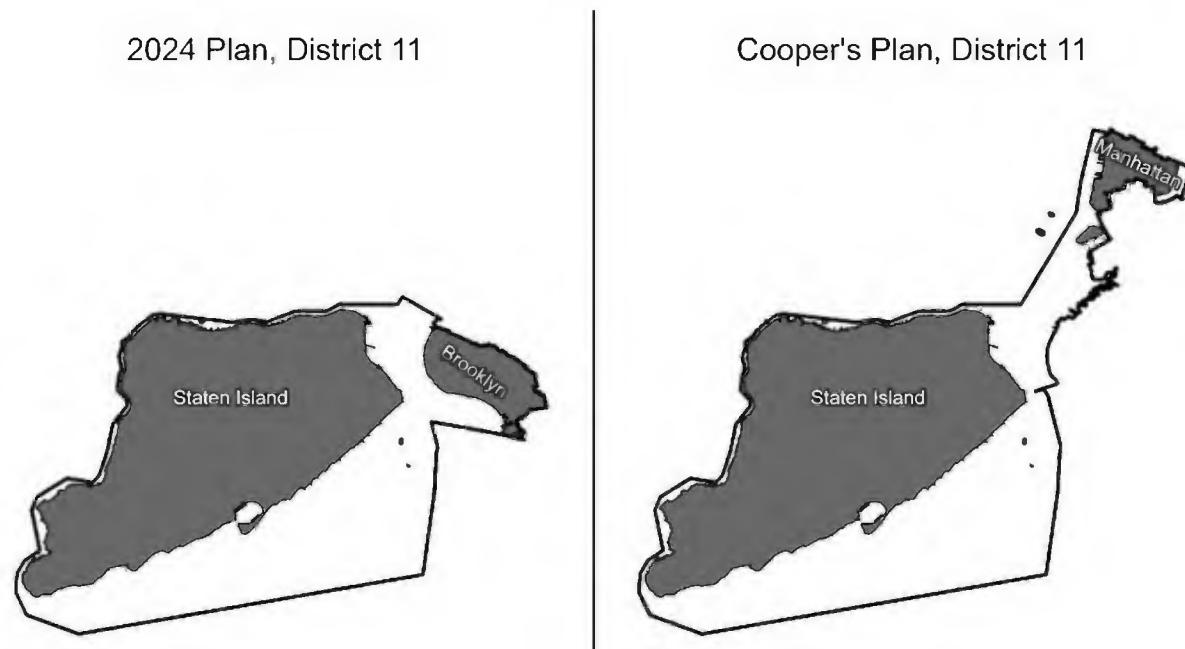
Source: BGD analysis

Eyeball Test

145.   Besides empirical compactness scores, there is also "the eyeball test". In *APA v. GA* [48] the Court contemplated whether each of the 16 Plaintiff illustrative districts passed the "eyeball test" separately from each district's empirical compactness scores. In four of these districts (Cooper SD23, Cooper HD133, Cooper HD145, and Esselstyn SD25), the court determined that the district did not pass.

146.   The discussion of one of these, Cooper's SD23 (see ***Figure V.C.1***), is relevant here. In determining whether Cooper's SD23 passed the "eyeball test" they wrote[49]:

> The Court concludes that Cooper SD-23 does not pass the eyeball test for visual compactness: Cooper SD-23 is an oddly shaped, sprawling district that spans north to south from Wilkes County to Jenkins County and east to west from Twiggs County to Burke County.

The court goes on to say:

> Moreover, plaintiffs, who have alleged a Section 2 violation, have the burden to show that the minority community is sufficiently compact to create the proposed majority-minority

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[48] 700 F.Supp.3d 1136

[49] *Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia*, 11th Cir., November 28, 2023 Decision P.317 [127]

district. Based on the foregoing, the Court concludes Alpha Phi Alpha Plaintiffs have not met their burden to show visual compactness.

Figure V.C.1 Cooper SD23 from APA v. Raffensperger Opinion
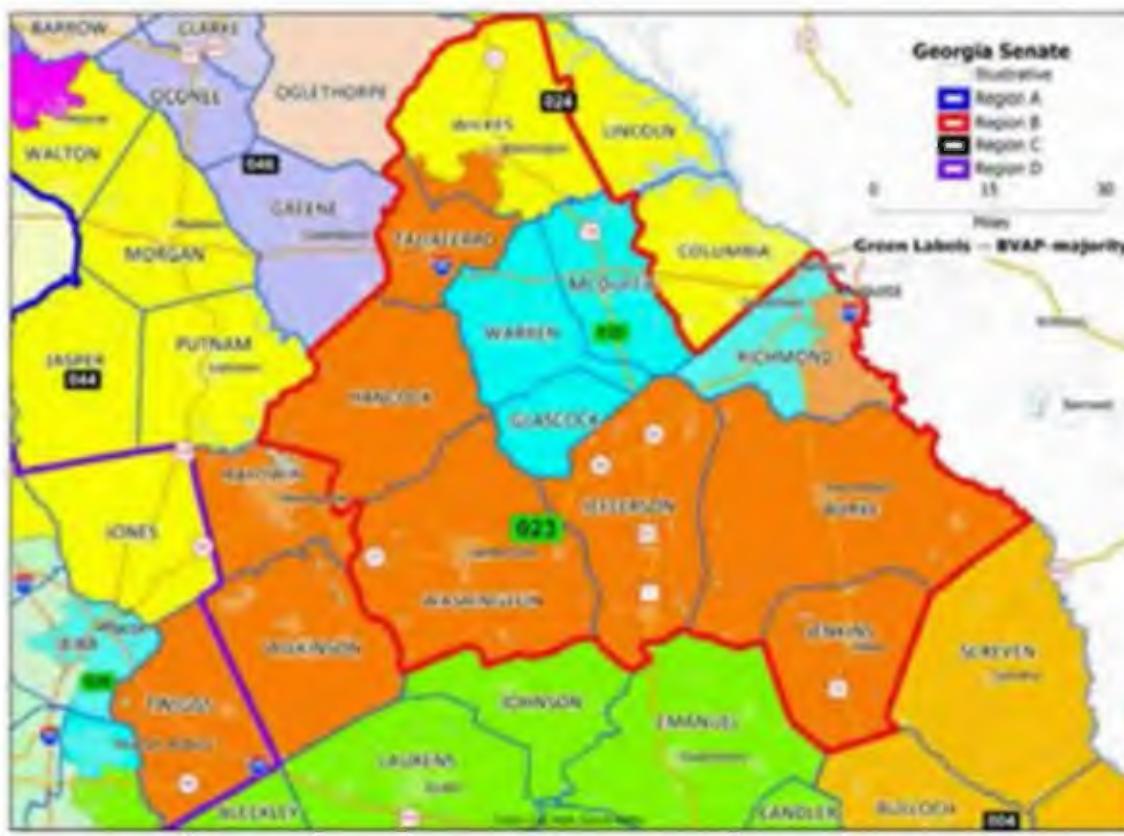
147.   Consistent with these observations and findings, Cooper has drawn an extremely elongated and irregular district in New York's 11th. With the *APA* Court's assessment of SD23 as a basis of comparison, I conclude that Cooper's Illustrative Plan D11 does not pass the eyeball test.

Population Compactness

148.   Last, I examine the compactness of the Hispanic population in SMD1. In *APA v. GA*, the Court stated: [50]

> An electoral district that reaches out to grab small and apparently isolated minority communities is not reasonably compact, for purposes of the compactness inquiry for the Supreme Court's first Gingles precondition for a vote dilution claim under § 2 of the VRA, requiring the plaintiffs to prove that the minority group is sufficiently large and geographically compact to constitute a majority in a reasonably configured district. Voting Rights Act of 1965 § 2, 52 U.S.C.A. § 10301.

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[50] *Alpha Phi Alpha Fraternity, Inc., et al v. Secretary, State of Georgia*, 11th Cir., November 28, 2023 Decision [22]

149.   The population of D11 is concentrated in Staten Island. Since its total population was 495,747 population (as of the 2020 Census), it needed 281,225 additional persons to create a sufficiently populous congressional district. In the 2024 Plan, the closest minority population (in Brooklyn, only one mile away) is connected by the Verrazano Bridge. By comparison, under Cooper's Illustrative Plan, Staten Island is separated from Manhattan by approximately 5 miles of water and is connected by the Staten Island Ferry.

150.   The extension of a congressional district four extra miles to Manhattan is the definition of reaching out to grab small and apparently isolated minority communities. By the criteria of the APA court, Cooper's Illustrative Plan is not compact from a population perspective. Therein lies the tension in the law. The New York Constitution and the U.S. VRA *requires* compactness, while the N.Y. VRA compels a map drawer to disregard compactness entirely.

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VI. COMMUNITIES OF INTEREST

151.   Defining what exactly a "Community of Interest" or "COI" is a topic of lengthy debate in redistricting (Forest, 2004; Grofman and Cervas, 2021). The Brennan Center for Justice provides an inventory of the variety of ways in which states advocate for the use of Communities of Interest and attempt to explain what they are.[51] I have also written about Communities of Interest and have developed frameworks for evaluating them (Swanson and Bryan, 2023). I have observed (Morrison and Bryan, 2019, P.48) that in the broadest sense, a "Community of Interest" is: "a group of people concentrated in a geographic area who share similar interests and priorities—whether social, cultural, ethnic, economic, religious, or political." I have concluded (2019, P.48):

> Preserving a community of interest may mean keeping a neighborhood, village, town, or city intact. Respecting existing communities of interest is often a proxy for ensuring that people with common interests are grouped within the same district. Fragmenting communities of interest unnecessarily may indicate an underlying motive.

152.   Many other interested parties (states, scholars, academic institutions, nonprofits, and more) have weighed in on what they think communities of interest are. I have found the definition provided by Loyola Law School to be particularly useful:

> A community of interest is a neighborhood, community, or group of people who have common policy concerns and would benefit from being maintained in a single district. Another way of understanding a community of interest is that it is simply a way for a community to tell its own story about what neighbors share in common and what makes it unique when compared to surrounding communities. They are defined by the local community members.[52]

153.   It is a traditional redistricting principle that splits of political and administrative geographies and communities of interest should be minimized. However, some splits are almost always necessary, and avoiding splits of one level of geography (such as counties) may actually cause splits in other layers of geography (such as places and school districts). In redistricting for congressional districts, where the differences in population between districts must be minimized, precincts (or VTDs) may be kept intact, but splitting political geographies is unavoidable.

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[51] https://www.brennancenter.org/sites/default/files/analysis/6%20Communities%20of%20Interest.pdf

[52] https://redistricting.lls.edu/wp-content/uploads/Basics-English6.pdf

154. A comprehensive dissertation on NYC's numerous and vast communities of interest is beyond the scope of this report.[53] I focus here on three practical ones: voting precincts/VTDs, neighborhoods (NTAs), and the Asian (specifically Chinese) population Cooper discusses in his report.

A. VTD Splits

155. An important traditional redistricting criterion is to avoid splitting political and administrative geography, such as voting precincts, unless it is necessary to enable balancing the population (as required by law). Cooper presents a summary of the number of geographic splits for the existing 2024 Plan in his report in Figure 5 (*Figure VI.A.1*). Included in this table are neighborhoods and VTDs:

Figure VI.A.1 Cooper's Reported NTA and VTD Splits (Figure 5 of Cooper Report)

Census Geography	Splits Between CDs 10 & 11 in the 2024 Plan
Neighborhoods (NTAs)	4
2020 Voting Districts (VTDs)	4
Population in Split VTDs	133,535

156. Later, Cooper presents a summary of the number of geographic splits for his Illustrative Plan in his report (see *Figure VI.A.2*):

Figure VI.A.2 Cooper's Reported NTA and VTD Splits (Figure 12 of Cooper Report)

Census Geography	Splits Between CDs 10 & 11 in the Illustrative Plan
Neighborhoods (NTAs)	3
2020 Voting Districts (VTDs)	20
Population in split VTDs	20,762

157. Cooper goes on to characterize the differences between the 2024 Plan and his Illustrative Plan as (Cooper Report, ¶62): "The Illustrative Map contains 20 populated VTD splits versus four populated splits in the 2024 Plan." In fact, what Cooper is reporting is the number of VTD splits, which are a 2020 layer of geography. I do not know with certainty, but I believe Cooper drew his illustrative plan in Dave's Redistricting application (since he reports metrics

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[53] I note the *How Communities of Interest Are Evolving in New York City Today* document, produced by members of the CUNY Research Consortium on Communities of Interest, provided as an Appendix in Cooper's expert report.

from this application in his report).[54] If he did, then current New York precinct boundaries are not available there ("This state [New York] has no precinct updates available").[55]

158.   In reality, since 2020, there have been numerous updates and revisions to the 2020 VTDs that have resulted in a different set of boundaries defined by the *current* precinct files. These boundaries are easily accessible through well-known, publicly available resources such as the NY Board of Elections[56] and the University of Florida Elections Lab for each annual vintage.[57] Using current precincts and software capable of analyzing them[58] I determined that neither the 2021 Plan nor the 2024 Plan split *any* current voting precincts. By comparison, Cooper's Illustrative Plan splits 12 (see *Table VI.A.1*).

159.   In this regard, Cooper has mischaracterized the number of political geography splits because he uses an antiquated layer of geography. Further, he provides no evidence that these splits were required to achieve population equality in his Illustrative Plan. Either way, the 2024 Plan complies with traditional redistricting criteria (by maintaining existing political geography). However, Cooper's Illustrative Plan does not.

Table VI.A.1 Cooper Illustrative Plan Precinct Splits: Total Population

2024 ED	D10	D11
61067	843	2,034
61068	19	3,339
65002	1,793	856
65003	431	3,376
65004/65069	2,157	656
65020	1,735	948
65021	2,624	242
65027	1,987	96
65032/65033	898	3,265
65051	1,789	1,166
65052	1,375	703
66072	372	1,177

Sources: 2020 Census, NY Board of Elections, University of Florida Election Lab, BGD analytics

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[54] https://davesredistricting.org/

[55] https://davesredistricting.org/maps#state::NY

[56] https://www.nyc.gov/content/planning/pages/resources/datasets/election-districts

[57] https://election.lab.ufl.edu/

[58]   The industry gold standard: ESRI ArcGIS Pro https://www.esri.com/en-us/arcgis/products/arcgis-pro/overview

B. Neighborhood Splits

160.   New York City is a vast tapestry of neighborhoods and local communities, each with a rich history, unique characteristics, and distinctive populations. The fabric of these can be thought of and measured in innumerable ways. From formal planning[59] to Community Districts, which monitor quality-of-life issues,[60] to local area beliefs,[61] and countless definitions in between. Here, they are measured using Neighborhood Tabulation Areas, or "NTAs," because they are a stable and reliable geography for statistical reporting and enable comparison with statistics that Cooper produces.[62]

161.   Under the pre-2020 Census plan, five NTAs were split into 12 pieces[63] (see *Table VI.B.I*). After the first round of post-2020 Census Redistricting, the 2021 Plan reduced the number of these NTA splits to two, dividing them into four pieces[64] (see *Table VI.B.2*). These splits did not change in the drawing of the 2024 Plan.

Table VI.B.1 Pre-2020 Census (116th) Congressional Plan NTA Splits: Total Population

NTA	D7	D10	D11
Bay Ridge	143	10,100	76,536
Bensonhurst		80,960	23,974
Dyker Heights	2,612	13,563	30,581
Gravesend (East)-Homecrest		561	52,236
Gravesend (West)		42,761	17,762

Sources: BGD Analytics, NYC Planning

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[59] https://www.nyc.gov/site/housing/action/neighborhoods.page

[60] https://www.nyc.gov/content/planning/pages/resources/datasets/community-districts

[61] https://www.nytimes.com/interactive/2023/10/29/upshot/new-york-neighborhood-guide.html

[62] NYC Planning goes on to report: 2020 NTAs are created by aggregating 2020 census tracts and nest within Community District Tabulation Areas (CDTA). NTAs were delineated with the need for both geographic specificity and statistical reliability in mind. Consequently, each NTA contains enough population to mitigate sampling error associated with the ACS, yet offers a unit of analysis that is smaller than a Community District.

Though NTA boundaries and their associated names roughly correspond with many neighborhoods commonly recognized by New Yorkers, NTAs are not intended to definitively represent neighborhoods, nor are they intended to be exhaustive of all possible names and understandings of neighborhoods throughout New York City. Additionally, non-residential areas, including large parks, airports, cemeteries, and other special areas, are represented separately within this dataset and are assigned codes according to their type.

Source: https://www.nyc.gov/content/planning/pages/resources/datasets/neighborhood-tabulation

[63] >0 Population

[64] >0 Population

162. Cooper's assessment of the number of NTA splits in the 2024 Plan is four (see *Figure VI.A.1*), which is the measurement of two pieces of Bay Ridge and Dyker Heights into four pieces (see *Table VI.B.2*).

Table VI.B.2 2021 Plan and 2024 NTA Splits: Total Population

NTA	D10	D11
Bay Ridge	10,243	76,536
Dyker Heights	5,148	41,608

Sources: BGD Analytics, NYC Planning

163. Cooper reports the number of NTA splits in his Illustrative Plan as three (see *Figure VI.A.2*). The Financial District and Tribeca are each split into *four* pieces (see *Table VI.B.3*) – although the D10 piece of Tribeca is of almost no consequence.

Table VI.B.3 Cooper NTA Splits

NTA	D10	D11
Financial District-Battery Park City	21,243	31,728
Tribeca-Civic Center	22	25,368

Sources: Cooper Report, P.265, Exhibit H-5, BGD analytics

C. Racial and Ethnic Communities of Interest

164. There are numerous distinct racial and ethnic neighborhoods across New York City. Cooper chooses to focus on the Chinese population, stating (Cooper Report, ¶24):

> And, as in the 2024 Plan, Chinatown remains entirely within CD 10, keeping it together with Sunset Park—a predominantly Chinese-American neighborhood in Brooklyn. Under the Illustrative Map, Bensonhurst and Bath Beach—two other predominantly Chinese-American neighborhoods in Brooklyn—are located in CD 10 along with Chinatown and Sunset Park.

165. New York's Asian population is discussed in detail in *How Communities of Interest Are Evolving in New York City Today*[65]:

> The Asian population grew across all five boroughs, with the greatest percentage increase in Staten Island (69%). The Asian population increase in the Bronx (43%) and Brooklyn (43%) was also greater than the citywide Asian population increase of 34%. This increasing overall population has many parts. Asian Americans are highly diverse with respect to national origin, language, ethnicity, and religions and faiths. While the Chinese remain the

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[65] 2023. Section IV: Asian New Yorkers, by Tarry Hum. P.50
https://www.nyc.gov/assets/districting/downloads/pdf/Communities-of-Interest-Report.pdf

largest ethnic group at 48% of Asian New Yorkers, the city's Asian population also includes substantial populations of Asian Indians (20%), Koreans (7%), Bangladeshis (6%), Filipinos (6%), Pakistanis (4%), Japanese (2%), Taiwanese (1%), Nepalese (1%) and Thai (1%) as well as small but significant groups of Sri Lankans, Burmese, Indonesians, Cambodians, and Malaysians. Moreover, the Asian Indian population itself is not a monolith because India is home to so many different religions, languages, cultures, and identities. Two percent of Asian New Yorkers identified as Other Asian (2%) or two or more Asian (2%).

166. The authors go on to detail Chinese New Yorkers[66]:

Chinese New Yorkers remain the city's largest Asian subgroup. Table IV-1 provides some overall characteristics. Chinese New Yorkers are highly stratified by educational attainment and English speaking language ability. The percentage (36%) of highly educated Chinese adults (25 years and older) is comparable to the percentage of Chinese adults who have not completed a high school degree (33%). This bifurcation is also evident in English language speaking ability as 12% of Chinese New Yorkers indicate they speak only English and 14% speak no English. Chinese New Yorkers have a homeownership rate of 51% but the share of Chinese homeowners varies across "Chinatown" neighborhoods (as grouped in Census Bureau Public Use Microdata Areas or PUMAs). The median household income for Chinese New Yorkers is $66,877, significantly less than most Asian subgroups in New York City. The poverty rate for Chinese New Yorkers is 20% comparable to the poverty rate for Bangladeshi (22%) and Pakistani New Yorkers (21%). As shown in Map IV-1, Chinese New Yorkers are concentrated in Manhattan's historic Chinatown in the Lower East Side and sizable "Chinatowns" in the Sunset Park in Brooklyn and Flushing/Whitestone in Northeast Queens.

167. However, these population changes differed dramatically by neighborhood (see *Figure VI.C.1*). According to the NY City Department of City Planning, Population Division, the population of Asians in Lower Manhattan is in decline, while it is growing significantly in other parts of the city.

168. Of Southern Brooklyn, they report:[67]

large Asian population increases in Bensonhurst, Gravesend W., and Dyker Heights occurred concomitantly with increases in the Hispanic population, in contrast to Sunset Park Ctr. In western Brooklyn, where the Hispanic population declined somewhat. Asian increases in southern Brooklyn, however, were larger than Hispanic increases. The White population largely declined across southern Brooklyn as well.

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[66] Id, P.51

[67] https://storymaps.arcgis.com/stories/46a91a58447d4024afd00771eec1dd23

169.   Neither the Asian nor the Chinese population in New York City are homogeneous. Cooper asserts that his plan, which divides large numbers of adjacent Chinese in Lower Manhattan, not only preserves this community of interest but actually **"advances this preservation of communities of interest** by joining the existing Chinese-American communities in CD 10 (Chinatown and Sunset Park) with two additional Chinese-American communities (Bensonhurst and Bath Beach)." [emphasis added].

Figure VI.C.1 Asian Population Change 2010-2020

Source: NY Department of City Planning,
https://storymaps.arcgis.com/stories/46a91a58447d4024afd00771eec1dd23
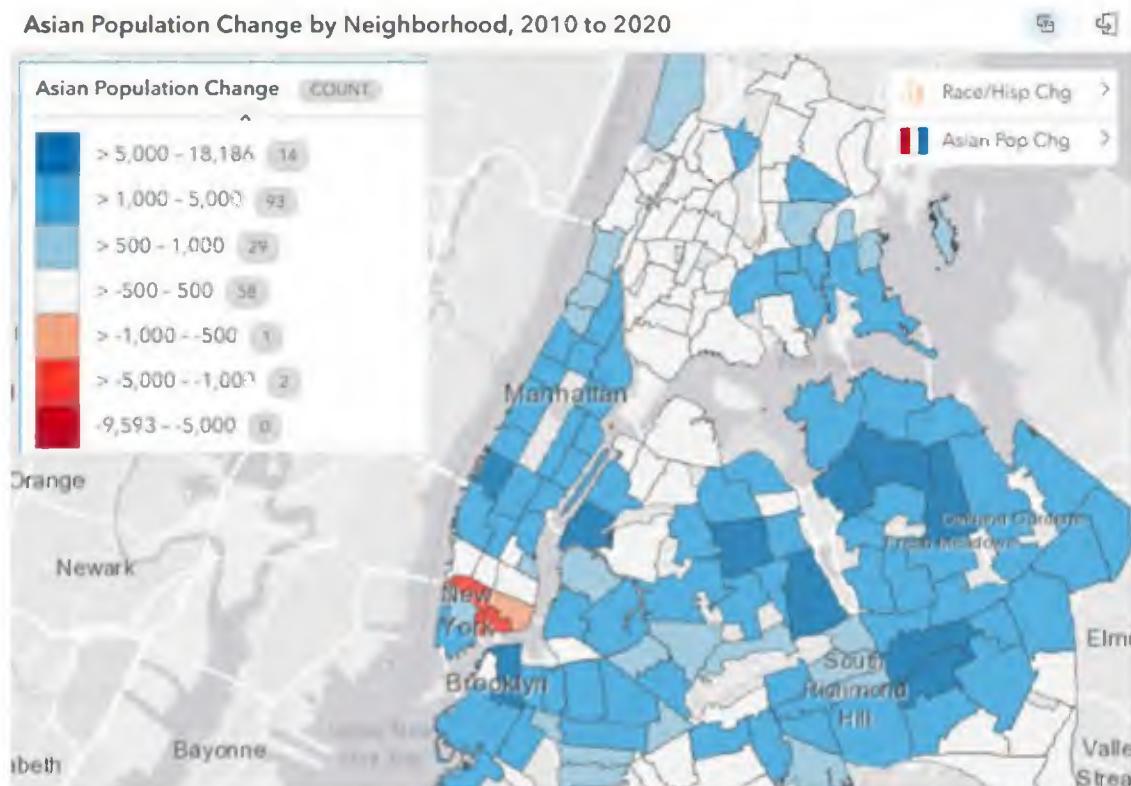
170.   In reality, Cooper's draw *divides* the Chinese-American community of interest in Lower Manhattan that has the most in common, and unifies its pieces with non-adjacent and distant Chinese-American populations that are in fact quite different. Chinatown's majority is Asian, whose origins are immigrants from southeastern China and Hong Kong. The neighborhood's median household income of $35,805 is significantly lower than that of Manhattan ($86,553) and New York ($63,998), and is reflected in the fact that 28% of residents live below the poverty line.[68] Sunset Park (in Brooklyn) is mixed with a majority Hispanic community and

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[68] https://www.nyc.gov/assets/sbs/downloads/pdf/neighborhoods/avenyc-cdna-chinatown.pdf

is more than half foreign-born. Their median household income is much higher, at $50,270.[69] Bensonhurst is regarded as the "Little Italy" of Brooklyn, but is majority White, and (As reported by the NY Department of City Planning) has a growing Asian population. Its median income is $59,756, while only 18% of its population lives below the poverty line. NYC Small Business Services reports[70]:

> More than half of the 173,000 residents of Bensonhurst are foreign-born. The racial makeup of the neighborhood is comprised of 41% White, 38% Asian, 17% Hispanic/Latinx, 3% two or more races, and 1% African American. In recent decades, the Asian population has increased by 57% and comprises the city's largest concentration of immigrants from Hong Kong and the second largest Cantonese population. More than half of the 173,000 residents of Bensonhurst are foreign-born.

171.   These neighborhoods listed by Cooper neglect two of the highest concentrations in Brooklyn: Dyker Heights and Gravesend (West), each with its own unique history and differences from Chinatown. Dyker Heights, for example, originated as a luxury housing development in 1895.[71] These Asian neighborhoods in Brooklyn are not only separated by the East River, but also by other neighborhoods such as Brooklyn Heights, Carroll Gardens, and Park Slope, with almost no Asian population, and Downtown Brooklyn, with only a modest Asian population. According to Google Maps, Bensonhurst is ten miles away, and between a 30-minute and an hour drive from Chinatown. While the Chinese populations Cooper divides in Lower Manhattan are literally across the street from each other. Cooper's characterization of his Illustrative Plan being somehow unifying and the inference that they are somehow the same community of interest are significantly misleading.

172.   *How* these populations are split in Cooper's Illustrative Plan is illuminating. In Lower Manhattan, Cooper's draw may maintain the formal boundaries of Chinatown in D10 – but his draw structurally separates large numbers of Chinese (see *Figure VI.C.2*). Chinatown may be *a* community of interest, but the actual location and concentration of the Chinese population should be the overriding consideration in defining a community of interest (see *Section V Population Compactness*).

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[69] https://www.nyc.gov/assets/sbs/downloads/pdf/neighborhoods/avenyc-cdna-sunsetpark.pdf

[70] https://www.nyc.gov/assets/sbs/downloads/pdf/neighborhoods/Bensonhurst.pdf

[71] https://hdc.org/borough/dyker-heights/#:~:text=Dyker%20Heights%20originated%20as%20a,neighborhood%20through%20the%2020th%20century.

Figure VI.C.2 Chinese Population
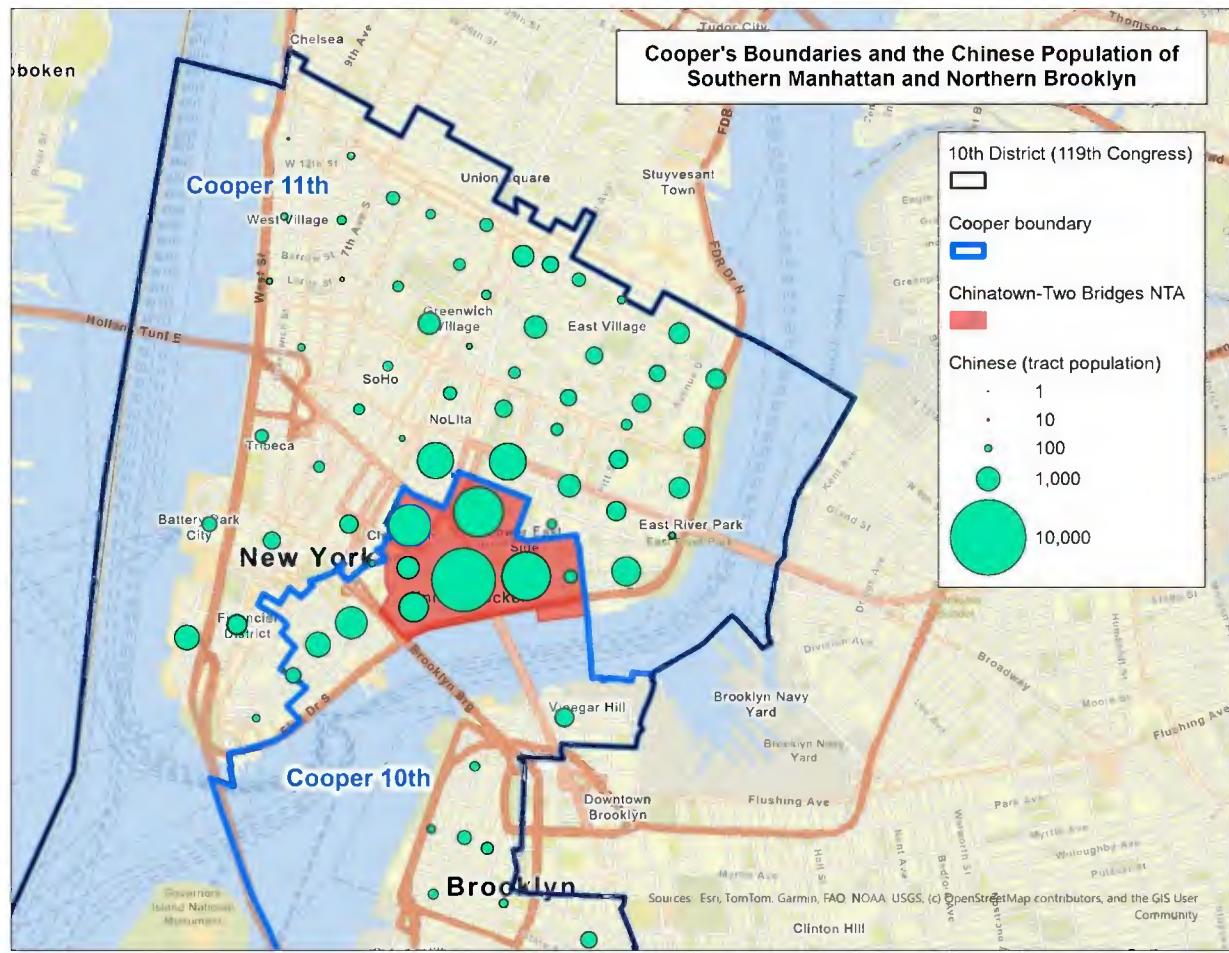
Source: 2019-2023 American Community Survey B02015 Asian Alone Chinese, except Taiwanese, total population

173. The Chinese are not the only population in Lower Manhattan. Other groups, such as Koreans and Indians, are mixed with the larger Chinese population, making Cooper's subdivision of Lower Manhattan impactful to multiple minority groups (see *Figure IV.C.3*).

Figure VI.C.3 Asian Population by National Origin
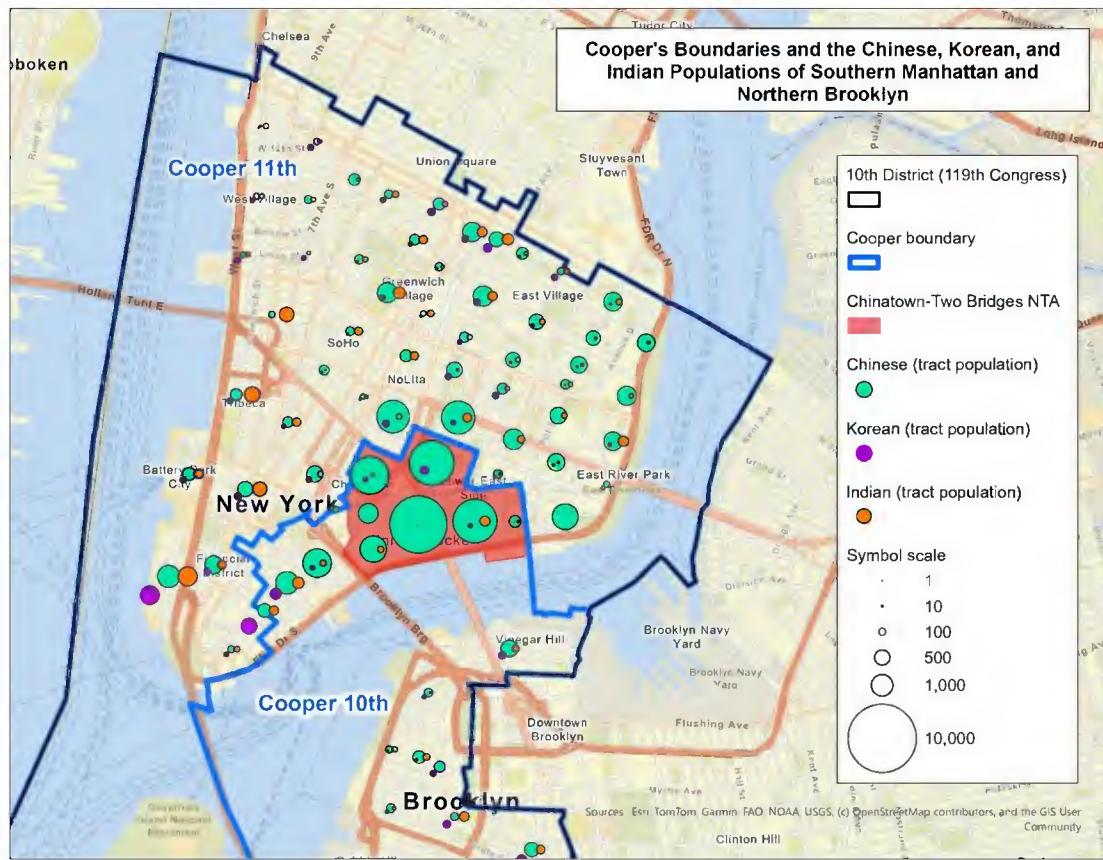
Source: BGD analytics, American Community Survey B02015 Asian Alone by Selected Groups
https://data.census.gov/table/ACSDT5Y2023.B02015?q=B02015:+Asian+Alone+by+Selected+Grou
ps&g=050XX00US36047$1400000,36061$1400000,36085$1400000

174.   Not only are local, highly concentrated populations of Asians divided by Cooper's plan, but also the number of Asians and their representation in each district. In the existing 2024 plan, the Asian population was nearly perfectly distributed between D10 and D11, with 21.7% of D10, and 20.6% of D11 being Asian (see *Table IV.G.2*).

175.   Under Cooper's Illustrative Plan, large numbers of Asians are displaced. 36.2% of the Asian population is moved from D10 (at 1), and 57.1% are moved from D11 (at 2) for a total of 46.5% of the Asian population changing districts (see *Table VII.B.1*). This is significantly higher than any other racial and ethnic group. This results in a significant redistribution of Asian CVAP to 23.4% of D10, and 12.4% of D11 being Asian (see *Table IV.J.2*)

VII. DIFFERENTIAL CORE RETENTION

176.   A *Core Retention Analysis* (CRA) is simply a demographic accounting of the movement of persons from one district to another brought about by redistricting. A CRA is a way of quantifying precisely how a realignment affects the continuity of representation among a district's residents. Courts have recognized the need to preserve the core of a prior established district as a legitimate redistricting criterion.[72] In the New York Constitution, it states:[73]

> Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. **The commission shall consider the maintenance of cores of existing districts,** [emphasis added]

177.   In the *Alexander v. S.C. State Conf. of the NAACP* decision by the U.S. Supreme Court (referring to minimizing change and core retention analysis) stated, "Lawmakers do not typically start with a blank slate; rather, they usually begin with the previous map and make alterations to fit various districting goals.[74] In describing what constitutes a traditional redistricting criterion, the *Alexander* court stated[75]

> Indeed, as we have defined them, "traditional districting principles" are simply anything relevant to drawing districts other than race. They include "principles such as compactness, contiguity, and respect for political subdivisions." Id., at 647. They also include "keeping communities of interest together, and protecting incumbents," Rucho, 588 U. S., at 706–707, **as well as "minimizing change,"** Alabama Legislative Black Caucus v. Alabama, 575 U. S. 254, 259 (2015). [emphasis added]

178.   Cooper characterizes minimizing change (as measured by core retention) during redistricting *differently* from the *Alexander* court and the guidance provided by the New York Constitution. Not only does he say that he doesn't consider minimizing change to be a traditional redistricting criterion (only a "background consideration") – but that this consideration is inherently problematic (Cooper report, ¶27):

> Core retention of a previous districting plan (or "least change") is always a background consideration as well. But it should never preempt traditional redistricting principles. Otherwise, problematic or flawed redistricting plans could become locked in and self-perpetuating. Nonetheless, I considered core retention for the Illustrative Map.

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[72] *Abrams v. Johnson*, 521 U.S. 74, 84 (1997)

[73] N.Y. Const. art. III, § 4(c)(5)

[74]   *Alexander   v.   S.C.   State   Conf.   of   the   NAACP,*   144   S.   Ct.   1221   (2024),   see https://www.supremecourt.gov/opinions/23pdf/22-807_3e04.pdf P. 22

[75] Id, PP. 45-46

179.   Core Retention Analysis has historically only considered the *total* populations of districts. Our strategy is to broaden this model to analyze core retention of groups by race and ethnicity. This is known as a Differential Core Retention Analysis – or "DCRA". The "differential" is the result of the analytic findings by race and ethnicity, such as White non-Hispanic and Black or African Americans, Asian non-Hispanics, and Hispanics.[76]

180.   A DCRA of populations by race and ethnicity can frequently reveal significant differences from the total population. This is an invaluable tool for identifying whether a subgroup has been targeted for disproportionate or discriminatory moves. In this case, a DCRA provides valuable insights on how the 2024 Plan compares to the pre-2020 Census Plan. In short, while there were large numbers of people moved from D10 (to reduce it towards the target population and improve its compactness, among other criteria), each racial and ethnic group was moved more or less equally. In D11, core retention was very high because it was already a highly compact district and only needed to add people towards the target population. Again, each racial and ethnic group was moved more or less equally. How Cooper "considered" core retention in his Illustrative Plan is unclear, because the analysis shows that *significant* numbers of the population by race and ethnicity are moved differentially between D10 and D11.

A. Pre-2020 Census to 2024 Plan DCRA

181.   *Table VII.A.1* shows the core retention rates between the existing pre-2020 Census Plan and the 2024 Plan for the total population, white, non-Hispanic, Any Part Black, Asian, and Hispanic. District 10 (with 803,803 population) was overpopulated by nearly 27,000 people – making that draw an exercise in *decreasing* its footprint. While District 11 (with 766,236 population) was underpopulated by over 10,000 people – making that draw an exercise in *increasing* its footprint. We know that D10 was significantly reconfigured during redistricting – beyond what was needed to balance its population.

182.   And this is borne out in its DCRA numbers. As shown in *Table VII.A.1* (at 1), 72.4% of the existing CVAP was moved out of D10, and this was spread relatively equally between different population groups. D11, by comparison, was left relatively intact, as shown in *Table VII.A.1* (at 2), again with limited differential impact by race and ethnicity. The complete DCRA tables with all moves are shown in *Appendix E*.

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[76] "Differential" core retention is not novel. We have calculated and reported these metrics in every case we have participated in during and after the 2020 redistricting cycle, and in some cases, these metrics were foundational to opinions. For example, in the Wisconsin Supreme Court decision during their redistricting litigation:

see: https://www.wicourts.gov/courts/supreme/origact/docs/21ap1450_opdec.pdf

Table VII.A.1 Pre-2020 Census (116th) – 2024 Plan (119th) Differential Core Retention of CVAP Population[77]

116th	119th	Total	WNH	BNH	ANH	HISP
D10	Retained	139,715	97,810	6,699	20,302	13,980
	Moved	366,401	232,252	21,591	63,462	46,044
D11	Retained	457,204	283,155	36,066	62,331	73,102
	Moved	53,959	34,056	3,268	11,181	5,284
Total	Retained	596,919	380,966	42,765	82,633	87,082
	Moved	420,360	266,308	24,859	74,643	51,328
D10%	Retained	27.6%	29.6%	23.7%	24.2%	23.3%
	Moved ①	72.4%	70.4%	76.3%	75.8%	76.7%
D11%	Retained ②	89.4%	89.3%	91.7%	84.8%	93.3%
	Moved	10.6%	10.7%	8.3%	15.2%	6.7%
Total%	Retained	58.7%	58.9%	63.2%	52.5%	62.9%
	Moved	41.3%	41.1%	36.8%	47.5%	37.1%

Sources: 2019-2023 American Community Survey, 2019-2023 DOJ Special Tabulations, BGD Calculations

B. 2024 to Cooper Illustrative Plan DCRA

183.   *Table VII.B.1* shows the core retention rates between the existing 2024 Plan and Cooper's Illustrative Plan for the total population, White, non-Hispanic; Any Part Black. non-Hispanic, Asian, non-Hispanic and Hispanic. The DCRA numbers show significant changes from the existing plan, including the movement of 41.4% of CVAP in D10 (at 4) and 31.5% of D11 (at 5). Among the D11 population that was moved, there are significant differences by race and ethnicity. The 31.5% who are moved overall is an average between only 12.9% of APBNH, and 57.1% of Asians, with the 27.6% of WNH and 26.5% of Hispanics being closer to the overall average.

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[77] Total: Total CVAP, WNH: White non-Hispanic, BNH: Any Part Black, non-Hispanic, ANH: Asian, non-Hispanic, HISP: Hispanic

Table VII.B.1 2024 Plan – Cooper Illustrative Plan Differential Core Retention of CVAP Population

119th	Cooper	Total	WNH	BNH	ANH	HISP
D10	Retained	292,800	157,093	24,089	56,382	52,289
	Moved	207,107	126,308	14,151	31,962	33,134
D11	Retained	349,205	220,157	32,615	37,128	57,481
	Moved	160,312	84,119	4,824	49,448	20,683
Total	Retained	642,005	377,250	56,704	93,510	109,771
	Moved	367,419	210,427	18,975	81,411	53,817
D10%	Retained	58.6%	55.4%	63.0%	63.8%	61.2%
	Moved	41.4%	44.6%	37.0%	36.2%	38.8%
D11%	Retained	68.5%	72.4%	87.1%	42.9%	73.5%
	Moved	31.5%	27.6%	12.9%	57.1%	26.5%
Total%	Retained	63.6%	64.2%	74.9%	53.5%	67.1%
	Moved	36.4%	35.8%	25.1%	46.5%	32.9%

Sources: 2019-2023 ACS, BGD Calculations

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VIII. Political Performance

184.　In order to understand the redistricting landscape of New York, it is important to not only understand the demographic and physical characteristics of each plan, but also the political landscape of the plans.[78]　I use election outcomes and standard demographic techniques to report election outcomes under four plans:

- The 2018 election, under the Existing Plan (pre-2020 Census, or 116th Congress),
- The 2022 election, under the 2021 Plan (first post-2020 Census, or 118th Congress),
- The 2024 election, under the 2024 Plan (second post-2020 Census, or 119th Congress), and
- The 2024 election, under Cooper's Illustrative Plan

A. 2018 Election

185.　NYC voters overwhelmingly vote Democrat.　In the 2018 election, every one of 13 U.S. House districts in and around NYC elected a Democrat, including D11 (see *Figure VIII.A.1*). In D10, the election was a landslide, with 82.1% of the votes going to Democratic candidate Jerrold Nadler (see *Figure VIII.A.2*). In D11, the election was much closer, with 53.0% of the votes going to Democratic candidate Max Rose (see *Figure VIII.A.3*) while Republican candidate Dan Donovan garnering 46.6% of the votes.

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[78] My analysis is a simple mathematical calculation and reporting of New York's election results and is not a definitive or scientific analysis of election results or is intended as proof of political gerrymandering.　Such analysis and measures exist.　"a definitive measure of partisan gerrymandering has long been the "holy grail," and adjudication of partisan gerrymandering claims has long been a dialectic between courts demanding and academics striving to provide quantitative measures of increasing sophistication.　This dialectic has spurred a proliferation of such measures and techniques.　Some of the leading ones include partisan bias, the efficiency gap, the declination, the mean-median difference, the lopsided-outcomes test, and ensemble methods." (Cover and Niven, 2021)

Figure VIII.A.1 NYC 2018 U.S. House Results

Sources: BGD analytics, https://www.nytimes.com/interactive/2018/11/06/us/elections/results-house-elections.html
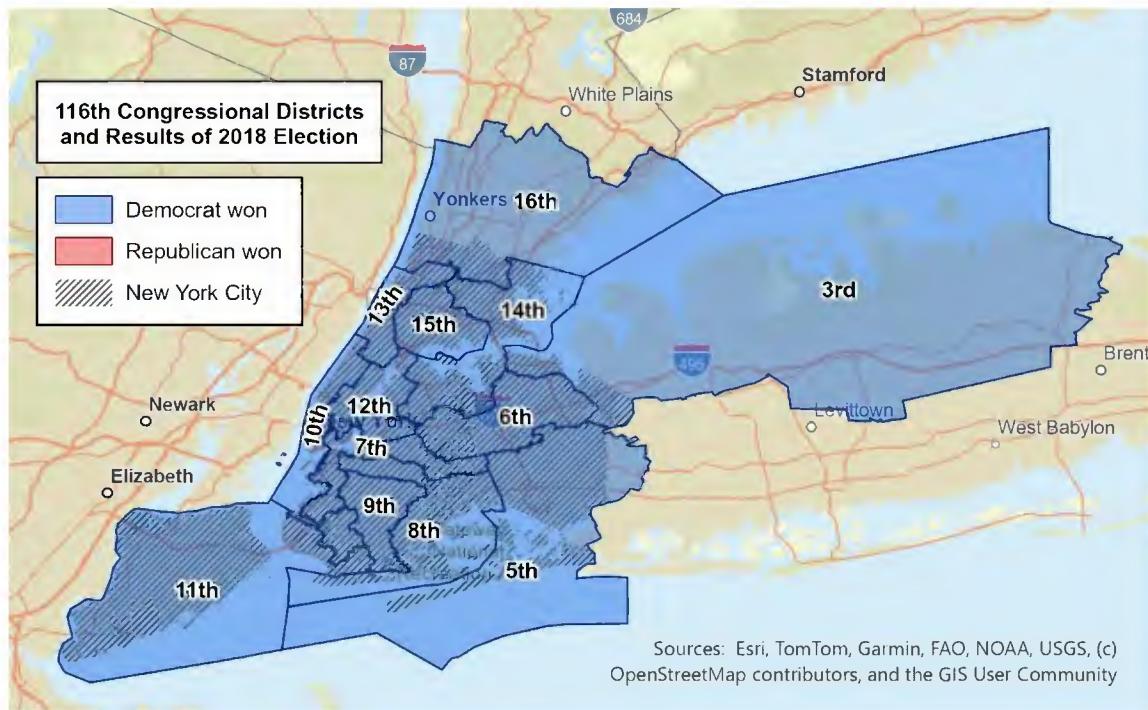
Figure VIII.A.2 New York 2018 U.S. House District 10 Results

Percent	Candidate	Party	Votes	Winner
82.1%	**Jerrold Nadler***	**Dem**	**173,095**	✓
17.9%	Naomi Levin	GOP	37,619	

100% of precincts reporting (559/559)   *Incumbent

210,714 total votes

Source: https://www.politico.com/election-results/2018/new-york/

Figure VIII.A.3 New York 2018 U.S. House District 11 Results

Percent	Candidate	Party	Votes	Winner
53%	Max Rose	Dem	101,823	✓
46.6%	Dan Donovan*	GOP	89,441	
0.4%	Other		774	

Source: https://www.politico.com/election-results/2018/new-york/

B. 2020 Election

186.   In D10, the election was again a landslide, albeit with a lower 74.6% of the votes going to Democratic candidate Jerrold Nadler (see *Figure VIII.B.2*). But unlike the 2018 election, D11 swung to Republican candidate Nicole Malliotakis (see *Figure VIII.B.3*) with 53.1% of the votes, or a +6.5PP increase over Republican candidate Dan Donovan in 2018.

Figure VIII.B.1 NYC 2020 U.S. House Results

Sources: BGD analytics, https://www.nytimes.com/interactive/2020/11/03/us/elections/results-house.html
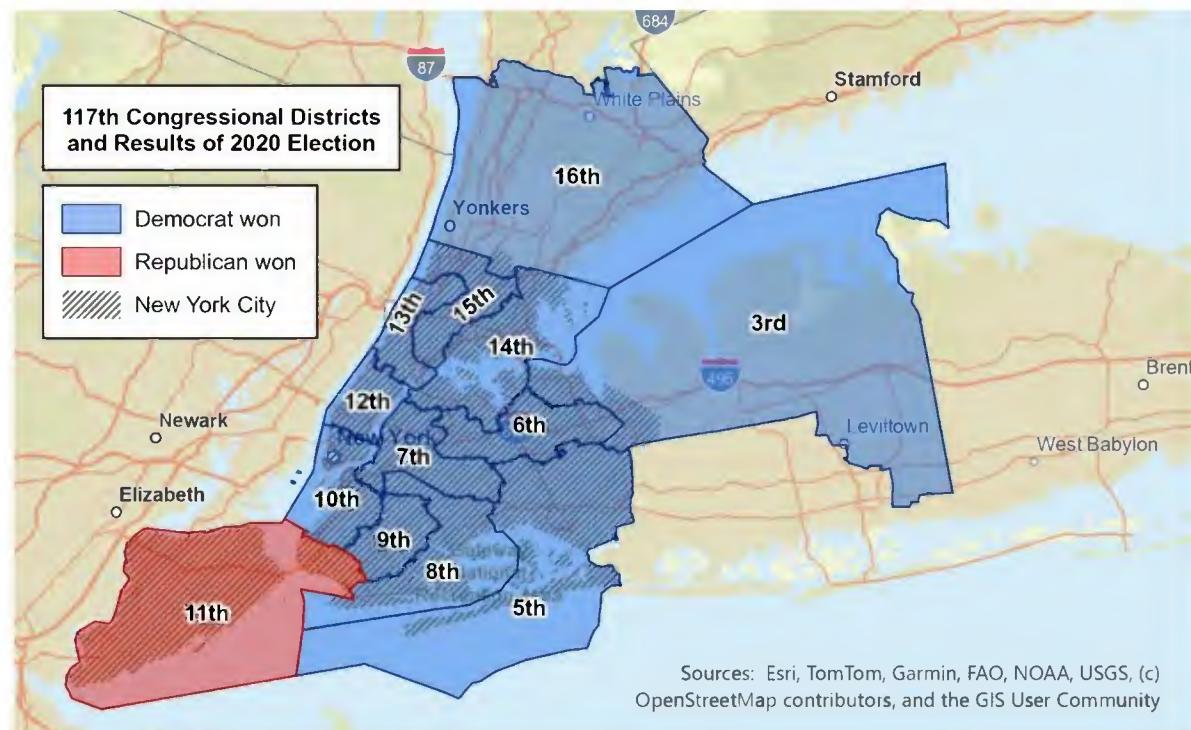
Figure VIII.B.2 New York 2020 U.S. House District 10 Results

CANDIDATE	VOTES	PCT.
Jerrold Nadler* DEM ✔	206,310	74.6%
Cathy Bernstein GOP	66,889	24.2%

100% of precincts reporting (559/559) *Incumbent
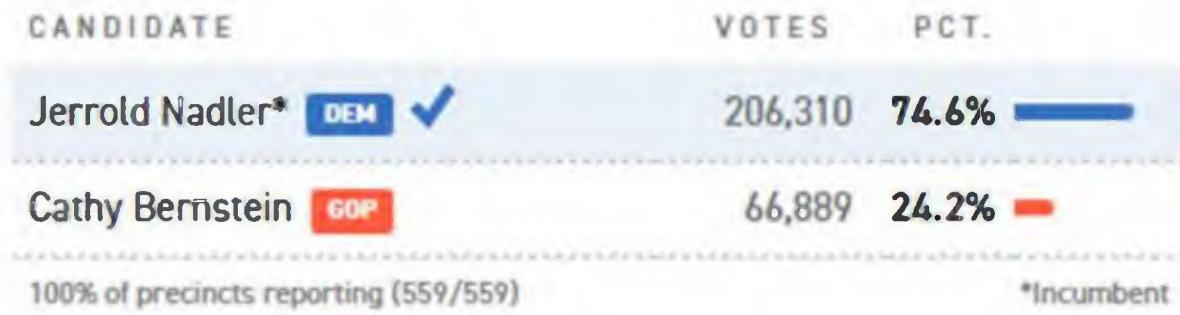
Source: https://www.politico.com/2020-election/results/new-york/house/

Figure VIII.B.3 New York 2020 U.S. House District 11 Results

CANDIDATE	VOTES	PCT.
Nicole Malliotakis GOP ✔	155,608	53.1%
Max Rose* DEM	137,198	46.9%

100% of precincts reporting (489/489) *Incumbent

Source: https://www.politico.com/2020-election/results/new-york/house/

C. 2022 Election

187.   The 2022 election was held under the newly drawn district boundaries coming out of the NY Special Master's draw for the 118th. This time, every U.S. House seat in and around NYC, except *two* (the 3rd and 11th), elected a Democrat (see *Figure VIII.C.1*). In D10, the election was again a landslide, with 83.9% of the votes going to Democratic candidate Daniel Goldman (see *Figure VIII.C.2*).

188.   The new configuration of D11 under the 2021 Plan had 22.7% combined APBNH and Hispanic CVAP (see *Figure IV.F.1*) – comparable to the previous configuration that had 23.0% combined CVAP (see *Figure IV.D.1*). In this election, candidate Nicole Malliotakis won 62.1% of the vote (see *Figure VIII.C.3*) – an increase of +9.0PP over 2020.

Figure VIII.C.1 NYC 2022 U.S. House Results

Sources: BGD analytics, https://www.nytimes.com/interactive/2018/11/06/us/elections/results-house-elections.html
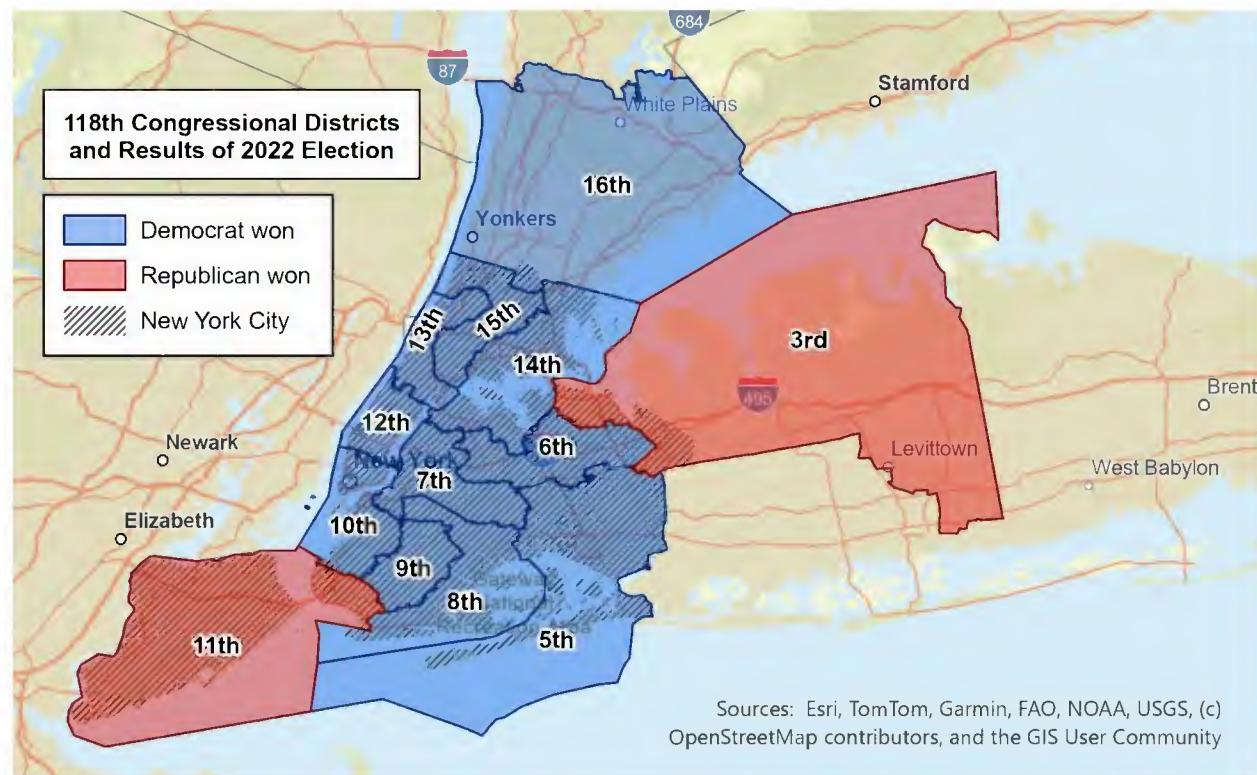
Figure VIII.C.2 New York 2022 U.S. House District 10 Results
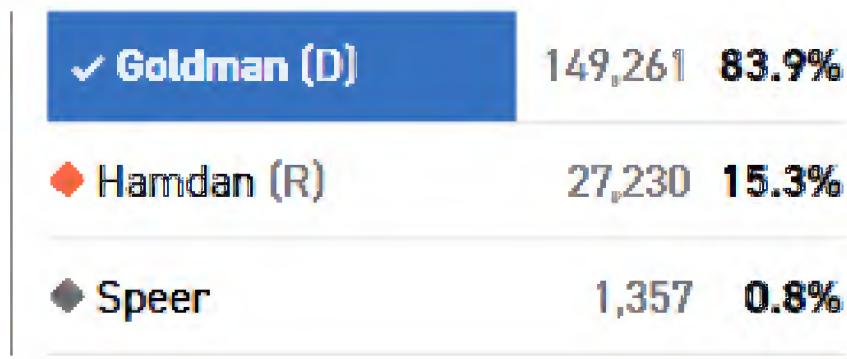
Source: https://www.politico.com/2022-election/results/new-york/house/

Figure VIII.C.3 New York 2022 U.S. House District 11 Results

Source: https://www.politico.com/2022-election/results/new-york/house/

D. 2024 Election

189.   The 2024 election was held under the second set of newly drawn district boundaries for the 119th. In U.S. House District 10, the election was again a landslide, with 82.3% of the votes going to Democratic candidate Daniel Goldman. (see *Figure VIII.D.2*). And just like the 2020 election, the 11th elected Republican Nicole Malliotakis (see *Figure VIII.D.3*). The new 2024 configuration of D11 had 22.7% combined APBNH and Hispanic CVAP (see *Figure IV.H.1*) – nearly identical to the % combined CVAP under the 2021 Plan. And in this election, candidate Malliotakis won 64.1% of the vote (see *Figure VIII.D.3*) – an increase of *+11.0PP* over 2020 and +2.0PP over 2022.

190.   In total, over 52 U.S. House races in and around NYC (2018, 2020, 2022, and 2024 for 13 districts), Democrats won 48.

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Figure VIII.D.1 NYC 2022 U.S. House Results

Sources: BGD analytics, https://www.politico.com/2024-election/results/new-york/house/
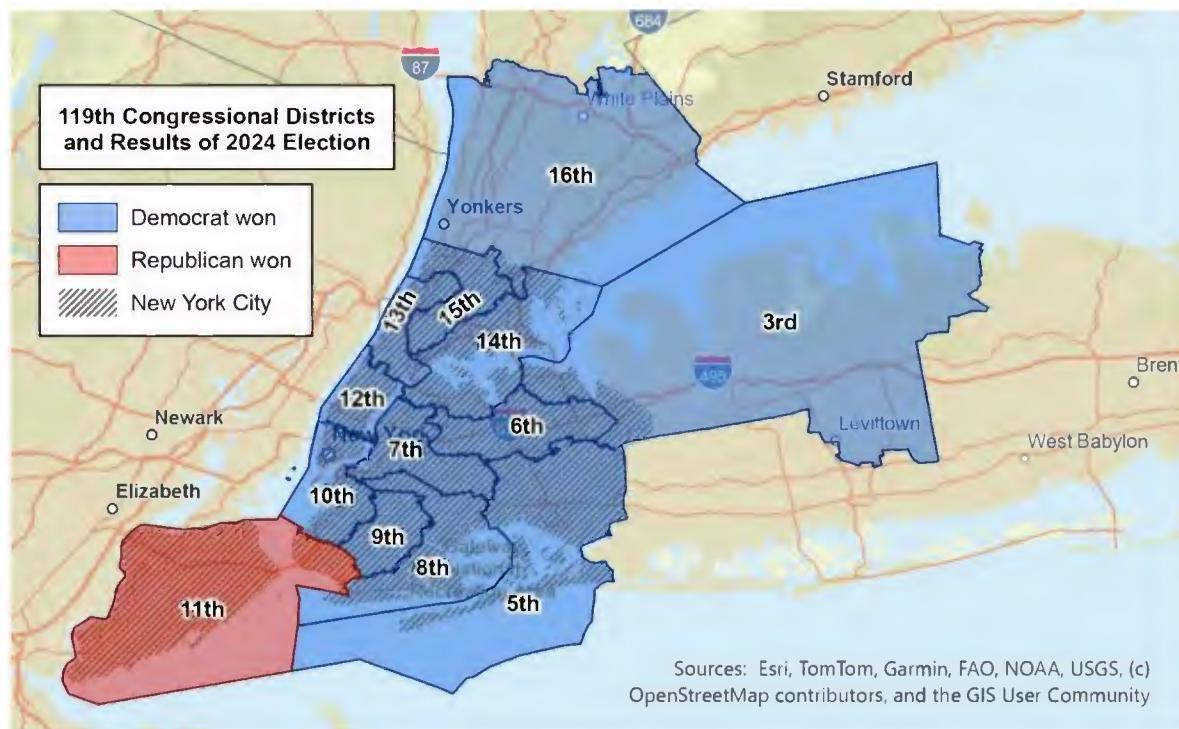
Figure VIII.D.2 New York 2024 U.S. House District 10 Results

		Votes	Pct.
✓	Daniel Goldman* (D)	206,206	82.3%
○	Alexander Dodenhoff (R)	37,537	15.0
○	Paul Briscoe (Oth.)	6,747	2.7

Source: https://www.politico.com/2024-election/results/new-york/house/

Figure VIII.D.3 New York 2024 U.S. House District 11 Results

	Votes	Pct.
✓ Nicole Malliotakis* (R)	167,099	64.1%
○ Andrea Morse (D)	93,586	35.9
* Incumbent		99% of expected vote in

Source: https://www.politico.com/2024-election/results/new-york/house/

E. Cooper Plan

191.   The percentage voting Democrat in the 2024 elections is shown by precinct in *Figure VIII.E.1*.[79] In order to assess the hypothetical U.S. House performance in Districts 10 and 11 under Cooper's Illustrative Plan, I have measured election outcomes of the individual voting precincts that Cooper moved, then aggregated those precincts to Cooper's Districts 10 and 11.

192.   Cooper's draw moves 137 voting precincts (2024) from District 10 to District 11. In the 2024 election, those precincts had a distinct political preference. In the 2024 presidential race, 80.2% voted Democrat. In the 2024 U.S. Senate race, 81.4% voted Democrat. And in the 2024 U.S. House race, 80.5% voted Democrat (see *Table VIII.E.1*).

193.   Cooper's draw moves 119 voting precincts (2024) from District 11 to District 10. In the 2024 election, those precincts *also* had a distinct political preference. In the 2024 presidential race, 41.5% voted Democrat. In the 2024 U.S. Senate race, 47.0% voted Democrat. And in the 2024 U.S. House race, 41.9% voted Democrat. (see *Table VIII.E.1*).

Table VIII.E.1 Cooper Illustrative Plan 2024 % Democrat Election Results for Moved Precincts

	Presidential	U.S. Senate	U.S. House
D10 to D11	80.2%	81.4%	80.5%
D11 to D10	41.5%	47.0%	41.9%

Sources: BGD analytics, University of Florida Elections Lab https://election.lab.ufl.edu/

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[79] As an average of the percentage voting Democrat in the presidential, U.S. Senate, and U.S. House races.

Figure VIII.E.1 Map of New York 2024 Voting Precincts % Democrat

Sources: BGD analytics, University of Florida Election Lab https://election.lab.ufl.edu/
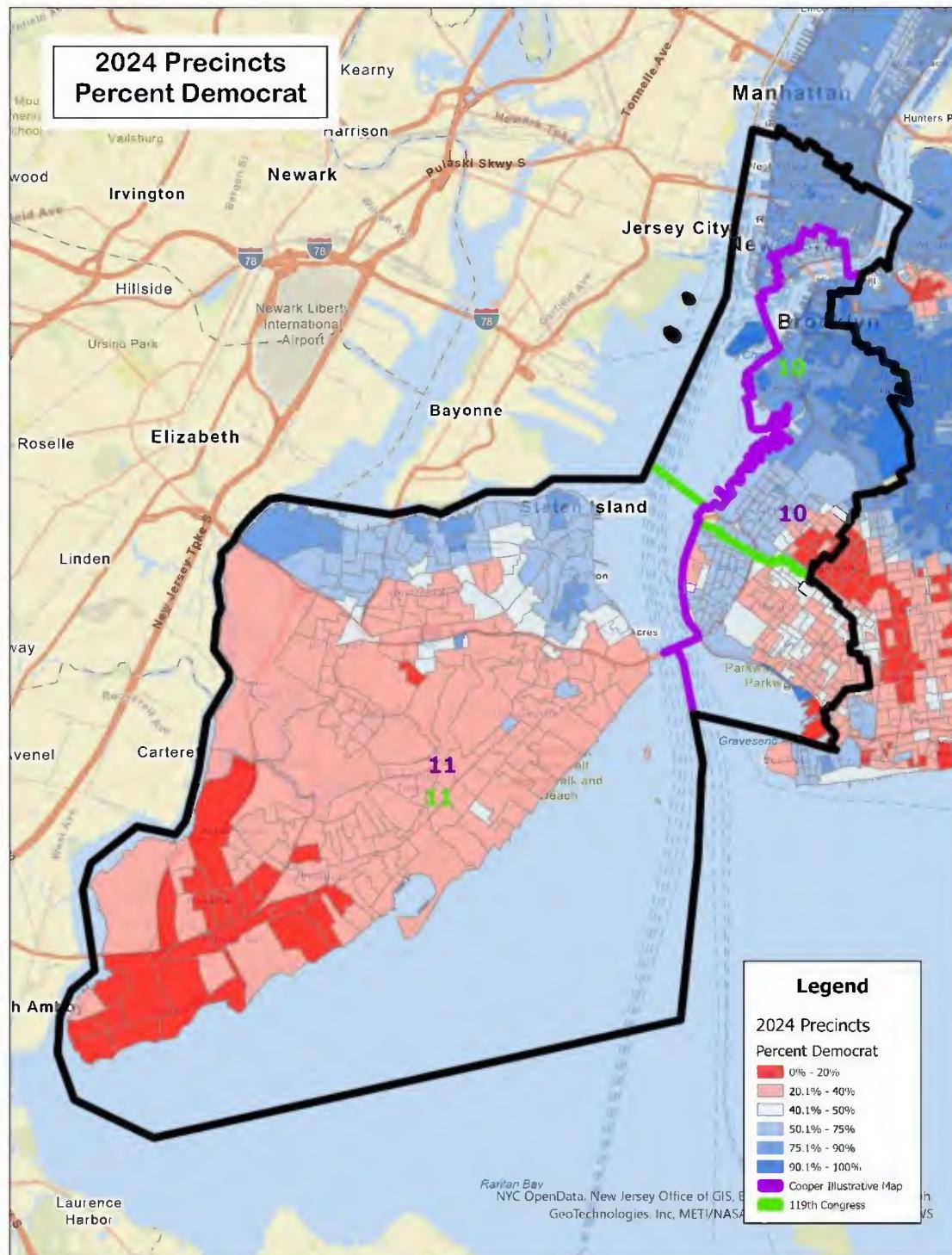
194.   As a result of these moves, Cooper's Illustrative Plan incurs a significant cost for Republicans in the only Republican congressional district among 13 in and around NYC. Had the 2024 U.S. House race been held under his plan, Democrats would have garnered 72.5% of the votes in Cooper's D10 (compared to the 82.3% in the actual election). While D11 becomes a dead heat (see *Table VIII.E.2*).

Table VIII.E.2 Cooper Illustrative Plan 2024 U.S. House Results

Cooper's District	D11 Nicole Malliotakis (Rep.)	D11 Andrea S. Morse (Dem.)	D10 Paul J. Briscoe (Cons.)	D10 Alexander Dodenhoff (Rep.)	D10 Daniel Goldman (Dem.)	Total Rep. / Cons.	Total Dem.	Percent Rep.
10	36,371	28,720	4,399	21,871	124,808	58,242	153,528	**27.5%**
11	130,728	64,866	2,348	15,684	81,398	146,412	146,264	**50.0%**

Sources: BGD Analytics, University of Florida Elections Lab https://election.lab.ufl.edu/

195.   In summary, Cooper's Illustrative Plan significantly increases WNH CVAP representation in D11, fractionally increases APBNH and Hispanics, and significantly lowers Asian representation compared to the 2024 plan.   Since the majority of the population change was WNH, yet the political characteristics of the precincts moved skew heavily against Republicans - it is difficult to arrive at the conclusion that Cooper's draw is intended to somehow benefit the two smaller minority populations in and around the district.

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IX. CONCLUSIONS

196.   I have assessed the population characteristics of the pre-2020 Census, the 2021, the 2024, and Cooper's Illustrative Plan. My conclusions fall into two categories. First, how does Cooper's Illustrative Plan compare to the existing 2024 Plan? Then, what conflicts between the N.Y. VRA and the U.S. VRA does this case raise?

A. Demographics

197.   Cooper's plan is inferior to the existing 2024 Plan in every traditional redistricting criterion. In summary, compared to the existing 2024 plan, Cooper's Illustrative Plan *increases* the percentage of White, non-Hispanic (WNH) CVAP by +2.6PP. He increases APBNH by +1.1PP and Hispanics by +0.9PP. While Asians are reduced by -4.6PP. That is, all of Cooper's efforts to redraw a district benefitting APBNH and Hispanics result in significantly increased representation of WNH, a fractional increase for APBNH and Hispanics, and the slashing of the largest single minority CVAP in D11: Asians.

B. Compactness

198.   The compactness of Cooper's plan is inferior to that of the existing plan in every regard. His defense of his draw being compact because two separate, distant pieces connected by water are compact defies logic and precedent and invites future draws that could be absurd. The empirical compactness scores of Cooper's Illustrative Plan are all inferior to those of the 2024 Plan. Per the criteria of the *APA* court, Cooper's draw of the 11th fails the "eyeball test". And since D11 clearly "reaches out to grab small and apparently isolated minority communities," it does not provide population compactness. While this is fundamentally important under the U.S. VRA and the N.Y Constitution (under which this case was filed) – compactness (or the lack thereof) of minority districts is irrelevant under the N.Y. VRA. The guidance of the N.Y. VRA for a map drawer to ignore compactness has the potential to result in absurd, unbelievable districts. It is conceivable under the existing N.Y. VRA guidance that a small minority population that could potentially have influence could be joined to some other small minority population far away that would have effectively no compactness and would subordinate the will of an overwhelming majority of voters in both places.

C. Communities of Interest

199.   The impact of Cooper's draw on communities of interest is profound. His draw splits 20 VTDs from 2020, and a dozen existing, and known 2024 New York precincts – and says nothing to explain why. By comparison, the current 2024 Plan splits no precincts. Both the 2024 Plan and Cooper's Illustrative Plan split two neighborhoods, defined as NTAs. Last, Cooper's draw of the 10th and the 11th significantly divides and unbalances the Asian population. In D11, Asians would be reduced from the single largest CVAP minority population (at 17.7%) to only 12.4% - while in D10 they would be elevated to being larger

(23.4%) than APBNH and Hispanics combined (22.5%). Not only are the changes in the numbers of minorities striking, but *where* Cooper draws his boundaries is remarkable as well. He divides a large, contiguous Asian population in Lower Manhattan in half, leaving one smaller part on its own (in D11) and joins the other (primarily defined by Chinatown) to distant neighborhoods in Brooklyn – all of which are majority White or Hispanic, and have different characteristics of Asians than in Lower Manhattan.

D. Politics

200.   It is notable that D11 is being litigated, since it is the only district currently being held by a Republican. Every congressional district in and around New York has a wide variety of coalition APBNH and Hispanic populations. Some with far more, and some with far less – all of which are reliably electing Democrats. Yet D11 is alleged to be uniquely violating the N.Y. VRA. The proposed remedy for this is to significantly rearrange D10 and D11, to strengthen WNH CVAP far more than the APBNH + Hispanics – at the expense of the Asian community.

201.   Notably, the percentage of APBNH + Hispanics has remained nearly the same under each one of the different districting configurations, from pre-2020 Census, to the 2021 Plan, to the 2024 Plan. And politically, all that has changed is that a district that elected a Democrat in 2018 has now elected a Republican by increasing margins in each successive election. Under Cooper's Illustrative Plan, that Republican majority is erased, and D11 would become a dead heat. The greatest feat of Cooper's plan is to make the only Republican-held congressional district in and around New York competitive for Democrats.

E. N.Y. Constitution, U.S. VRA vs the N.Y. VRA

202.   In assessing Cooper's Illustrative Plan, several conflicts emerge between the N.Y. Constitution, the N.Y. VRA, and the U.S. VRA. In the U.S. VRA, the first Gingles precondition states that a minority population must be two things: a majority in an area, and compact. And the N.Y. Constitution (under which this case was filed) requires compactness. By comparison, the N.Y. VRA requires neither a majority nor compactness. If any population's rights are infringed, they are entitled to protection under the N.Y. VRA. However large they must be to constitute an "influence" is undetermined. Is 10% an influence? 20%? What if other districts are already electing the political candidate of choice of the minorities when they have even fewer minorities? If a district has a single large majority-minority population (such as Asians in D11), are their rights somehow subordinate to a coalition of larger minorities? And what if it were determined that a minority of White, non-Hispanics were unable to elect a candidate of *their* choice? The language of §17-204 states:

> "Protected class" means a class of individuals who are members of a race, color, or language minority group, including individuals who are members of a minimum reporting category that has ever been officially recognized by the United States Census Bureau.

203.   The literal reading of this is *any* demographic group, not just minority groups whose voting rights have historically been infringed.   In the recent (2025) *Clarke v Town of Newburgh* decision, the New York Supreme Court wrote[80]

> Bearing this maxim in mind, **we agree with the plaintiffs and the AG that the statute should be construed as allowing members of all racial groups, including white voters, to bring vote dilution claims**, [emphasis added] including when white voters constitute a minority in a political subdivision, as is the case in certain jurisdictions in New York (see Portugal v Franklin County, 1 Wash 3d at 648, 530 P3d at 1006 [stating that the Washington Voting Rights Act, which similarly allows "voters who are members of a race, color, or language minority group in the state of Washington, as this class is referenced and defined in the (FVRA)" (Wash Rev Code § 29A.92.010 [6]) to bring vote dilution claims, "on its face, . . . requires equal opportunit(ies) for voters of all races, colors, and language minority groups" (internal quotation marks omitted)]; Sanchez v City of Modesto, 145 Cal App 4th 660, 666, 51 Cal Rptr 3d 821, 826 [Ct App 2007] [stating that the CVRA, which similarly allows "voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965" (Cal Elec Code § 14026 [d]) to bring vote dilution claims, "gives a cause of action to members of any racial or ethnic group that can establish that its members' votes are diluted through the combination of racially polarized voting and an at-large election system" and *34 that "any racial group can experience the kind of vote dilution the CVRA was designed to combat, including Whites. Just as non-Whites in majority-White cities may have a cause of action under the CVRA, so may Whites in majority-non-White cities.

204.   So in congressional districts such as the 13th, 14[th,] and 15[th,] where White non-Hispanics are significant minorities, the N.Y. VRA appears to avail *them* relief, if it is determined that the existing elected representatives are not *their* candidate of choice. In D14, for example, where Alexandria Ocasio-Cortez is the representative, what if a minority of White, non-Hispanic voters claimed Rep. Ocasio-Cortez was not *their* candidate of choice and demanded representation because *they* were a minority? What if those minority White voters were Republican? Should they be entitled to a different representative to replace Rep. Ocasio-Cortez because they are minorities, overriding the majority electoral will of the numerous majority-minority population who elected Rep. Ocasio-Cortez? If this case is held, then does the precedent become that any minority voter's rights prevail over the majority in every congressional district in the state? Or any representative district? And whichever minorities rights prevail (Asians, Hispanics, Blacks, or Whites) and their subsequent representation becomes a matter of litigation, not the electoral will of the majority of the voters.

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[80] 237 A.D.3d 14, 226 N.Y.S.3d 310, 2025 N.Y. Slip Op. 00518 Supreme Court, Appellate Division, Second Department, New York 2024-11753, 2460/24 January 30, 2025

205.   The guidance of the N.Y. VRA needs to be clarified to help determine what exactly is, and
is not allowed, and to resolve differences with the U.S. VRA and the N.Y. Constitution.

Submitted: January 2, 2026
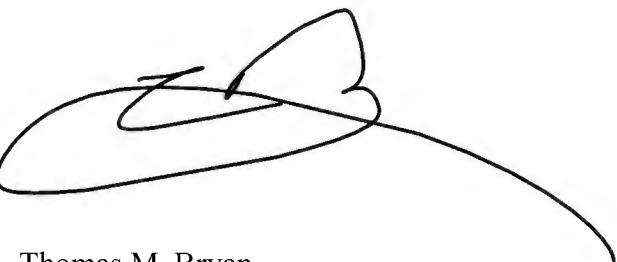
Thomas M. Bryan

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XI. APPENDICES

Appendix A: Current New York House of Representatives Delegation

Appendix B: U.S. VRA vs. N.Y. VRA

Appendix C: CVAP by Congressional Plan
- C.1 Pre-2020 Census CVAP
- C.2 2021 Plan CVAP
- C.3 2024 Plan CVAP

Appendix D: Compactness Measures

Appendix E: Differential Core Retention between the Pre-2020 Census (116th) and 2024 (119th) Enacted Plans

Appendix F: Terms and Definitions

Appendix A: Current New York House of Representatives Delegation

Representative	% APBNH + Hispanic	% Democrat 2024	Race
1. Nick LaLota (R)	20.1%	44%	WNH
2. Andrew Garbarino (R)	38.0%	40%	WNH
3. Tom Suozzi (D)	19.2%	52%	WNH
4. Laura Gillen (D)	39.7%	51%	WNH
5. Gregory Meeks (D)	64.3%	73%	Black
6. Grace Meng (D)	29.3%	61%	Asian
7. Nydia Velázquez (D)	46.9%	78%	Hispanic
8. Hakeem Jeffries (D)	61.3%	75%	Black
9. Yvette Clarke (D)	55.2%	74%	Black
10. Dan Goldman (D)	25.6%	82%	WNH
11. Nicole Malliotakis (R)	25.7%	36%	Hispanic
12. Jerry Nadler (D)	16.8%	81%	WNH
13. Adriano Espaillat (D)	77.3%	84%	Black & Hisp.
14. Alexandria Ocasio-Cortez (D)	66.9%	69%	Hispanic
15. Ritchie Torres (D)	85.5%	77%	Black & Hisp.
16. George Latimer (D)	50.8%	72%	WNH
17. Mike Lawler (R)	27.8%	46%	WNH
18. Pat Ryan (D)	29.5%	57%	WNH
19. Josh Riley (D)	12.5%	51%	WNH
20. Paul Tonko (D)	18.3%	61%	WNH
21. Elise Stefanik (R)	6.9%	38%	WNH
22. John Mannion (D)	16.5%	55%	WNH
23. Nick Langworthy (R)	6.7%	34%	WNH
24. Claudia Tenney (R)	7.7%	34%	WNH
25. Joseph Morelle (D)	25.6%	61%	WNH
26. Tim Kennedy (D)	27.0%	65%	WNH

Sources, 2024 U.S. House election results, https://history.house.gov/People/Search/,
https://www.politico.com/2024-election/results/new-york/house/

Appendix B: U.S. VRA vs. N.Y. VRA

State Voting Rights Act Overview

In recent years, a growing number of states have turned to State Voting Rights Acts (SVRAs) to fill the gaps left by the weakening of federal protections offered by the Voting Rights Act of 1965 (VRA). Many have been enacted in response to the outcome of *Shelby v. Holder* (2013), which dismantled the Section 4 preclearance formula. This invalidated the coverage formula determining which jurisdictions required federal review prior to the implementation of new rules, due to a history of racial discrimination.[81] As a result, states seeking to guard against racial vote denial, dilution, and retrogression have increasingly begun enacting their own, more expansive safeguards. Unlike the federal VRA, which reaches from congressional districts down to local governments, SVRAs typically focus on local political jurisdictions and do not apply to congressional redistricting.

California enacted the first SVRA in 2002, followed by Illinois in 2011. After *Shelby*, six more states followed suit: Washington in 2018, Oregon in 2019, Virginia in 2021, New York in 2022, Connecticut in 2023, and Minnesota in 2024.[82] With the newer, post-*Shelby* statutes, state and federal voting-rights protections have meaningfully diverged. Modern SVRAs often provide broader and more flexible tools than those available under federal law, including remedies that go *far* beyond mandatory single-member districts to address vote dilution.[83] Their provisions often include state-level preclearance requirements, prohibitions on voter intimidation, authorization of coalition or crossover districts, enhanced private rights of action, and the creation of state voting-related databases or dedicated enforcement funds.[84] State VRAs therefore often not only mirror, but exceed the goals of the federal VRA. For example, they encourage courts to craft locally tailored remedies, prioritize community input in the remediation process, and prevent discriminatory jurisdictions from defaulting to their preferred remedial plans.[85]

The N.Y. VRA

In 2014, New York voters approved constitutional amendments (the "Redistricting Amendments") that expressly prohibit race discrimination and racial vote dilution in voting in state assembly, senate, and congressional elections. In particular, Article III, Section 4(c)(1) provides that: "districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement" of minority voting rights. Further, "[d]istricts shall be drawn so that, based on the

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[81] https://www.oyez.org/cases/2012/12-96

[82] https://www.ncsl.org/state-legislatures-news/details/legislatures-pursue-state-level-voting-rights-acts

[83] https://fordhamdemocracyproject.com/2025/05/08/new-horizons-for-protecting-and-expanding-voting-rights-in-the-states/

[84] https://www.ncsl.org/elections-and-campaigns/state-voting-rights-acts

[85] https://campaignlegal.org/update/new-york-joins-other-states-enacting-state-level-voting-rights-act

totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice."

In 2022, the New York Legislature passed new legislation that extended the Constitution's prohibition on voter suppression and vote dilution to local political subdivisions—the John R. Lewis Voting Rights Act of New York (the "NY VRA") (N.Y. Elec. Law § 17-200). It is the most comprehensive SVRA in the country.[86] The language of the NY VRA mirrors the language of the constitutional prohibition against vote dilution in Section II, which states that "No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color." Courts have long interpreted this to include vote dilution, such as at-large elections that drown out minority voting power, gerrymandered districts that split or pack minority communities, and multi-member districts that minimize minority influence. Voter dilution in federal VRA cases is generally established through the Gingles preconditions.

§ 17-206(1)(a) of the N.Y. VRA provides that "No voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy shall be enacted or implemented by any board of elections or political subdivision in a manner that results in a denial or abridgment of the right of members of a protected class to vote." Further, "No board of elections or political subdivision shall use any method of election, having the effect of impairing the ability of members of a protected class to elect candidates of their choice or influence the outcomes of elections, as a result of vote dilution." The NYVRA is vastly broader than the U.S. VRA in that this is determined when the voting patterns of members of the protected class within the political subdivision are racially polarized, *or* (*not* "and"), under the totality of the circumstances, the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired.

§ 17-206(3) is a comprehensive outline of how exactly the NYVRA determines whether a violation has occurred. The VRA does not specify an exact formula or list of criteria, instead relying on the Gingles preconditions to identify dilution under a totality of circumstances. Factors that may be considered include, but are not limited to:

(a) the history of discrimination in or affecting the political subdivision;

(b) the extent to which members of the protected class have been elected to office in the political subdivision;

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[86] https://campaignlegal.org/update/new-york-joins-other-states-enacting-state-level-voting-rights-act

(c) the use of any voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy that may enhance the dilutive effects of the election scheme;

(d) denying eligible voters or candidates who are members of the protected class to processes determining which groups of candidates receive access to the ballot, financial support, or other support in a given election;

(e) the extent to which members of the protected class contribute to political campaigns at lower rates;

(f) the extent to which members of a protected class in the state or political subdivision vote at lower rates than other members of the electorate;

(g) the extent to which members of the protected class are disadvantaged in areas including but not limited to education, employment, health, criminal justice, housing, land use, or environmental protection;

(h) the extent to which members of the protected class are disadvantaged in other areas which may hinder their ability to participate effectively in the political process;

(i) the use of overt or subtle racial appeals in political campaigns;

(j) a significant lack of responsiveness on the part of elected officials to the particularized needs of members of the protected class; and

(k) whether the political subdivision has a compelling policy justification that is substantiated and supported by evidence for adopting or maintaining the method of election or the voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy.

The N.Y. VRA does *not* require the plaintiff to show that a district could have been drawn that would have a majority of residents of a single protected class. A plaintiff need only show that the current district map is responsible for the protected class's lack of electoral influence based on the existence of racially polarized voting or the totality of the circumstances. Otherwise, the NYVRA strengthens and adds several other provisions that make it easier to challenge discriminatory election practices. Specific comparisons of the U.S. VRA and N.Y. VRA follow:

Coalition Districts

The N.Y. VRA offers more flexible and expansive remedies than the U.S. VRA. NY courts may order coalition districts, crossover districts, influence districts, and alternative voting systems to solve voter dilution cases. By contrast, coalition districts are not protected under the U.S. VRA, as determined in *Petteway v. Galveston County.*

§ 17-206 2(c) prescribes:

> (iv) where there is evidence that more than one protected class of eligible voters are politically cohesive in the political subdivision, members of each of those protected classes may be combined;

> (v) evidence concerning the intent on the part of the voters, elected officials, or the political subdivision to discriminate against a protected class is not required;

> (vi) evidence that voting patterns and election outcomes could be explained by factors other than racially polarized voting, including but not limited to partisanship, shall not be considered;

> (vii) evidence that sub-groups within a protected class have different voting patterns shall not be considered;

> (viii) evidence concerning whether members of a protected class are geographically compact or concentrated shall not be considered, but may be a factor in determining an appropriate remedy;

> and (ix) evidence concerning projected changes in population or demographics shall not be considered, but may be a factor, in determining an appropriate remedy.

The salient parts of the N.Y. VRA and comparative features of the U.S. VRA are as follows:

Language Proficiency

> § 17-208: Language access requirements for voters with limited English proficiency are expanded beyond what is required by federal law. For jurisdictions whose populations have more than 2% or over 4,000 voting-age citizens, or contain a Native American Reservation, the subdivision is required to provide all voting materials (such as registration, ballots, voting notices, etc.) in both English and the language of the applicable language-minority group. The NYVRA also lowers the threshold of the required voting age population for each particular language minority, covering languages in more jurisdictions than the federal VRA.[87]

Section 203 of the U.S. VRA requires that certain states and political subdivisions provide language assistance during elections for certain language minority groups who are unable to

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[87] https://www.naacpldf.org/wp-content/uploads/NYVRA-Fact-Sheet-Language-Assistance.pdf

speak or understand English adequately enough to participate in the electoral process. The law covers those localities where there are more than 10,000, or over 5%, of the total voting age citizens in a single political subdivision who are members of a single language minority group, have depressed literacy rates, and do not speak English very well. Political subdivisions also may be covered through a separate determination for Indian Reservations. Determinations are based on data from the most recent Census, and the determinations are made by the Census Director.

Preclearance

§ 17-210: The NYVRA establishes state-level preclearance guidelines, requiring certain localities to obtain approval from the New York Attorney General's Civil Rights Bureau or a state court before implementing specified election-related changes. Covered policies include alterations to voting qualifications; prerequisites to voting; method of election; annexation, incorporation, or consolidation of political subdivisions; removal of voters from enrollment lists' number, location, or hours of poll sites; dates of elections; voter registration; and assistance for language-minority groups. "Covered entities" are defined as jurisdictions that have either (1) been found to violate civil rights laws within the past twenty-five years, or (2) demonstrated a dissimilarity index exceeding fifty within the previous ten years. For preclearance disputes, the statute also provides expedited judicial proceedings and preliminary relief options.

Section 5 of the U.S. VRA was enacted to freeze changes in election practices or procedures in covered jurisdictions until the new procedures have been determined, either after administrative review by the Attorney General, or after a lawsuit before the United States District Court for the District of Columbia, to have neither a discriminatory purpose nor effect. Section 5 provides two methods for a covered jurisdiction to comply with Section 5. The first method is by means of a declaratory judgment action filed by the covered jurisdiction in the D.C. District Court, and the second method is administrative review by the Civil Rights Division of the Department of Justice. Although the Court's decision in *Shelby* invalidated the Section 4 coverage formula, Section 5 itself remains intact. The Court left open the possibility that "Congress may draft another formula based on current conditions" using "current data reflecting current needs,"[88] but Congress has not done so despite several unsuccessful proposals.[89]

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[88] https://democrats-judiciary.house.gov/media-center/press-releases/bipartisan-judiciary-members-supreme-court-acknowledges-the-work-of-the-voting-rights-act-is-not-complete

[89] https://www.brennancenter.org/our-work/research-reports/preclearance-under-voting-rights-act

Voter Intimidation

§ 17-212: The NYVRA establishes robust protections against voter intimidation, deception, and obstruction. A violation occurs when an individual: (1) uses or threatens force in a manner reasonably likely to influence a person's voting behavior; (2) knowingly spreads deceptive or fraudulent information about election logistics, voter eligibility, consequences of voting, or endorsements, in a way that is reasonably likely to interfere with someone's ability to vote or voting behavior; or (3) obstructs access to polling places or election offices, or otherwise delays voters or the voting process, including ballot canvassing and tabulation. It provides flexible civil remedies for victims: "Upon a finding of a violation of any provision of this section, the court shall implement appropriate remedies that are tailored to remedy the violation, including but not limited to providing for additional time to cast a ballot that may be counted in the election at issue. Any party who shall violate any of the provisions…shall be liable to any prevailing plaintiff party for damages, including nominal damages for any violation, and compensatory or punitive damages for any intentional violation.

Section 11(b) of the U.S. VRA prohibits actual or attempted "intimidation," "threats," or "coercion" against a person "for voting or attempting to vote" or "for urging or aiding any person to vote or attempt to vote." No intent to intimidate is required so long as the behavior has the effect of intimidating voters. Section 12 notably provides criminal penalties absent from the NYVRA: "Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11(a) or (b), shall be fined not more than $5,000, or imprisoned not more than five years, or both." This applies to those conspiring to commit a violation as well. The U.S. Attorney General may also bring actions for preventive relief, including temporary or permanent injunctions, restraining orders, or other directives requiring state or local election officials to permit eligible persons to vote and to count those votes.

Enforcement

§ 17-214: The N.Y. VRA is enforced by the New York Attorney General, who is authorized to bring civil actions to prevent or remedy violations.

The U.S. VRA is enforced primarily by the U.S. Department of Justice as well as private plaintiffs, who may bring lawsuits seeking injunctions, declaratory judgments, or other equitable relief.

Interpretation

§ 17-200: The N.Y. VRA instructs state judges to interpret election laws in a pro-voter way whenever possible: "all statutes, rules and regulations . . . shall be construed liberally in favor of . . . ensuring voters of race, color, and language-minority groups have equitable access to fully participate in the electoral process in registering to vote and voting."

The U.S. VRA provides rigorous guidance through Gingles Preconditions and totality of circumstance guidance for courts to determine VRA compliance

NYVRA Controversies

On March 26, 2024, six Black and Hispanic voters filed a complaint against the town of Newburgh, N.Y., for utilizing an at-large voting system that allegedly violated the newly enacted NYVRA. Newburgh contended that the vote-dilution provisions of N.Y. VRA violate the Equal Protection Clause of both the U.S. Constitution (14th Amendment) and the New York Constitution. They argued that the N.Y. VRA creates race-based classifications: by banning election systems (like at-large elections) that have racially polarized effects, Newburgh claimed the law forces them to make decisions based on race, triggering strict scrutiny. It creates a sort of catch-22: changing their election system to comply would mean adopting another election system based entirely on race, a violation of equal protection itself.[90] The trial judge issued a ruling invalidating the N.Y. VRA as unconstitutional, but it was swiftly overturned on appeal.[91] The appellate judge decided that the N.Y. VRA does not necessarily force an equal protection violation, as there are remedies available that are not based on race (such as ranked-choice voting and increasing voter education). Just days ago, on November 20th, the Court of Appeals affirmed that local government cannot assert a state or federal equal protection challenge to the vote dilution provision of the state's VRA, and the plaintiff's challenge did not fall within a narrow exception for when compliance with legislation would force the municipality to violate the Constitution.

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[90] https://vhdshf2oms2wcnsvk7sdv3so.blob.core.windows.net/thearp-media/documents/NY_2024_11753_12.9.24_1259.pdf

[91] https://campaignlegal.org/cases-actions/defending-new-yorkers-ability-use-new-york-voting-rights-act-challenge-discrimination?utm_source=chatgpt.com

Appendix C.1: CVAP Pre-2020 Census

116th	Total	WNH	APBNH	ANH	HISP	APBNH + HISP
3	541,378	381,176	18,118	85,789	52,399	70,516
5	522,721	69,122	271,915	86,025	85,851	357,766
6	457,365	180,373	24,756	160,254	87,336	112,092
7	458,913	171,321	51,240	73,520	159,029	210,269
8	556,584	152,712	273,133	37,213	88,441	361,574
9	499,237	173,365	232,443	37,119	52,606	285,049
10	506,116	330,062	28,289	83,764	60,024	88,313
11	511,163	317,211	39,335	73,512	78,386	117,721
12	560,097	379,438	34,958	70,161	69,853	104,811
13	484,060	89,919	141,131	26,013	222,956	364,087
14	400,149	115,913	47,307	68,240	164,996	212,303
15	434,223	16,281	148,131	8,784	257,468	405,599
16	517,080	195,733	162,241	27,291	127,741	289,983
Total	**6,449,086**	**2,572,626**	**1,472,997**	**837,683**	**1,507,085**	**2,980,083**

Sources: 2019-2023 American Community Survey, Census TIGER, BGD analysis

Total: Total CVAP

WNH: White, non-Hispanic CVAP

APBNH: Any Part Black, non-Hispanic CVAP, including Black or African American Alone, in combination with White and American Indian or Alaska Native.

ANH: Asian, non-Hispanic CVAP, including Asian alone and in combination with White

HISP: Hispanic

Appendix C.2: CVAP 2021 Plan

118th	Total	WNH	APBNH	ANH	HISP	APBNH + HISP
3	559,447	358,685	21,064	110,928	64,230	85,294
5	520,923	87,103	249,866	84,301	90,254	340,120
6	434,427	150,819	24,564	162,376	92,079	116,642
7	490,454	202,737	68,086	59,437	155,085	223,172
8	517,532	156,231	243,414	38,780	75,475	318,889
9	485,960	163,393	233,344	36,565	48,951	282,295
10	500,756	283,817	39,259	87,635	85,569	124,828
11	509,518	304,276	37,439	86,576	78,164	115,603
12	548,664	394,163	31,364	60,175	58,695	90,059
13	510,852	101,492	147,162	27,318	230,375	377,537
14	440,634	101,570	92,233	46,626	195,924	288,157
15	456,954	53,138	156,415	13,871	229,640	386,055
16	521,326	245,384	118,180	31,974	122,248	240,428
Total	**6,497,447**	**2,602,808**	**1,462,388**	**846,564**	**1,526,692**	**2,989,080**

Sources: 2019-2023 American Community Survey, Census TIGER, BGD analysis

Total: Total CVAP

WNH: White, non-Hispanic CVAP

APBNH: Any Part Black, non-Hispanic CVAP, including Black or African American Alone, in combination with White and American Indian or Alaska Native.

ANH: Asian, non-Hispanic CVAP, including Asian alone and in combination with White

HISP: Hispanic

Appendix C.3: CVAP 2024 Plan

119th	Total	WNH	APBNH	ANH	HISP	APBNH + HISP
3	555,988	351,543	22,608	111,534	65,760	88,368
5	520,923	87,103	249,866	84,301	90,254	340,120
6	426,340	144,503	25,885	159,506	92,081	117,966
7	485,998	199,561	66,001	57,755	157,879	223,880
8	522,204	160,072	245,380	40,186	72,636	318,016
9	486,593	163,144	234,481	36,132	49,143	283,625
10	499,907	283,401	38,241	88,344	85,423	123,664
11	509,518	304,276	37,439	86,576	78,164	115,603
12	548,664	394,163	31,364	60,175	58,695	90,059
13	510,852	101,492	147,162	27,318	230,375	377,537
14	441,719	107,020	78,142	48,962	202,930	281,072
15	458,048	53,485	166,380	15,052	219,518	385,899
16	527,234	245,903	120,983	31,328	125,362	246,345
Total	**6,493,988**	**2,595,666**	**1,463,932**	**847,170**	**1,528,222**	**2,992,154**

Sources: 2019-2023 American Community Survey, Census TIGER, BGD analysis

Total: Total CVAP

WNH: White, non-Hispanic CVAP

APBNH: Any Part Black, non-Hispanic CVAP, including Black or African American Alone, in combination with White and American Indian or Alaska Native.

ANH: Asian, non-Hispanic CVAP, including Asian alone and in combination with White

HISP: Hispanic

Appendix D: Compactness

The Reock compactness score (Reock, 1961) is computed by dividing the area of the district by the area of the smallest circle that would completely enclose it. Since the circle encloses the district, its area cannot be less than that of the district, and so the Reock compactness score will always be a number between 0 and 1 (which may be expressed as a percentage). The Reock Score is the ratio of the area of the district to the area of a minimum bounding circle that encloses the district's geometry.

Reock score:

$$\frac{\text{Area (D)}}{\text{Area of the Minimum Bounding Circle}}$$

The Area/Convex Hull test computes the ratio of is the ratio of the area of the district to the area of the convex hull of the district - the minimum convex polygon that completely contains the district. This measure is always between 0 and 1, with 1 being the most compact.

Convex Hull score

$$\frac{\text{Area (D)}}{\text{Area of the Convex Hull of the District}}$$

Reock: Area of district relative to area of smallest circle that contains it.

Convex-Hull: Area of district relative to area of smallest convex polygon containing it.

Polsby-Popper: Area of district relative to area of circle with same circumference as the district perimeter.

The Polsby-Popper (PP) measure is the ratio of the area of the district to the area of a circle whose circumference is equal to the perimeter of the district. The factor 4π ensures that the resulting score takes a value between 0 and 1 - with 1 being entirely circular and the most compact.

Polsby-Popper score

$$P_P = \frac{4\pi \times Area(D)}{Perimeter(D)^2}$$

Schwartzberg: Ratio of district to a circle with the same area as the district.

The Schwartzberg test (Schwartzberg, 1966) is a perimeter-based measure that compares a simplified version of each district to a circle, which is considered to be the most compact shape possible. Taking the square root of the inverse Polsby-Popper score gives the Schwartzberg score (Belotti, 2023) which notably results in an identical ranking of geographies. Unlike other measures, the scale of Schwartzberg values is *above* 1, with *lower* values approaching 1 being the most compact.

Schwartzberg score

$$P_P = \frac{4\pi \times Area(D)}{Perimeter(D)^2}$$

The Polsby-Popper and Schwartzberg ratios place high importance on district perimeter. Belotti, et al. (2025) report:

> One criticism of perimeter-related scores is that they suffer from the Coastline Paradox, in which boundary lengths are not well-defined and depend on the choice of map projection and the "size of your ruler" (Bar-Natan et al. 2020, Barnes and Solomon 2021). Another criticism can be summarized with the slogan "land does not vote; people do". In 2010, 47% of all census blocks were uninhabited (Freeman 2014); reassigning these blocks to different districts can significantly change the Polsby-Popper score, but the districts would function the same.

This is precisely why it is important to use multiple compactness scores (in this case the Polsby-Popper, Schwartzberg, Reock and Convex Hull measures) and let the reader judge which one is a better fit based on the geography of the district and method of calculation each score uses. A higher score means more compact, but the scores using different measures cannot be directly compared to each other.

Appendix E: Differential Core Retention between the Pre-2020 Census (116th) and 2024 (119th) Enacted Plans

116th	119th	Total	WNH	BNH	ANH	HISP
⊟7	8	227	71	20	4	132
7	10	207,469	86,984	19,349	47,637	51,544
7	11	206	78	0	128	0
7 Total		207,902	87,133	19,369	47,769	51,677
⊟8	8	408,753	105,814	220,193	19,910	59,308
8	9	32,887	3,319	25,073	1,624	2,680
8	10	11,667	6,051	2,118	1,714	1,416
8 Total		453,308	115,183	247,384	23,248	63,404
⊟9	8	73,889	31,113	22,297	10,884	9,289
9	9	366,821	100,588	205,489	20,117	37,749
9	10	58,526	41,664	4,657	6,118	5,567
9 Total		499,237	173,365	232,443	37,119	52,606
⊟10	9	72,260	48,256	3,521	12,598	7,336
10	10	139,715	97,810	6,699	20,302	13,980
10	11	52,108	21,042	1,372	24,117	5,062
10	12	220,333	150,351	14,388	23,726	30,250
10	13	21,701	12,602	2,310	3,021	3,397
10 Total		506,116	330,062	28,289	83,764	60,024
⊟11	8	39,334	23,075	2,870	9,388	3,905
11	9	14,625	10,981	399	1,793	1,378
11	11	457,204	283,155	36,066	62,331	73,102
11 Total		511,163	317,211	39,335	73,512	78,386
⊟12	10	82,529	50,892	5,418	12,573	12,916
12	12	328,135	243,792	16,965	36,361	28,369
12	13	2,095	320	1,135	25	575
12 Total		412,760	295,004	23,518	48,959	41,861
⊟13	12	196	20	11	89	76
13	13	379,219	80,227	119,602	20,633	155,547
13 Total		379,414	80,247	119,613	20,721	155,623
Total		2,969,900	1,398,205	709,950	335,092	503,581

116th	119th	Total	WNH	BNH	ANH	HISP
D10	Retained	139,715	97,810	6,699	20,302	13,980
	Moved	366,401	232,252	21,591	63,462	46,044
D11	Retained	457,204	283,155	36,066	62,331	73,102
	Moved	53,959	34,056	3,268	11,181	5,284
Total	Retained	596,919	380,966	42,765	82,633	87,082
	Moved	420,360	266,308	24,859	74,643	51,328
D10%	Retained	27.6%	29.6%	23.7%	24.2%	23.3%
	Moved	72.4%	70.4%	76.3%	75.8%	76.7%
D11%	Retained	89.4%	89.3%	91.7%	84.8%	93.3%
	Moved	10.6%	10.7%	8.3%	15.2%	6.7%
Total%	Retained	58.7%	58.9%	63.2%	52.5%	62.9%
	Moved	41.3%	41.1%	36.8%	47.5%	37.1%

Sources: 2019-2023 American Community Survey DOJ Special Tabulation, BGD calculations

Appendix F: Terms and Definitions

Term	Description
ACS	American Community Survey.
APB	Any Part Black population – defined as Black or African American alone or in combination, including Hispanic.
APBNH	Any Part Black Non Hispanic population – defined as Black or African American alone or in combination, including Hispanic.
CVAP	Citizen Voting Age Population. See: https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.2019.html
DCRA	Differential Core Retention Analysis - which measures how many total VAP were retained in each district when the new plan was drawn (the "core") and how many VAP by race and ethnicity were retained (the "differential") by district.
VAP	Voting Age Population, 18+. See: https://www.census.gov/topics/public-sector/voting/about/faqs.html
VRA	Voting Rights Act of 1965 See: https://www.archives.gov/milestone-documents/voting-rights-act
VTD	Voting Tabulation District, comparable with precincts.

XII.   Thomas M. Bryan Vitae

Introduction

I am an applied demographic, analytic, and research professional who leads a team of experts in state and local redistricting cases. I have subject matter expertise in political and school redistricting and Voting Rights Act-related litigation, U.S. Census Bureau data, geographic information systems (GIS), applied demographic techniques, and advanced analytics.

Education & Academic Honors

2002   MS, Management and Information Systems - George Washington University

2002   GSA CIO University graduate - George Washington University

1997 Graduate credit courses taken at University of Nevada at Las Vegas

1996 MUS (Master of Urban Studies) Demography and Statistics core - Portland State University

1992   BS, History - Portland State University

Online

BGD company website: https://www.bryangeodemo.com/

ResearchGate: https://www.researchgate.net/profile/Thomas-Bryan-6

LinkedIn: https://www.linkedin.com/in/thomas-bryan-424a6912

Bryan GeoDemographics, January 2001-Current: Founder and President

I founded Bryan GeoDemographics (BGD) in 2001 as a demographic and analytic consultancy to meet the expanding demand for advanced analytic expertise in applied demographic research and analysis. Since then, my consultancy has broadened to include expert support of political, state, local and school redistricting. Since 2001, BGD has undertaken over 150 such engagements in two broad areas:

1) state and local redistricting; and
2) applied demographic studies, including health sciences and municipal Infrastructure

In 2024, I was appointed to the 2030 Census Advisory Committee for a period of one year.

The core of the BGD consultancy has been in state and local redistricting and bipartisan expert witness support of litigation. Engagements include:

Redistricting

- 2025: In the matter of *Jaso v. Angleton School District* in the US District Court for the Southern District of Texas. Providing expert demographic and analytic litigation support to Defendants.
    - https://dockets.justia.com/docket/texas/txsdce/3:2024cv00194/1964626

- 2024-2025: In the matter of *Bautista v. Humble School District* in the US District Court for the Southern District of Texas. Providing expert demographic and analytic litigation support to Defendants.
    - https://dockets.justia.com/docket/texas/txsdce/4:2024cv01744/1959524

- 2024-2025: In the matter of *CMA v. Thurston* in the US District Court for the Eastern District of Arkansas. Providing expert demographic and analytic litigation support to Defendants.
    - https://arkansasadvocate.com/2023/12/06/federal-panel-allows-4th-arkansas-congressional-redistricting-lawsuit-to-continue/#:~:text=Thurston%20%E2%80%94%20This%20was%20the%20only,subject%2Dmatter%20jurisdiction%20in%20May.

- 2024: Providing expert demographic and analytic litigation support to Franklin County Public Utility District (PUD) in defense of Washington Voting Rights Act violation claim by UCLA Voting Rights Project.
    - https://www.nbcrightnow.com/news/franklin-county-puds-at-large-election-system-challenged-by-voting-rights-project/article_c06332a2-250f-11ef-8b04-17ccb3eda4e3.html

- 2024: In the matter of *Jessica Garcia Shafer and Dona Kim Murphey v. Pearland Independent School District, et al.* in US District Court for the Southern District of Texas. Providing expert demographic and analytic litigation support to Defendants.
    - https://dockets.justia.com/docket/texas/txsdce/3:2022cv00387/1894835

- 2023: In the matter of *Grace, Inc. v. City of Miami* in U.S. District Court for the Southern District of Florida.   Providing expert demographic and analytic litigation support to Defendants.
    - https://thearp.org/litigation/grace-inc-v-city-miami/

- 2023: In the matter of *Navajo Nation v. San Juan County Board of Commissioners* in the US District Court for the District of New Mexico. Providing expert demographic and analytic litigation support to Defendants. Deposed in May 2023.
    - https://dockets.justia.com/docket/new-mexico/nmdce/1:2022cv00095/470450

- 2022: In the matter of *White v. Mississippi State Board of Election Commissioners* in United States District Court, Northern District of MS In collaboration with demographic testifying expert Dr. David Swanson, on behalf of Defendants. Provided expert demographic and analytic litigation support of MS Supreme Court redistricting litigation.
    - https://www.aclu-ms.org/en/cases/white-v-mississippi-board-election-commissioners

- 2022: Retained as demographic and redistricting expert for the Louisiana Attorney General in *Robinson v. Ardoin* and *Galmon v. Ardoin* and related Louisiana redistricting litigation. Offering opinions on demography and redistricting for their congressional redistricting plan and Plaintiff's proposed illustrative plans as a testifying expert. My testimony and analysis were not credited in the court's decision.
    - https://news.ballotpedia.org/2022/04/04/louisiana-enacts-new-congressional-district-boundaries-after-legislature-overrides-governors-veto/

- 2022: Retained by counsel as demographic and redistricting expert for the Kansas Legislature in support of *Rivera et al. v Schwab* litigation. Kansas Supreme Court found in favor of Kansas Legislature plan on June 21, 2022.
    - https://thearp.org/litigation/rivera-v-schwab/
    - https://www.kscourts.org/KSCourts/media/KsCourts/Opinions/125092_1.pdf?ext=.pdf

- 2022: Retained by counsel as demographic and redistricting expert for the State of Michigan in the matter of *Banerian v. Benson* and related Michigan redistricting litigation. Offering opinions on demography and redistricting for Michigan's Congressional redistricting plan. Currently before SCOTUS pending jurisdictional statement.
    - https://www.scotusblog.com/case-files/cases/banerian-v-benson/

- 2021: Retained as demographic and redistricting expert for the Wisconsin Legislature in *Johnson v. Wisconsin Elections Commission*, No. 2021AP001450-OA (Wis. Supreme Court) and related Wisconsin redistricting litigation. Offering opinions on demography and redistricting for redistricting plans proposed as remedies in impasse suit. The Wisconsin Supreme Court decided in favor of the Democratic Governor's plan on March 2, 2022.
    - https://www.wpr.org/us-supreme-court-rejects-legislative-map-drawn-evers-was-endorsed-wisconsin-supreme-court
    - https://www.nytimes.com/2022/04/15/us/wisconsin-districts-gerrymander-supreme-court.html

- 2021: Retained as demographic and redistricting expert by counsel for Galveston County, TX. Galveston County, TX was later sued by the US Department of Justice (*Petteway v. Galveston County, Texas*). Testified before U.S. District Judge Jeffrey Vincent Brown, who found for the Plaintiffs. Judge Brown said of my testimony "the court credits Bryan – an eminently believable witness" and that I "testified credibly". Defendants appealed to SCOTUS who reviewed the case in December in 2023 and refused to intervene. The case will continue in 2024 before the 5th Circuit Court.
    - ○ https://thearp.org/litigation/united-states-v-galveston-county-tex/
    - ○ https://www.scotusblog.com/2023/12/supreme-court-wont-block-new-maps-for-galveston-county/

- 2021: Retained as demographic and redistricting expert by the State of Alabama Attorney General's office in the matters of *Milligan v. Merrill*, *Thomas v. Merrill* and *Singleton v. Merrill* over Alabama's Congressional redistricting initiatives. My testimony and analysis were not credited in the court's decision.

- 2021: Retained as nonpartisan demographic and redistricting expert by counsel in the State of North Carolina to prepare commissioner redistricting plans for Granville County, Harnett County, Jones County and Nash County. Each proposed plan was approved and successfully adopted.

- 2021: Served as Consultant to the Arizona Independent Redistricting Commission, presenting "Pros and Cons of (Census data) Differential Privacy". July 13, 2021.
    - ○ https://irc.az.gov/sites/default/files/meeting-agendas/Agenda%207.13.21.pdf

- 2021: Retained as demographic and redistricting expert by Democratic Counsel for the State of Illinois in the case of *McConchie v. State Board of Elections*. Prepared expert report in defense of using the American Community Survey to comply with state constitutional
    - ○ https://redistricting.lls.edu/case/mcconchie-v-ill-state-board-of-elections/.

- 2021: Retained by counsel for the Chairman and staff of the Texas House Committee on Redistricting as a consulting demographic expert. Texas House Bill 1 subsequently passed by the Legislature 83-63.
    - ○ https://capitol.texas.gov/BillLookup/History.aspx?LegSess=873&Bill=HB1

- 2021: In the matter of the *State of Alabama, Representative Robert Aderholt, William Green and Camaran Williams v. the US Department of Commerce; Gina Raimondo; the US Census Bureau and Ron Jarmin* in US District Court of Alabama Eastern Division. Prepared a

demographic report for Plaintiffs analyzing the effects of using Differential Privacy on Census Data in Alabama and was certified as an expert witness by the Court.

- o https://www.alabamaag.gov/Documents/news/Census%20Data%20Manipulation%20Lawsuit.pdf

- o https://www.courtlistener.com/docket/59728874/3/6/the-state-of-alabama-v-united-states-department-of-commerce/

- 2020-2021: Providing expert demographic and analytic litigation support of Franklin County, WA (in collaboration with Dr. Peter Morrison) in defense of Washington Voting Rights Act violation claim by UCLA Voting Rights Project. The case later proceeded (without my participation) to become *Gimenez v. Franklin County, WA*.

  - o https://thearp.org/litigation/gimenez-v-franklin-county-washington/

- 2020: In the matter of The Christian Ministerial Alliance (CMA), *Arkansas Community Institute v. the State of Arkansas.* In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Providing demographic and analytic litigation support.

  - o https://www.naacpldf.org/wp-content/uploads/CMA-v.-Arkansas_FILED-without-stamp.pdf

- 2020: In the matter of *Aguilar, Gutierrez, Montes, Palmer and OneAmerica v. Yakima County* in Superior Court of Washington under the Washington Voting Rights Act ("WVRA" Wash. Rev. Code § 29A.92.60). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Providing demographic and analytic litigation support.

  - o https://bloximages.newyork1.vip.townnews.com/yakimaherald.com/content/tncms/assets/v3/editorial/a/4e/a4e86167-95a2-5186-a86c-bb251bf535f1/5f0d01eec8234.pdf.pdf

- 2018-2020: In the matter of *Rene Flores, Maria Magdalena Hernandez, Magali Roman, Make the Road New York, and New York Communities for Change v. Town of Islip, Islip Town Board, Suffolk County Board of Elections* in US District Court. On behalf of Defendants - provided a critical analysis of plaintiff's demographic and environmental justice analysis. The critique revealed numerous flaws in both the demographic analysis as well as the tenets of their environmental justice argument, which were upheld by the court. Ultimately developed mutually agreed upon plan for districting.

  - o https://nyelectionsnews.wordpress.com/2018/06/20/islip-faces-section-2-voting-rights-act-challenge/

  - o https://casetext.com/case/flores-v-town-of-islip-3

- 2017-2020 In the matter of *NAACP, Spring Valley Branch; Julio Clerveaux; Chevon Dos Reis; Eric Goodwin; Jose Vitelio Gregorio; Dorothy Miller; and Hillary Moreau v East Ramapo Central School District (Defendant)* in United States District Court Southern District Of New York (original decision May 25, 2020), later the U.S. Second Circuit Court of Appeals. On behalf of Defendants, developed mutually agreed upon district plan and provided demographic and analytic litigation support.
    - https://www.lohud.com/story/news/education/2020/05/26/federal-judge-sides-naacp-east-ramapo-voting-rights-case/5259198002/

- 2017-2020: In the matter of *Pico Neighborhood Association et al v. City of Santa Monica* brought under the California VRA. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Providing demographic and analytic litigation support. Executed geospatial analysis to identify concentrations of Hispanic and Black CVAP to determine the impossibility of creating a minority majority district, and demographic analysis to show the dilution of Hispanic and Black voting strength in a district (vs at-large) system. Work contributed to Defendants prevailing in landmark ruling in the State of California Court of Appeal, Second Appellate District.
    - https://www.santamonica.gov/press/2020/07/09/santa-monica-s-at-large-election-system-affirmed-in-court-of-appeal-decision

- 2019: In the matter of *Johnson v. Ardoin / the State of Louisiana* in United States District Court. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided expert demographic and analytic litigation support.
    - https://www.brennancenter.org/sites/default/files/2019-10/2019-10-16-Johnson%20v_%20Ardoin-132-Brief%20in%20Opposition%20to%20MTS.pdf
    - https://casetext.com/case/johnson-v-ardoin

- 2019: In the matter of *Suresh Kumar v. Frisco Independent School District et al*. in United States District Court. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided expert demographic and analytic litigation support. Successfully defended.
    - https://www.friscoisd.org/news/district-headlines/2020/08/04/frisco-isd-wins-voting-rights-lawsuit
    - https://www.courthousenews.com/wp-content/uploads/2020/08/texas-schools.pdf

- 2019: At the request of the City of Frisco, TX in collaboration with demographic testifying expert Dr. Peter Morrison. Provided expert demographic assessment of the City's potential liability regarding a potential Section 2 Voting Rights challenge.

- 2019: In the matter of *Vaughan v. Lewisville Independent School District et al.* in United States District Court. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided expert demographic and analytic litigation support.
    - https://www.nbcdfw.com/news/local/lawsuit-filed-against-lewisville-independent-school-district/1125/

- 2019: In the matter of *Holloway, et al. v. City of Virginia Beach in* United States District Court, Eastern District of Virginia. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided expert demographic and analytic litigation support.
    - https://campaignlegal.org/cases-actions/holloway-et-al-v-city-virginia-beach

- 2018: At the request of Kirkland City, Washington in collaboration with demographic testifying expert Dr. Peter Morrison. Performed demographic studies to inform the City's governing board's deliberations on whether to change from at-large to single-member district elections following enactment of the Washington Voting Rights Act. Analyses included gauging the voting strength of the City's Asian voters and forming an illustrative district concentrating Asians; and compared minority population concentration in pre- and post-annexation city territory.
    - https://www.kirklandwa.gov/Assets/City+Council/Council+Packets/021919/8b_SpecialPresentations.pdf#:~:text=RECOMMENDATION%3A%20It%20is%20recommended%20that%20City%20Council%20receive,its%20Councilmembers%20on%20a%20citywide%2C%20at-%20large%20basis

- 2018: At the request of Tacoma WA Public Schools in collaboration with demographic testifying expert Dr. Peter Morrison. Created draft concept redistricting plans that would optimize minority population concentrations while respecting incumbency. Client used this plan as a point of departure for negotiating final boundaries among incumbent elected officials.

- 2018: At the request of the City of Mount Vernon, Washington., in collaboration with demographic testifying expert Dr. Peter Morrison. Prepared a numerous draft concept plans that preserves Hispanics' CVAP concentration. Client utilized draft concept redistricting plans

to work with elected officials and community to agree upon the boundaries of six other districts to establish a proposed new seven-district single-member district plan.

- 2017: In the matter of *Pico Neighborhood Association v. City of Santa Monica*. In collaboration with demographic testifying expert Dr. Peter Morrison. Worked to create draft district concept plans that would satisfy Plaintiff's claim of being able to create a majority-minority district to satisfy Gingles prong 1. Such district was not possible, and the Plaintiffs case ultimately failed in California State Court of Appeals Second Appellate District.
  - o https://law.justia.com/cases/california/court-of-appeal/2020/b295935.html

- 2017: In the matter of *John Hall, Elaine Robinson-Strayhorn, Lindora Toudle, Thomas Jerkins, v. Jones County Board of Commissioners*. In collaboration with demographic testifying expert Dr. Peter Morrison.   Worked to create draft district concept plans to resolve claims of discrimination against African Americans attributable to the existing at-large voting system.
  - o http://jonescountync.gov/vertical/sites/%7B9E2432B0-642B-4C2F-A31B-CDE7082E88E9%7D/uploads/2017-02-13-Jones-County-Complaint.pdf

- 2017: In the matter of *Harding v. County of Dallas* in U.S. District Court. In collaboration with demographic testifying expert Dr. Peter Morrison. In a novel case alleging discrimination *against* White, non-Hispanics under the VRA, I was retained by plaintiffs to create redistricting scenarios with different balances of White-non-Hispanics, Blacks and Hispanics. Deposed and provided expert testimony on the case.
  - o https://www.courthousenews.com/wp-content/uploads/2018/08/DallasVoters.pdf

- 2016: Retained by The Equal Voting Rights Institute to evaluate the Dallas County Commissioner existing enacted redistricting plan. In collaboration with demographic testifying expert Dr. Peter Morrison, the focus of our evaluation was twofold: (1) assess the failure of the Enacted Plan (EP) to meet established legal standards and its disregard of traditional redistricting criteria; (2) the possibility of drawing an alternative Remedial Plan (RP) that did meet established legal standards and balance traditional redistricting criteria.
  - o http://equalvotingrights.org/wp-content/uploads/2015/01/Complaint.pdf

- 2016: In the matter of *Jain v. Coppell ISD et al* in US District Court (Texas). In collaboration with demographic testifying expert Dr. Peter Morrison. Consulted in defense of Coppell Independent School District (Dallas County, TX) to resolve claims of discriminatory at-large voting system affecting Asian Americans. While Asians were shown to be sufficiently numerous, I was able to demonstrate that they were not geographically concentrated - thus

successfully proving the Gingles 1 precondition could not be met resulting the complaint being withdrawn.

- o https://dockets.justia.com/docket/texas/txndce/3:2016cv02702/279616

- 2016: In the matter of *Feldman et al v. Arizona Secretary of State's Office et al* in SCOTUS. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided analytics on the locations and proximal demographics of polling stations that had been closed subsequent to *Shelby County v. Holder* (2013) which eliminated the requirement of state and local governments to obtain federal preclearance before implementing any changes to their voting laws or practices. Subsequently provided expert point of view on disparate impact as a result of H.B. 2023. Advised Maricopa County officials and lead counsel on remediation options for primary polling place closures in preparation for 2016 elections.

  - o https://arizonadailyindependent.com/2016/04/05/doj-wants-information-on-maricopa-county-election-day-disaster/

  - o https://www.supremecourt.gov/DocketPDF/19/19-1257/142431/20200427105601341_Brnovich%20Petition.pdf

- 2016: In the matter of *Glatt v. City of Pasco, et al.* in US District Court (Washington). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Provided analytics and draft plans in defense of the City of Pasco. One draft plan was adopted, changing the Pasco electoral system from at-large to a six-district + one at large.

  - o https://www.pasco-wa.gov/DocumentCenter/View/58084/Glatt-v-Pasco---Order---January-27-2017?bidId=

  - o https://www.pasco-wa.gov/923/City-Council-Election-System

- 2015: In the matter of *The League of Women Voters et al. v. Ken Detzner et al* in the Florida Supreme Court. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Performed a critical review of Florida state redistricting plan and developed numerous draft concept plans.

  - o http://www.miamiherald.com/news/politics-government/state-politics/article47576450.html

  - o https://www.floridasupremecourt.org/content/download/322990/2897332/file/OP-SC14-1905_LEAGUE%20OF%20WOMEN%20VOTERS_JULY09.pdf

- 2015: In the matter of *Evenwel, et al. v. Abbott / State of Texas* in SCOTUS. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Plaintiffs. Successfully drew map for the State of Texas balancing both total population from the decennial census and citizen population from the ACS (thereby proving that this was possible). We believe this may be the first and still only time this technical accomplishment has been achieved in the nation at a state level. Coauthored SCOTUS Amicus Brief of Demographers.

    o https://www.supremecourt.gov/opinions/15pdf/14-940_ed9g.pdf

    o https://www.scotusblog.com/wp-content/uploads/2015/08/Demographers-Amicus.pdf

- 2015: In the matter of *Ramos v. Carrollton-Farmers Branch Independent School District* in US District Court (Texas). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Used 2009-2013 5-year ACS data to generate small-area estimates of minority citizen voting-age populations and create a variety of draft concept redistricting plans. Case was settled decision in favor of a novel cumulative voting system.

    o https://starlocalmedia.com/carrolltonleader/c-fb-isd-approves-settlement-in-voting-rights-lawsuit/article_92c256b2-6e51-11e5-adde-a70cbe6f9491.html

- 2015: In the matter of *Glatt v. City of Pasco et al.* in US District Court (Washington). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Consulted on forming new redistricting plan for city council review. One draft concept plan was agreed to and adopted.

    o https://www.pasco-wa.gov/923/City-Council-Election-System

- 2015: At the request of Waterbury, Connecticut, in collaboration with demographic testifying expert Dr. Peter Morrison. As a result of a successful ballot measure to convert Waterbury from an at-large to a 5-district representative system, consulted an extensive public outreach and drafted numerous concept plans. The Waterbury Public Commission considered alternatives and recommended one of our plans, which the City adopted.

    o http://www.waterburyobserver.org/wod7/node/4124

- 2014-15: In the matter of *Montes v. City of Yakima* in US District Court (Washington). In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants. Analytics later used to support the Amicus Brief of the City of Yakima, Washington in the U.S. Supreme Court in *Evenwel v. Abbott*.

    o https://casetext.com/case/montes-v-city-of-yakima-3

- 2014: In the matter of *Harding v. County of Dallas* in the US Court of Appeals Fifth Circuit. In the novel case of Anglo plaintiffs attempting to claim relief as protected minorities under the VRA. Served as demographic expert in the sole and limited capacity of proving Plaintiff claim under Gingles prong 1. Claim was proven. Gingles prongs 2 and 3 were not and the case failed.
    - https://electionlawblog.org/wp-content/uploads/Dallas-opinion.pdf

- 2014: At the request of Gulf County, Florida in collaboration with demographic testifying expert Dr. Peter Morrison. Upon the decision of the Florida Attorney General to force inclusion of prisoners in redistricting plans – drafted numerous concept plans for the Gulf County Board of County Commissioners, one of which was adopted.
    - http://myfloridalegal.com/ago.nsf/Opinions/B640990E9817C5AB85256A9C0063 1387

- 2012-2015: In the matter of *GALEO and the City of Gainesville* in Georgia. In collaboration with demographic testifying expert Dr. Peter Morrison, on behalf of Defendants -consulted on defense of existing at-large city council election system.
    - http://atlantaprogressivenews.com/2015/06/06/galeo-challenges-at-large-voting-in-city-of-gainesville/

- 2012-: Confidential. Consulted (through Morrison & Associates) to support plan evaluation, litigation, and outreach to city and elected officials (1990s - mid-2000s). Executed first statistical analysis of the American Community Survey to determine probabilities of minority-majority populations in split statistical/administrative units of geography, as well as the cumulative probabilities of a "false-negative" minority-majority reading among multiple districts.

- 2011-: Confidential. Consulted on behalf of plaintiffs in Committee (Private) vs. State Board of Elections pertaining to citizen voting-age population. Evaluated testimony of defense expert, which included a statistical evaluation of Hispanic estimates based on American Community Survey (ACS) estimates. Analysis discredited the defendant's expert's analysis and interpretation of the ACS.

National Voting Rights Act (NVRA) Projects

In addition to political redistricting cases, BGD has provided demographic and analytic expertise in National Voting Rights Act (NVRA) cases. Examples include:

- 2024: In the matter of *Green v. Bell* (NC Board of Elections) in US District Court for the Western District of North Carolina, Charlotte Division. Providing expert demographic support to Plaintiffs, analyzing the American Community Survey (ACS) and US Election Administration and Voting Survey (EAVS) to measure and assess compliance with the National Voter Registration Act (NVRA). Case successfully resolved with settlement.
  - https://www.democracydocket.com/cases/north-carolina-voter-purge-nvra-challenge/

- 2024: In the matter of *Swoboda v. Fontes* (AZ Secretary of State) in US District Court for the District of Arizona. Providing expert demographic support to Plaintiffs, analyzing the American Community Survey (ACS) and US Election Administration and Voting Survey (EAVS) to measure and assess compliance with the National Voter Registration Act (NVRA). Case dismissed Dec. 5, 2024 on standing, appeal pending.
  - https://prod-static.protectthevote.com/media/document/filing/AZ_NVRA_complaint_01wik4ab.pdf

Applied Demography Studies

In addition to political redistricting cases, BGD has provided demographic and analytic expertise across a broad array of issues, oftentimes creating pivotal evidence that has been decisive in legal cases and analytics that were core to the success of clients. Example:

- 2012 - Consulted (through Morrison & Associates) in generating a time-series of ACS Citizen voting-age population estimates by race and ethnicity from 2005-2010 ACS to assess the impact of a State of Wisconsin proposed rule requiring driver licenses to verify voters' current addresses.

School Redistricting and Municipal Infrastructure Projects

BGD worked with McKibben Demographics from 2004-2012 providing expert demographic and analytic support. These engagements involved developing demographic profiles of small areas to assist in building fertility, mortality and migration models used to support long-range population forecasts and infrastructure analysis in the following communities:

Fargo, ND 10/2012	Charleston, SC 8/08
Columbia, SC 3/2012	Woodland, IL 7/08
Madison, MS 9/2011	White County, IN 6/08
Rockwood, MO 3/2011	Gurnee District 56, IL 5/08
Carthage, NY 3/2011	Central Noble, IN 4/08
NW Allen, IN 9/2010	Charleston First Baptist, SC 4/08
Fayetteville, AR 7/2010	Edmond, OK 4/08
Atlanta, GA 2/2010	East Noble, IN 3/08
Caston School Corp., IN 12/09	Mill Creek, IN 5/06
Rochester, IN 12/09	Rhode Island 5/06
Urbana, IL 11/09	Garrett, IN 3/08
Dekalb, IL 11/09	Meridian, MS 3/08
Union County, NC 11/09	Madison County, MS 3/08
South Bend, IN 8/09	Charleston 12/07
Lafayette, LA 8/09	Champaign, IL 11/07
Fayetteville, AR 4/09	Richland County, SC 11/07
New Orleans, LA 4/09	Lake Central, IN 11/07
Wilmington New Hanover 3/09	Columbia, SC 11/07
New Berry, SC 12/08	Duneland, IN 10/07
Corning, NY 11/08	Union County, NC 9/07
McLean, IL 11/08	Griffith, IN 9/07
Lakota 11/08	Rensselaer, IN 7/07
Greensboro, NC 11/08	Hobart, IN 7/07
Guilford 9/08	Buffalo, NY 7/07
Lexington, SC 9/08	Oak Ridge, TN 5/07
Plymouth, IN 9/08	Westerville, OH 4/07

Projects Continued

Baton Rouge, LA 4/07	Allen County 11/05
Cobb County, GA 4/07	Bremen, IN 11/05
Charleston, SC District 20 4/07	Smith Green, IN 11/05
McDowell County, NC 4/07	Steuben, IN 11/05
East Allen, IN 3/07	Plymouth, IN 11/05
Mt. Pleasant, SC District 2 2/07	North Charleston, SC 11/05
Peach County, GA 2/07	Huntsville, AL 10/05
North Charleston, SC District 4 2/07	Dekalb, IN 9/05
Madison County, MS revisions 1/07	East Noble, IN 9/05
Portage County, IN 1/07	Valparaiso, IN 6/05
Marietta, GA 1/07	Penn-Harris-Madison, IN 7/05
Porter, IN 12/06	Elmira, NY 7/05
Harrison County, MS 9/06	South Porter/Merriville, IN 7/05
New Albany/Floyd County, IN 9/06	Fargo, ND 6/05
North Charleston, SC 9/06	Washington, IL 5/05
Fairfax, VA 9/06	Addison, NY 5/05
Coleman 8/06	Kershaw, SC 5/05
DeKalb, GA 8/06	Porter Township, IN 3/05
LaPorte, IN 7/06	Portage, WI 1/05
NW Allen, IN 7/06	East Stroudsburg, PA 12/04
Brunswick, NC 7/06	North Hendricks, IN 12/04
Carmel Clay, IN 7/06	Sampson/Clinton, NC 11/04
Calhoun, SC 5/06	Carmel Clay Township, IN 9/04
Hamilton Community Schools, IN 4/06	SW Allen County, IN 9/04
Dilworth, MN 4/06	East Porter, IN 9/04
Hamilton, OH 2/06	Allen County, IN 9/04
West Noble, IN 2/06	Duplin, NC 9/04
New Orleans, LA 2/06	Hamilton County / Clay TSP, IN 9/04
Norwell, IN 2/06	Hamilton County / Fall Creek TSP, IN 9/04
Middletown, OH 12/05	Decatur, IN 9/04
West Noble, IN 11/05	Chatham County / Savannah, GA 8/04
Madison, MS 11/05	Evansville, IN 7/04
Fremont, IN 11/05	Madison, MS 7/04
Concord, IN 11/05	Vanderburgh, IN 7/04
	New Albany, IN 6/04

Publications

- In the matter of *CMA v. Thurston*, No. 4:23-cv-471-DPM-DRS-JM, in the Eastern District Court of Arkansas. Declaration and Rebuttal Declaration of Thomas M. Bryan. Assessing Plaintiffs' claims and alternative maps. October, 2024.

- "Using cluster analysis to identify communities of interest for purposes of legislative redistricting: A case study of parishes in Louisiana" (with David A. Swanson) May 12, 2024, Papers in Applied Geography, DOI: 10.1080/23754931.2024.2346326
  - https://doi.org/10.1080/23754931.2024.2346326
  - https://sda-demography.org/news/13355939

- "Forensic Demography: An Overlooked Area of Practice among Applied Demographers" *Review of Economics and Finance* (with David A. Swanson and Jeff Tayman). January 2023.
  - https://refpress.org/ref-vol20-a94/

- In the matter of *Banerian v. Benson*, No. 1:22-CV-00054-RMK-JTN-PLM, in US District Court of the Western District of Michigan. Declaration of Thomas Bryan. Assessing the performance of plaintiff and defendant plans against the Michigan Constitution and traditional redistricting principles. February 2022.

- In the matter of *Johnson v. Wisconsin Elections Commission*, No. 2021AP001450OA, in the Supreme Court of Wisconsin. Declaration and Rebuttal Declaration of Thomas M. Bryan. Assessing the features of proposed redistricting plans by the Wisconsin Legislature and other parties to the litigation. December 2021.

- In the matters of *Caster v. Merrill* and *Milligan v. Merrill* in US District Court of the Northern District of Alabama. Civil Action NOs. 2:21-cv-01536-AMM; 2:21-cv-01530-AMM. Declaration of Thomas Bryan. Assessing the compliance and performance of the demonstrative VRA congressional plans of Dr. Moon Duchin and Mr. William Cooper. December 2021.

- In the matter of *Milligan v. Merrill* in US District Court of the Northern District of Alabama. Civil Action NO. 2:21-cv-01530-AMM. Declaration of Thomas M. Bryan. Assessing the compliance and performance of the Milligan and State of Alabama congressional redistricting plans. December 2021.

- In the matter of *Singleton v. Merrill* in US District Court of the Northern District of Alabama. Civil Action NO. 2:21-cv-01291-AMM. Declaration of Thomas M. Bryan. Assessing the

compliance and performance of the Singleton and State of Alabama congressional redistricting plans. December 2021.

- "The Effect of the Differential Privacy Disclosure Avoidance System Proposed by the Census Bureau on 2020 Census Products: Four Case Studies of Census Blocks in Alaska" PAA Affairs, (with D. Swanson and Richard Sewell, Alaska Department of Transportation and Public Facilities). March 2021.
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Professional Presentations and Conference Participation

- 2025 "Broadband, Race and Poverty in Rural Mississippi: 2020 Census Response Rates". Scheduled for February 4-6 at the PAA Applied Demography Conference (ADC) meetings, Tucson, AZ.

- 2024 "Use of Current Population Survey and Cooperative Election Study in Analyzing Registered Voter Turnout". June 5, 2024 at the American Statistical Association Symposium on Data Science and Statistics (SDSS) meetings, Richmond, VA.

- 2024 Uses of Demographic Data and Statistical Information Systems in Redistricting and Litigating Voting Rights Act Cases: Case studies of the CPS and CES, and the ACS and EAVS. Presented at the 2024 Population Association of America Applied Demography Conference, February 2024.
  - https://events.rdmobile.com/Sessions/Details/2193084

- 2023 Population Association of America Applied Demography Conference, Annapolis, MD. February 2023.
  - https://events.rdmobile.com/Sessions/Details/2193084
  - "Applications of Differential Core Retention in Redistricting"
  - "Census CVAP vs. VAP in a Redistricting Context"
  - "Different Census Race Definitions in a Redistricting Context"

- 2022 Southern Demographic Association Meetings. "Census 2020 and Political Redistricting" session. Knoxville, TN, October 2022.
  - https://sda-demography.org/resources/Documents/SDA%202022%20Preliminary%20Program_Vfinal_V12.pdf
  - "Addressing Latent Demographic Factors in Redistricting: An Instructional Case" (with Dr. Peter Morrison)

- "Analysis of Differential Privacy and its Impacts on Redistricting" Presented as invited expert on the Panel on the 2020 Census at the American Statistical Association JSM meetings, Washington DC August 8, 2022.
  - https://ww2.amstat.org/meetings/jsm/2022/onlineprogram/AbstractDetails.cfm?abstractid=323887

- "Re-purposing Record Matching Algorithms to assess the effect of Differential Privacy on 2020 Small Area Census Data" SAE 2022: Small Area Estimation, Surveys and Data Science University of Maryland, College Park, USA 23 - 27 May, 2022. With Dr. David Swanson.
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- "Redistricting 101: A Tutorial" 2022 Population Association of America Applied Demography Conference, February 2022. With Dr. Peter Morrison.
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- "The Effect of the Differential Privacy Disclosure Avoidance System Proposed by the Census Bureau on 2020 Census Products: Four Case Studies of Census Blocks in Alaska". 2021 American Statistical Association - Symposium on Data Science and Statistics (ASA-SDSS). With Dr. David Swanson.
  - https://ww2.amstat.org/meetings/sdss/2021/index.cfm

- "New Technical Challenges in Post-2020 Redistricting" 2020 Population Association of America Applied Demography Conference, 2020 Census Related Issues, February 2021. With Dr. Peter Morrison.

- "Tutorial on Local Redistricting" 2020 Population Association of America Applied Demography Conference, February 2021. With Dr. Peter Morrison.

- "Demographic Constraints on Minority Voting Strength in Local Redistricting Contexts" 2019 Southern Demographic Association meetings (coauthored with Dr. Peter Morrison) New Orleans, LA, October 2019. Winner of annual E. Walter Terrie award for best state and local demography presentation.
  - http://sda-demography.org/2019-new-orleans

- "Applications of Big Demographic Data in Running Local Elections" 2017 Population and Public Policy Conference, Houston, TX.

- "Distinguishing 'False Positives' Among Majority-Minority Election Districts in Statewide Congressional Redistricting," 2017 Southern Demographic Association meetings (coauthored with Dr. Peter Morrison) Morgantown, WV.

- "Devising a Demographic Accounting Model for Class Action Litigation: An Instructional Case" 2016 Southern Demographic Association (with Peter Morrison), Athens, GA.

- "Gauging Hispanics' Effective Voting Strength in Proposed Redistricting Plans: Lessons Learned Using ACS Data." 2012 Conference of the Southern Demographic Association, Williamsburg, VA.

- "Characteristics of the Arab-American Population from Census 2000 and 1990: Detailed Findings from PUMS." 2004 Conference of the Southern Demographic Association, (with Samia El-Badry) Hilton Head, SC.

- "Small-Area Identification of Arab American Populations," 2004 Conference of the Southern Demographic Association, Hilton Head, SC.

- "Applied Demography in Action: A Case Study of Population Identification." 2002 Conference of the Population Association of America, Atlanta, GA.

Professional Conference Chairs, Peer Reviews and Conference Discussant Roles

- 2024 Population Association of America Applied Demography Conference, "Population Projections" session chairman. February 2024.
  - https://events.rdmobile.com/Sessions/Details/2195280

- 2023 Population Association of America Applied Demography Conference, "Uses of Census Data and New Analytical Approaches for Redistricting" session chairman. Annapolis, MD, February 2023.
  - https://www.populationassociation.org/events-publications/adc

- o DOJ Section 2 Data Requirements vs Reality and the Impact on Redistricting
- o DOJ ACS CVAP annual data file inconsistencies
- o Differences in CVAP and VAP Reported by the USCB and the Impact on Redistricting
- o Changing Multi-Race Definitions and the Impact on Redistricting

- 2020 Population Association of America "Assessing the Quality of the 2020 Census" session chairman including Census Director Ron Jarmin. Virtual meeting, May 5, 2021.
  - o https://paa2021.secure-platform.com/a/organizations/main/home

- "The Historical Roots of Contentious Litigation Over Census Counts in the Late 20th Century". Peer reviewer for presentation at the Hawaii International Conference on the Social Sciences, Honolulu, Hawaii, June 17-19, 2004 with David A. Swanson and Paula A. Walashek.

- 2004 - Population Research and Policy Review External Peer Reviewer / MS #253 "A New Method in Local Migration and Population Estimation".

- Session Discussant on "Spatial Demography" at the 2003 Conference of the Southern Demographic Association, Arlington, VA.

- Subject Moderator at the International Program Center (IPC) 2000 Summer Workshop on Subnational Population Projections for Planning, Suitland, MD.

- Session Chairman on "Population Estimates: New Evaluation Studies" at the 2002 Conference of the Southern Demographic Association, Austin, TX.

- Conference Session Chairman at the 2000 Conference of the Federal Forecasters Conference (FFC), Washington, DC.

- Session Discussant on "New Developments in Demographic Methods" at the 2000 Conference of the Southern Demographic Association, New Orleans, LA.

- Panel Discussant on GIS Applications in Population Estimates Review at the 2000 Conference of the Population Association of America, Los Angeles, CA.

- Panel Discussant on Careers in Applied Demography at the 2000 Conference of the Population Association of America, Los Angeles, CA.

Primary Software Competencies

ESRI ArcGIS

SAS

Microsoft Office

Professional Affiliations

American Statistical Association

Population Association of America

Southern Demographic Association

Relevant Work Experience

January 2001- April 2003 ESRI Business Information Solutions / Demographer

Responsibilities included demographic data management, small-area population forecasting, IS management and software product and specification development. Additional responsibilities included developing GIS-based models of business and population forecasting, and analysis of emerging technology and R&D / testing of new GIS and geostatistical software.

May 1998-January 2001 U.S. Census Bureau / Statistician

Responsibilities: developed and refined small area population and housing unit estimates and innovative statistical error measurement techniques in support of the Population Estimates Program and the Current Population Survey.

Service

Eagle Scout, 1988, Boy Scouts of America. Member of the National Eagle Scout Association. Involved in leadership of the Boy Scouts of America Heart of Virginia Council.

Founder: SCOVETH, Virginia Scouting and Veterans Oral History Project, in collaboration with the Virginia War Memorial

References

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310-266-9580

EXHIBIT W

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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Michael Williams; José Ramírez-Garofalo; Aixa Torres;
and Melissa Carty,

                                    Petitioners,

            -against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the State of
New York; Raymond J. Riley, III, in his official capacity as
Co-Executive Director of the Board of Elections of the
State of New York; Peter S. Kosinski, in his official
capacity as Co-Chair and Commissioner of the Board of
Elections of the State of New York; Henry T. Berger, in his
official capacity as Co-Chair and Commissioner of the
Board of Elections of the State of New York; Anthony J.
Casale, in his official capacity as Commissioner of the
Board of Elections of the State of New York; Essma
Bagnuola, in her official capacity as Commissioner of the
Board of Elections of the State of New York; Kathy
Hochul, in her official capacity as Governor of New York;
Andrea Stewart-Cousins, in her official capacity as Senate
Majority Leader and President *Pro Tempore* of the New
York State Senate; Carl E. Heastie, in his official capacity
as Speaker of the New York State Assembly; and Letitia
James, in her official capacity as Attorney General of New
York,

                                    Respondents,

            -and-

Nicole Malliotakis; Edward L. Lai, Joel Medina, Solomon
B. Reeves, Angela Sisto, and Faith Togba,

                         Intervenors-Respondents.

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Index No. 164002/2025

Hon. Jeffrey H. Pearlman

Motion Seq.001

**INTERVENOR-RESPONDENTS' PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

INTRODUCTION

Petitioners' central thesis is that Article III, Section 4 of the New York Constitution renders the Eleventh Congressional District ("CD11") unconstitutional because, according to their own expert, Black and Latino voters—who make up less than 30% of the district—have "only" obtained a majority in 25% of the elections that their expert hand-picked across that district. Petitioners ask this Court to order the racial reconfiguration of CD11 on that basis. As summarized below, Petitioners' lawsuit is entirely without merit, both as a legal and a factual matter. The New York Constitution does not incorporate the standards of the New York Voting Rights Act ("NYVRA"), which is the only theory presented in Petitioners' Petition and is thus the only theory that this Court can lawfully apply here, consistent with basic principles of fairness and due process.

But even if the NYVRA's standards somehow applied, Petitioners fell far short of carrying their burden at trial of proving their case under those standards. Most obviously, Petitioners have not shown that Black and Latino voters' preferred candidates are "usually defeated" under any administrable, coherent understanding of that phrase. Petitioners' core thesis—that every racial group's candidate of choice must not lose more than half of elections in every congressional district—would render the NYVRA (and, under Petitioners' theory, the New York Constitution) an unconstitutional mess in violation of the U.S. Constitution. Under that approach, every district that happens to have racially polarized voting—a common condition, as the U.S. Supreme Court has explained and Petitioners' own expert admitted—would be illegal as to some race. That would result in New York courts ordering an endless cycle of racial configurations of congressional, county, and local districts, in a futile and unconstitutional effort to racially gerrymander election outcomes. And Petitioners' failure of proof goes even further, as they did not even proffer an expert with any knowledge of Staten Island who was able to testify that their requested racial

2

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reconfiguration makes sense. Indeed, their map-drawing expert admitted to having no knowledge of the relevant communities of interest and then candidly testified that he expected Petitioners to present community-of-interest evidence from some other witness, as was his experience in other redistricting cases. Petitioners remarkably presented no such evidence to the Court.

If this were not enough, given that Petitioners ask for a racial reconfiguration of CD11, they were duty-bound under the U.S. Constitution's Equal Protection Clause to show that the remedy they seek is "narrowly tailored to achieving a compelling state interest." *Wis. Legislature v. Wis. Elections Comm'n*, 595 U.S. 398, 401 (2022) (citation omitted). Yet, Petitioners did not even attempt to carry their burden, as it would be impossible to show that racially redrawing a district so that Black and Latino voters who make up less than 30% of that district must (under Petitioners' own expert's count) win more than 25% of elections is narrowly tailored to serving any compelling state interest. Granting Petitioners relief here would be flatly contrary to binding U.S. Supreme Court precedent, including as recently as *Wisconsin Legislature*, where the Court summarily reversed a state court for adopting a racial configuration of a map without satisfying strict scrutiny. This Court is, of course, bound by the U.S. Supreme Court's pronouncements of the meaning of the U.S. Constitution and has no authority to issue a decision that is contrary to that Court's binding precedents. Petitioners' request that this Court flout the U.S. Supreme Court's binding precedent, which would only lead to a swift summary reversal as in *Wisconsin Legislature*, is not well taken.

PROPOSED FINDINGS OF FACT

I.   The Parties

A. Petitioners

1.   Petitioners are four individuals who are registered to vote in New York City. NYSCEF Doc. No.1 ("Pet.") ¶¶ 14–18.

2.   Petitioner Michael Williams is a Black registered voter on Staten Island. *Id.* ¶ 15.

3.   Petitioner Jose Ramirez-Garofalo is a Latino registered voter on Staten Island. *Id.* ¶ 16.

4.   Petitioner Axia Torres is a Latina registered voter in Manhattan. *Id.* ¶ 17.

5.   Petitioner Melissa Carty is a White registered voter in Manhattan. *Id.* ¶ 18.

B. Respondents

6.   Respondent Board of Elections of the State of New York is an Executive Department agency responsible for administering and enforcing New York's election laws. *Id.* ¶ 19.

7.   Respondent Kristen Zebrowski Stavisky is the Co-Executive Director of the Board of Elections of the State of New York. *Id.* ¶ 20.

8.   Respondent Raymond J. Riley, III, is the Co-Executive Director of the Board of Elections of the State of New York. *Id.* ¶ 21.

9.   Respondent Peter S. Kosinski is the Co-Chair and Commissioner of the Board of Elections of the State of New York. *Id.* ¶ 22.

10.   Respondent Henry T. Berger is the Co-Chair and Commissioner of the Board of Elections of the State of New York. *Id.* ¶ 23.

11.   Respondent Anthony J. Casale is the Commissioner of the Board of Elections of the State of New York. *Id.* ¶ 24.

12.   Respondent Emma Bagnuola is the Commissioner of the Board of Elections of the State of New York. *Id.* ¶ 25.

13.   Respondent Kathy Hochul is the Governor of New York. *Id.* ¶ 26.

14.   Respondent Andrea Stewart-Cousins is the New York State Senate Majority Leader and President *Pro Tempore* of the Senate. *Id.* ¶ 27.

15.   Respondent Carle E. Heastie is the Speaker of the New York State Assembly. *Id.* ¶ 28.

16.   Respondent Letitia James is the Attorney General of New York. *Id.* ¶ 29.

C. Intervenor-Respondents

17.   Intervenor-Respondents consist of Congresswoman Nicole Malliotakis and a number of citizen voters (the "Individual Voters") from CD11.

18.   Congresswoman Malliotakis is the incumbent elected Congresswoman from CD11. NYSCEF Doc. No.23 ("Malliotakis Aff.") ¶ 2. Congresswoman Malliotakis is the daughter of immigrants—her father is from Greece and her mother is a Cuban refugee of the Castro dictatorship—and she is the first Latino and minority to represent this District. *Id.* ¶ 3.

19.   Congresswoman Malliotakis is the only elected Republican member of Congress representing a part of New York City, *see* N.Y. GIS Clearinghouse, GIS Data, *NYS Congressional Districts* (Oct. 7, 2025).[1] She first won election to the U.S. House of Representatives to represent CD11 in 2020; she won reelection in 2022; and then she won reelection again in 2024. Malliotakis Aff. ¶ 2.

20.   The Individual Voters are all citizen voters from CD11 who support Congresswoman Malliotakis and spent significant time and resources campaigning for her during the 2020, 2022 and/or the 2024 election cycles. *See* NYSCEF Doc. No.24 ("Lai Aff.") ¶¶ 2–10; NYSCEF Doc. No.25 ("Medina Aff.") ¶¶ 2–9; NYSCEF Doc. No.26 ("Reeves Aff.") ¶¶ 2–9; NYSCEF Doc. No.27 ("Sisto Aff.") ¶¶ 2–8; NYSCEF Doc. No.28 ("Togba Aff.") ¶¶ 2–8.

21.   As residents and voters in CD11, the Individual Voters do not wish to reside in a racially gerrymandered district. *See* Lai Aff. ¶ 11; Medina Aff. ¶ 10; Sisto Aff. ¶ 9; Togba Aff.

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[1] Available at https://data.gis.ny.gov/datasets/sharegisny::nys-congressional-districts/explore.

¶ 9. Nor do they wish to be subjected to a racial classification because of reliance on racial criteria in changing CD11. *See* Lai Aff. ¶ 11; Medina Aff. ¶ 10; Sisto Aff. ¶ 9; Togba Aff. ¶ 9.

II. CD11's Boundaries Have Been In Place For Decades

22. In 1982, the then-Fourteenth Congressional District linked Staten Island with the Southern Brooklyn neighborhoods Bay Ridge and Dyker Heights. Trende Rep.19.

23. Ten years later, the district—then the Thirteenth Congressional District—expanded to include Bath Beach, along with a portion of Gravesend and Bensonhurst. *Id.* at 20.

24. The district retained this shape—linking Staten Island and Southern Brooklyn—with only slight alterations, in the congressional district maps enacted in both 2002 and 2012, and the district was renumbered to CD11 in 2012. *Id.* at 21–22.

25. Following the release of the 2020 federal census, "[d]ue to shifts in New York's population, the state lost a congressional seat and other districts were malapportioned, undisputedly rendering the 2012 congressional apportionment [of the State]—developed by a federal court following a legislative impasse—unconstitutional and necessitating the drawing of new district lines." *Harkenrider v. Hochul*, 38 N.Y.3d 494, 504 (2022) (citation omitted).

26. The 2020 redistricting process was New York's "first opportunity" to have its "district lines [ ] be drawn under the new [Independent Redistricting Commission ("IRC")] procedures established by the 2014 constitutional amendments" to the New York Constitution (the "2014 Amendments"). *Id.* The 2014 Amendments created a mandatory redistricting process vesting primary authority to conduct redistricting following each decennial census in the newly created IRC, and established procedural and substantive safeguards against gerrymandering. *See* N.Y. Const. art. III, §§ 4(c)(5), 5-b; *Harkenrider*, 38 N.Y.3d at 503–04.

27.   Although the IRC initially abided by the constitutional process to redistrict the State following the 2020 Census, the IRC's process broke down. *Harkenrider*, 38 N.Y.3d at 504. Eventually, the IRC announced that it had deadlocked and would not be able to submit proposed maps to the Legislature, as the Constitution required. *Id.* at 504–05.

28.   The Legislature then purported to adopt its own congressional redistricting plan, which Governor Hochul signed into law on February 3, 2022. *See id.* at 505.

29.   Certain citizen voters challenged that congressional map in the Steuben County Supreme Court that same day, and the Court of Appeals ultimately reviewed that challenge in *Harkenrider*. *Id.* at 505–08.

30.   In *Harkenrider*, the Court of Appeals held that the Legislature's congressional map was both procedurally and substantively unconstitutional. *Id.* at 508–20.

31.   The map that the Court of Appeals struck down as being "drawn with an unconstitutional partisan intent," *id.* at 502, was designed by Democrats to further their "political ambitions to capture the 11th District," NYSCEF Doc. No.100, by making similar changes to the district's boundaries as those that Petitioners have requested here, *see* Pet. ¶ 101, that would render the district "significantly more liberal," NYSCEF Doc. No.101 at 2.

32.   To cure the procedural violation, the Court of Appeals instructed the Steuben County Supreme Court to "adopt [a] constitutional map[ ]" itself. *Harkenrider*, 38 N.Y.3d at 524. The Steuben County Supreme Court did so on remand, adopting the *Harkenrider* Map. *See Harkenrider*, Index No. E2022-0116CV, NYSCEF Doc. No.670 at 1–2, 5; *see also Harkenrider*, Index No. E2022-0116CV, NYSCEF Doc. No.696 at 1 (adopting modified map correcting technical violations).

33.   As relevant here, the *Harkenrider* Map kept CD11's boundaries largely in-line with the boundaries that had obtained for decades, linking Staten Island with Southern Brooklyn. *See Harkenrider*, Index No. E2022-0116CV, NYSCEF Doc. No.670 at 25.

34.   The *Harkenrider* Map governed New York's 2022 congressional elections, *see Hoffmann v. N.Y. State Indep. Redistricting Comm'n*, 41 N.Y.3d 341, 354–55 (2023), and Congresswoman Malliotakis won CD11, *see* Malliotakis Aff. ¶ 2.

35.   After the Steuben County Supreme Court adopted the *Harkenrider* Map, certain petitioners initiated a special proceeding seeking to replace the *Harkenrider* Map for subsequent congressional elections in New York. *Hoffman*, 41 N.Y.3d at 355. In particular, those petitioners claimed that the New York courts should remedy the breakdown of the IRC process that necessitated the adoption of the *Harkenrider* Map by ordering the IRC to reconvene and submit a new proposed redistricting map to the Legislature under the 2014 Amendments. *Id.*

36.   The Court of Appeals agreed with these petitioners in *Hoffman*, holding that "the IRC should comply with its constitutional mandate [under the 2014 Amendments] by submitting to the legislature . . . a [ ] congressional redistricting plan and implementing legislation," which plan was to govern congressional elections in New York beginning in 2024. *Id.* at 370.

37.   Following *Hoffman*, the IRC proposed a congressional redistricting map to replace the *Harkenrider* Map and submitted it to the Legislature, pursuant to the 2014 Amendments. *See* 2023 NY Senate Bill S8639; 2023 NY Assembly Bill A9304; *see also* NYSCEF Doc. No.19 (N.Y. State Indep. Redistricting Comm'n, *Congressional Plan 2024*).

38.   Although the IRC had deadlocked along party lines only two years earlier, leading to the *Harkenrider* litigation, *supra* p.7, the IRC this time overwhelmingly approved this 2024 proposal in a 9–1 vote, NYSCEF Doc. No.20 at 1.

39.   The IRC's proposal only slightly modified the *Harkenrider* Map, without altering CD11. *See id.* The IRC's Republican Chairman lauded the IRC's affirmative vote in favor of its proposed map as a "historic moment," while his Democratic counterpart declared that the approval of the proposed map represented a "victory for the commission process." *Id.* at 2.

40.   The Legislature made modest changes to the IRC's proposed map, *see* NYSCEF Doc. No.21, and sent that proposal to the Governor for her approval, *see* 2023 NY Senate Bill S8653A; 2023 NY Assembly Bill A9310. The Legislature did not alter CD11 either. *See* NYSCEF Doc. No.21 (discussing the Legislature's modest changes to the IRC's proposed map).

41.   Large, bipartisan majorities of the Senate (45-17) and the Assembly (118-30) voted in favor of this congressional map. *See* 2023 NY Senate Bill S8653A (providing Senate floor vote details); 2023 NY Assembly Bill A9310 (same, as to Assembly).

42.   On February 28, 2024, Governor Hochul signed the congressional map into law. N.Y. State Law §§ 110–12 (the "2024 Congressional Map").

43.   Thus, beginning with the 2024 elections, New York was to hold its congressional elections under a redistricting map drawn by the Legislature and signed by the Governor. *Id.*

44.   A map of the current congressional districts in New York is below.
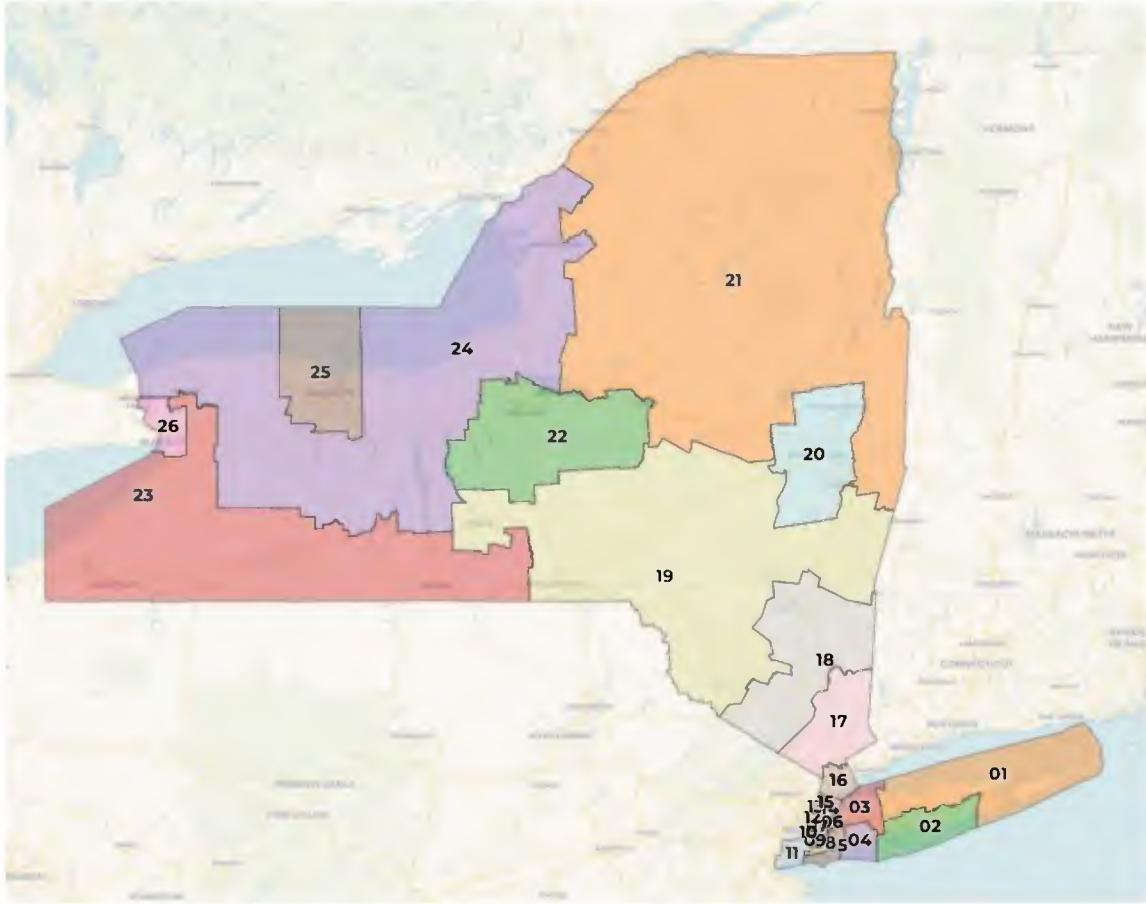
NYSCEF Doc. No.19 at 2.

45.   A map of the current congressional districts that are at least partially in New York City is below.
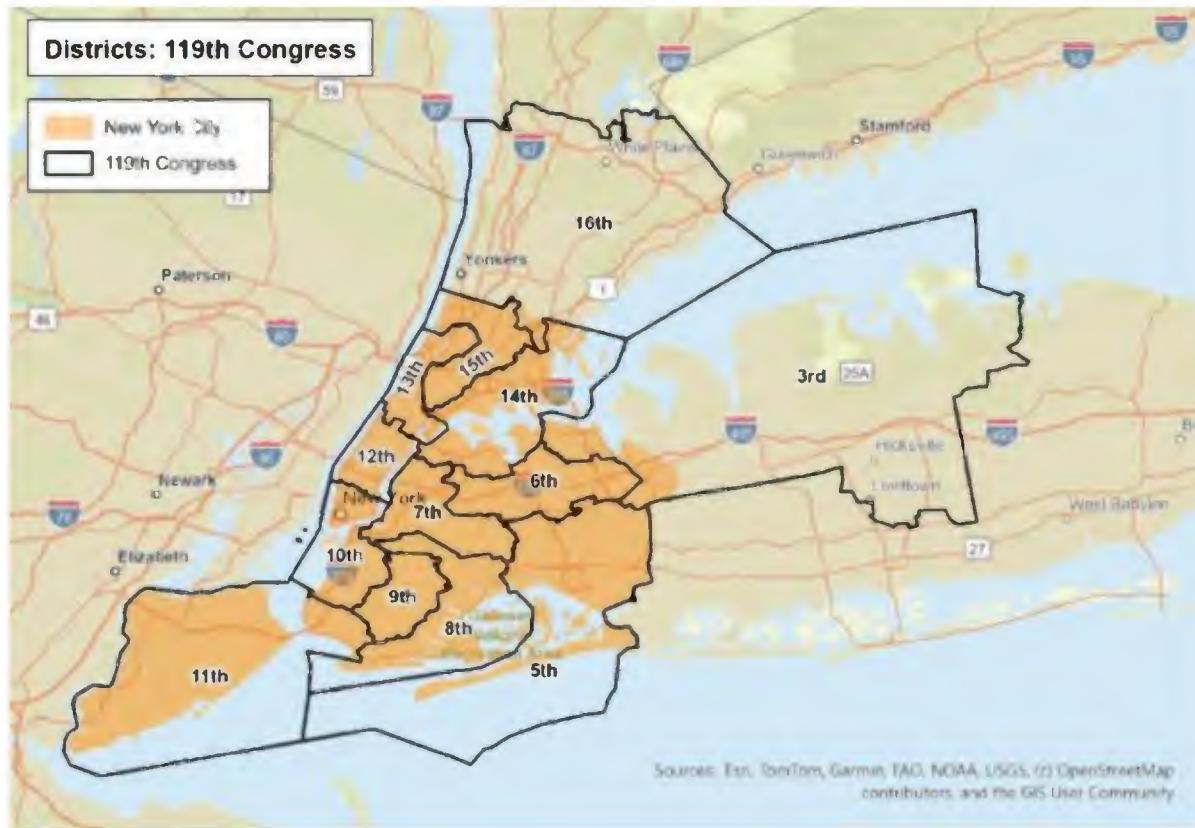
Bryan Rep.31.

III.   Petitioners Bring This Action Under The New York Constitution

46.   On October 27, 2025, Petitioners filed their one-count Petition to initiate this special proceeding, naming as Respondents the Board of Elections of the State of New York and certain state officials, in their official capacities. Pet.1.

47.   Petitioners' sole theory is that Article III, Section 4's anti-vote-dilution mandate (adopted in 2014) incorporates the influence-district mandate of the NYVRA (adopted in 2022), and that CD11 reduces the "influence" that Black and Latino voters "could" have in elections in CD11 under that standard. *Id.* ¶¶ 9–12, 98, 100–02.

48.   Petitioners request a declaration that the 2024 Congressional Map dilutes the votes of Black and Latino voters in CD11 under the NYVRA's standards; an injunction enjoining Respondents from using the 2024 Congressional Map for any future elections; and an order that

11

the Legislature adopt a congressional redistricting map that "create[s] a minority influence district in CD-11 that complies with traditional redistricting criteria." *Id.* at 27–28.

49. Prior to trial, the parties filed memoranda of law. NYSCEF Doc. No.63; NYSCEF. Doc. No.95 ("Gov.Ltr."); NYSCEF Doc. No.115 ("Int'r.Resp't.Br.); NYSCEF Doc. No.122. Only Intervenor-Respondents and Respondents Kosinski, Casale, and Riley opposed Petitioners' claim. Int'r.Resp't.Br.; NYSCEF Doc. No.122. Petitioners included three expert reports, *see* P001 ("Sugrue Rep."); P003 ("Palmer Rep."); P005 ("Cooper Rep."); Intervenor-Respondents provided three expert reports, *see* IRX001 ("Trende Rep."); IRX002 ("Borelli Rep."); IRX003 ("Voss Rep."); and Respondents provided two expert reports, *see* R001 ("Bryan Rep."); R002 ("Alford Rep.").

50. Respondents Governor Hochul, Stewart-Cousins, Heastie, and James (collectively, the "State Respondents") submitted a letter stating that they did not oppose the Petition but refused to endorse Petitioners' theory, explaining that "the NYVRA is wholly inapplicable to apportionment challenges brought against Congressional or State Legislative Districts" as it is "clearly limited to political subdivisions." Gov.Ltr.2. This is notable given that Governor Hochul signed both the NYVRA and the 2024 Congressional Map.

51. Two *amici* filed briefs proposing their own standards and urged this Court to apply those approaches—even though no party briefed the constitutionality of those standards or submitted expert evidence tailored to those standards. NYSCEF Doc. No.139 ("NYCLU Am.Br.") at 11; NYSCEF Doc. No.135 ("Prof.Am.Br.") at 19–20.

52. The Court held a trial from January 5, 2026 through January 8, 2026. Each of the parties' experts who submitted reports testified.

IV.   **Petitioners' Experts**

A. **Mr. William Cooper**

53.   Petitioners retained Mr. William Cooper to serve as their demographic and redistricting expert in this case. Cooper Rep. ¶ 1. Mr. Cooper has had his proposed maps rejected by at least one federal court. *See Christian Ministerial All. v. Jester*, 786 F. Supp. 3d 1134, 1142–44 (E.D. Ark. 2025) (explaining why all three of Mr. Cooper's proposed maps "fall short").

54.   Petitioners' counsel specifically tasked Mr. Cooper with "develop[ing] an illustrative plan that would join Staten Island with Manhattan in a reconfigured CD-11." Tr.302:10–14; Cooper Rep. ¶ 22. Accordingly, Mr. Cooper did not "consider any plans other than one that would join Staten Island with Lower Manhattan." Tr.305:1–3; Tr.336:4–11 (testimony that Mr. Cooper was not instructed to "consider whether there were other lawful configurations of CD-11 and CD-10").

55.   Pursuant to Petitioners' counsel's instruction, Mr. Cooper prepared the below illustrative map, with his proposed new CD11 in purple and his proposed new CD10 in red.

Figure 8: The Illustrative Map – Staten Island, Lower Manhattan, & Brooklyn
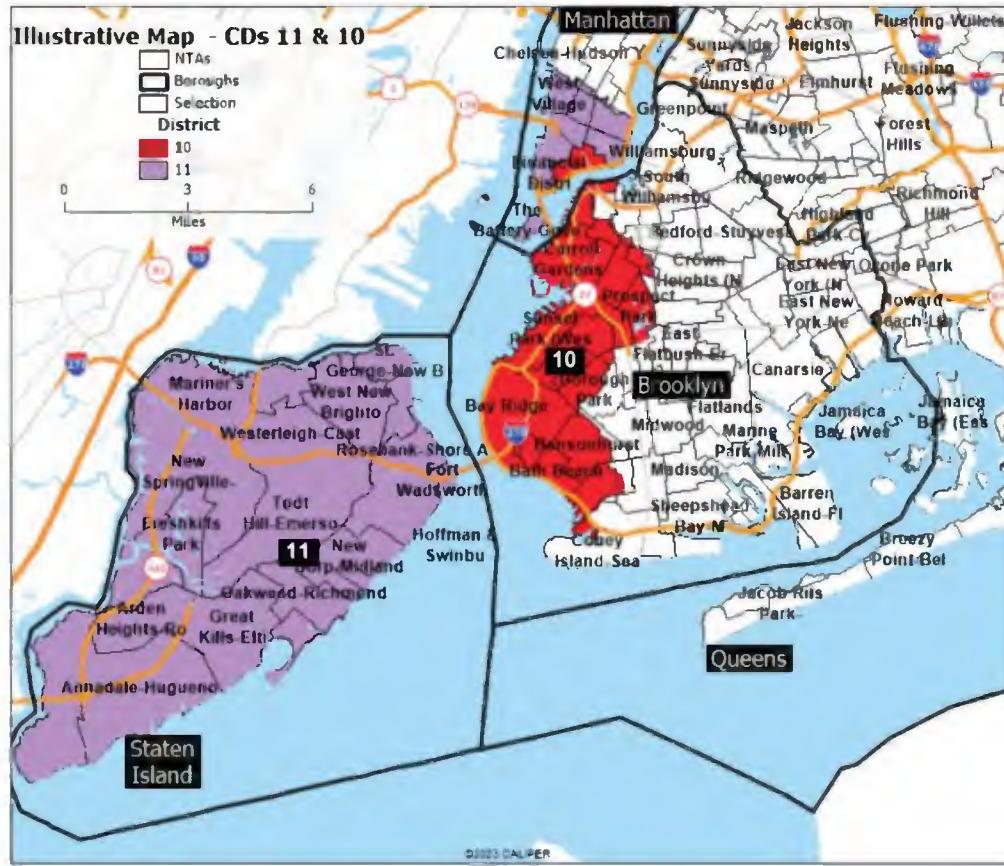
Cooper Rep.16 Figure 8.

56.   Mr. Cooper's illustrative map "shifts the boundaries of CD 11 to retain all of Staten Island and then adds most, but not all, of the portion of Lower Manhattan currently occupied by CD 10." *Id.* ¶ 43. His map moves "parts of or the whole of" the following Lower Manhattan Neighborhood Tabulation Areas ("NTAs") into CD11: Chelsea-Hudson Yards, the East Village, the Financial District, Gramercy, Greenwich Village, the Lower East Side, Midtown South, SoHo, Little Italy, Tribeca, and the West Village. *Id.*; Tr.317:8–17.

57.   Under Mr. Cooper's map, Chinatown remains in CD10, and "Bensonhurst and Bath Beach—two more predominantly Chinese-American neighborhoods in Brooklyn—join CD 10."

14

Cooper Rep. ¶ 44. In addition, "[p]art of the Financial District is also in CD 10, along with 22 persons in Tribeca to meet one-person, one-vote requirements." *Id.*

58. Mr. Cooper acknowledged that his illustrative CD11 "doesn't make Black or Latino voters a numerical population majority." Tr.347:22–24.

59. Mr. Cooper purported to "follow[ ] traditional redistricting principles" when preparing his illustrative map, including "compactness," "communities of interest," and "least change" (or "core retention"). Cooper Rep. ¶¶ 26–27; *see id.* ¶ 31 (acknowledging that the 2024 Congressional Map is compact); *id.* ¶ 34 (acknowledging that the 2024 Congressional Map accounts for communities of interest).

60. There is no dispute that the illustrative map is less compact than the 2024 Congressional Map. Despite "agree[ing] that with respect to congressional plans, the compactness of a district is necessary," Mr. Cooper admitted that his illustrative CD11 "scores worse for compactness than the currently enacted map." Tr.305:7–20; Cooper Rep. ¶ 54. Mr. Cooper further acknowledged that, "[t]o defend the relatively less compactness of [his] illustrative district, [he] propose[d] averaging compactness scores of separate pieces of land, in this case Staten Island and Manhattan," and had "never offered this sort of subpart averaging as a measure of district compactness in [his] prior work," Tr.350:18–351:6, nor was he "aware of any authoritative source or scholarly material that recommends applying this subpart averaging compactness standard," Tr.352:24–353:10.

61. Mr. Cooper also "agree[d]" at trial that under the New York Constitution, "[t]o the extent practicable, election plans should keep the core population in prior districts together in new districts." Tr.305:21–24. Here, however, while Mr. Cooper conceded that it is "practicable" to "keep Lower Manhattan with Staten Island" in CD11, Tr.314:14–15, he testified that he did not

do that because he was "task[ed]" by Petitioners' counsel with "develop[ing] an illustrative plan that would join Staten Island with Manhattan," Tr.315:1–20, and needed to "take into account the African American and Latino voters in Staten Island" pursuant to the NYVRA, Tr.315:5–11.

62.   And although Mr. Cooper opined that his illustrative map "preserves a community of interest at the neighborhood level," Cooper Rep. ¶ 59, his trial testimony revealed that he did not even attempt to discern whether Staten Island and the Lower Manhattan NTAs in his illustrative map's CD10 have any similarities such that they can even conceivably constitute one or more communities of interest.

63.   While Mr. Cooper claimed to have considered communities of interest in designing his map, Cooper Rep. ¶¶ 26, 34, he admitted at trial that he was "not that familiar" with New York City, Tr.259:20–21, and had little relevant knowledge concerning the Lower Manhattan NTAs at issue. To take just one example, Mr. Cooper testified that he did not "know much at all about Chelsea" and had "not looked into the details . . . of Chelsea." Tr.317:23–318:22; Tr.318:23–319:21 (similar testimony as to the East Village); Tr.323:6–25 (similar testimony as to Greenwich Village); Tr.327:9–13 (similar testimony as to the Lower East Side); Tr.329:24–330:1 (similar testimony as to SoHo); Tr.330:12–331:6 (similar testimony as to Tribeca and the West Village).

64.   Mr. Cooper's testimony concerning the Financial District is emblematic of his lack of relevant knowledge and failure to properly consider communities of interest. When asked whether there are any similarities between Staten Island and the Financial District, Mr. Cooper recalled "having a very tasty outdoor pizza in the Financial District" that he "bought [ ] from a Spanish-speaking gentleman," and that "there are Spanish speakers in Staten Island." Tr.320:4–6. The only other similarity between these communities that Mr. Cooper could identify is that he

was "fairly certain" that "some of the" Financial District has "185 percent census tracts." Tr.322:6–21.

65.   The only purported "community of interest" that Mr. Cooper claims to have considered are the "Chinese-American neighborhoods in Lower Manhattan and Brooklyn." Cooper Rep. ¶ 59; *see* Tr.327:18–23 (Mr. Cooper's testimony that "[w]hat I could do in terms of taking into account culture is that by joining Manhattan with Staten Island I then had to move some population back into CD-10 and I chose to move the Chinese American population in Chinatown back into CD-10 joined with Bensonhurst, Bath Beach, Sunset Park. So I was taking culture into consideration.").

66.   But Mr. Cooper failed to support even this sole, purported community-of-interest analysis. When asked how he "determine[d]," when authoring his report, "what the Chinese communities in the districts at issue" would "want" with respect to redistricting, Mr. Cooper testified that he simply "identified where the Chinese American community lives," and "understood there had been testimony before the Independent Redistricting Commission that Chinatown wanted to remain joined with Sunset Park" (although Mr. Cooper did not disclose such IRC testimony in his expert report). Tr.331:7–24.

67.   Mr. Cooper's attempt to create the alleged Chinese-American community of interest was also flawed, including because it separated Chinatown from the Lower East Side. Mr. Cooper testified that he did not "consider that the Asian Legal Defense Fund treats Chinatown and the Lower East Side as one Asian neighborhood," Tr.344:8–11, was not aware that the "New York Redistricting Committee also considers the Lower East Side as part of Chinatown," Tr.345:3–6, and confirmed that he would have drawn the same plan even without being aware of the IRC testimony referenced immediately above, Tr.334:6–7.

68.   When pressed on his lack of knowledge of the relevant communities of interest at trial, Mr. Cooper testified that he "was under the assumption there would probably be petitioners here to testify as there usually are in federal court," and was planning "to defer to their testimony" on this point. Tr.329:15–20. Petitioners never put any such testimony before the Court.

B. Dr. Maxwell Palmer

69.   Petitioners offered Dr. Maxwell Palmer as an expert in redistricting, political science, and data analysis. Tr.153:11–15; *see* Palmer Rep.; P004 ("Palmer Reply"). He was asked to provide his expert opinion on the extent to which voting is racially polarized in CD11 and to evaluate the ability of Black and Latino-preferred candidates to win elections in Mr. Cooper's illustrative district. Palmer Rep.2.

70.   Dr. Palmer utilized a method of ecological inference that did not consider any polling or survey data. Tr.186:11–18. Nor did Mr. Palmer include any additional covariates to attempt to adjust for aggregation bias—despite using a software that would allow him to. Tr.186:22–187:13. Nor did he use the software's diagnostic tools to attempt to determine whether aggregation bias was contaminating his results. Tr.188:3–189:7.

71.   Dr. Palmer asserted that his method of ecological inference is the method typically used in redistricting litigations, but Dr. Palmer does not say whether this method is widely used or typically accepted in social science research or academic work. Palmer Rep.2–3. In fact, a peer-reviewed article published in the American Political Science Review Journal, upon which Dr. Palmer relies, found the simple method of ecological inference that Dr. Palmer used to be a comparatively poor methodology because it provides confidence intervals that are too narrow,

thus giving a false impression of precision, and overestimates group cohesion—especially for Latinos and between Blacks and Latinos. Tr.611:1–9.[2]

72.   When Dr. Palmer's analysis was repeated with adjustments for aggregation bias, his results changed. Voss Rep.4. These corrected results show that Latinos are less cohesive and vote less cohesively with Black voters than Dr. Palmer's uncorrected results.

73.   Dr. Palmer performed his ecological inference using data only from the results of twenty elections that he selected within an eight-year period in CD11. Tr.191:14–17. He did not, as would be the best practice, Voss Rep.18, incorporate any data from a broader region into his model and use that data to inform the inferences he was drawing about CD11. Tr.191:18–192:20. Dr. Palmer used this narrow scope in this case, despite having previously testified that "we want as much data as we can" get and that "you couldn't do ecological inference on the counties in one congressional district alone because there isn't enough information to look at those and infer with any confidence what the pattern is." Tr.193:7–13.

74.   Dr. Palmer determined that Black and Latino voters vote cohesively and support the same candidate in CD11. Palmer Rep.3–4. In so doing, Dr. Palmer stated that "[r]ace and party are fundamentally linked." Palmer Reply at 1.

75.   One of Dr. Palmer's conclusions—reached using his ecological inference model that is flawed in the ways described above—is that the Black and Latino-preferred candidate is "usually defeated" in CD11. Tr.194:12-14.

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[2] *See* Tr.610:25–611:14 (testimony by Dr. Voss: It is true that the article Dr. Palmer references "used the simple or the naïve ecological inference that made no active steps to take into account aggregation bias. They did use it. But they used it to say how poor it is. They report, first, the confidence intervals are too narrow. It gives a false impression of precision . . . . They say it overestimates group cohesion, specifically, especially for Hispanics . . . . It says that it overestimates racially polarized voting . . . . And here's the kicker, it says that naïve ecological inference will miss the Hispanic vote according to their results by 20 percentage points . . . .").

76.   Although Dr. Palmer does not provide party labels within his report, in every contest that he analyzed, the preferred candidate of minority voters is a Democrat. Alford Rep.7.

77.   Dr. Palmer based his conclusion that the Black and Latino-preferred candidate is "usually defeated" on the fact that, in CD11, the Black and Latino-preferred candidate received more votes than the other candidate(s) in five out of the twenty elections that Dr. Palmer analyzed between 2017 and 2024. Tr.194:15–18.

78.   Dr. Palmer acknowledged that "usually defeated" is "not a social science term that [he] would use regularly in [his] work." Tr.199:18–20. He was not aware of any definition of "usually defeated" in any academic work or scientific literature. Despite this, he claimed that he was still able to conclude that winning 25% of some elections met his definition of usually defeated: "[Y]es, that is my opinion. I think, you know, losing three quarters of the time seems to be, you know, not having a very high success rate." Tr.195:2–4. He was unable to offer any opinion on what other win/loss ratios might also support concluding that a candidate was "usually defeated." Tr.200:19–25 ("Q: So you know that [winning five out of 20 elections] is usually defeated, but you don't know what makes it not usually defeated or what other potential percentages are still usually defeated, correct? A: Yes. I would say that . . . .").

79.   Dr. Palmer did not include the 2018 congressional election in CD11 in the set of elections that he analyzed. In that election, the Black and Latino candidate of choice was elected and beat an incumbent candidate. Tr.197:11–198:18.

80.   Dr. Palmer claimed that he did not include that election because the boundaries of CD11 changed after the 2020 census. But Dr. Palmer admitted that he did not perform any analysis as to the similarities or differences of the district after the boundaries were redrawn, and

20

therefore did not know whether the district's boundaries were substantially similar or if there were any differences that would have justified not including the 2018 election. Tr.197:11–198:8.

81.   If Dr. Palmer had counted that election, the Black and Latino-preferred candidate would have won six out of twenty-one congressional elections—roughly 28% of them. Tr.199:3–10. Dr. Palmer could not answer whether winning 28% of the given elections would still mean that the candidate was "usually defeated." Tr.199:14–200:2.

82.   Even with that election excluded, Dr. Palmer determined that Black and Latino preferred candidates won 25% of the elections that he looked at, Palmer Rep.5–6, where Black and Latinos make up less than 30% of the population in CD11, making this near proportionality.

83.   Dr. Palmer's conclusion that Black and Latino-preferred candidates are usually defeated in CD11 failed to consider that "Black and Hispanic preferred candidates routinely win elections . . . in New York City and New York State," and failed to consider how Black and Latino candidates of choice faired in other districts in New York. Tr.205:8–13; Tr.211:13–17 ("Q: You didn't perform any analysis for your reports about whether Black and Hispanic preferred candidates are usually defeated outside of Congressional District 11 and the illustrative district, did you? A: No, I did not. My focus was on the 11th District.").

84.   In fact, the candidate of choice of Black and Latino voters in CD11 represent ten out of eleven of the congressional districts in New York City and represent nineteen out of twenty-six of the districts in New York State. Tr.211:6–9.

85.   Dr. Palmer also examined whether the Black and Latino-preferred candidate would be usually defeated in the illustrative CD11 that Mr. Cooper drew. Tr.212:17–20. Dr. Palmer concluded that the Black and Latino-preferred candidate would have won sixteen out of the eighteen elections that he analyzed in the illustrative district. Palmer Rep.8.

86.   While he was hesitant to identify a White-preferred candidate, Dr. Palmer also concluded that, on average in the illustrative district, only 41.8% of White voters supported the Black and Latino-preferred candidate, while 58.2% of White voters supported a different candidate. Palmer Rep.7; Tr.213:13–20. In other words, the candidate(s) that White voters supported with 58.2% of their vote on average lost in the illustrative district sixteen out of eighteen times, or 88.89%.

87.   Dr. Palmer acknowledged that if the candidate that White voters supported more frequently was, indeed, the White-preferred candidate, and the White-preferred candidate lost sixteen out of eighteen times in the illustrative district, then White voters in the illustrative district would be able to claim that their preferred candidate is being "usually defeated" under Dr. Palmer's definition of that term. Tr.221:18–222:7.

C. Dr. Thomas Sugrue

88.   Petitioners offered Dr. Thomas Sugrue as an expert in the fields of American History and Social Science focusing on Urban History and Civil Rights. Tr.42:19–23. Petitioners requested that Dr. Sugrue conduct research on historical and current patterns of racial discrimination, racial segregation, and racial disparities in socioeconomic status in New York City, with a focus on Staten Island. *See* Sugrue Rep.; P002 ("Sugrue Reply").

89.   As a professor, Dr. Sugrue has taught no classes on Staten Island, no classes about Staten Island, and has not published any scholarly papers or articles specifically related to Staten Island. Tr.84:3–85:9.

90.   Within his discussion on the history of Staten Island, Dr. Sugrue ignored the significant and thriving Asian community on Staten Island—the population of which is the third largest racial group on Staten Island. Sugrue Rep.7.

91.   As to the discussion he did include, Dr. Sugrue provided a cherry-picked rendition of Staten Island's history, excluding facts that did not fit his narrative. Borelli Rep.3–4. For example, omitted from Dr. Sugrue's discussion is New York's anti-slavery activity prior to the Civil War, the history of civil rights activism thereafter, and the noteworthy advancements made by Staten Islanders in the areas of civil rights and racial equality. *Id.* at 5, 7, 19–29.

92.   Dr. Sugrue also failed to include in his report that, today, Staten Island is replete with public and private organizations committed to assisting minorities, including by ensuring their access to the political process. *Id.* Nor did he mention that Staten Island's hate crime occurrence is far lower than Manhattan's. *Id.* at 5.

93.   Although Dr. Sugrue provided one alleged example of a voting qualification having been used in New York (literacy tests), Dr. Sugrue did not tie the use of literacy tests—which was permanently banned fifty years ago after being used throughout the country—to current voting conditions in Staten Island. *Id.* And Dr. Sugrue ignored that New York, including Staten Island, has actually expanded language services to assist minority voters. *Id.* at 31–33.

94.   In his discussion of the socioeconomic disparities that exist on Staten Island, Dr. Sugrue ignored the progress that has been made in the last few decades. *Id.* at 5, 37–45.

95.   Dr. Sugrue provides no evidence that Blacks and Latinos have been excluded from public office and discredits the significant success that minority candidates have achieved, such as the success of Congresswoman Malliotakis. *Id.* at 4.

96.   Dr. Sugrue's initial reported evidence of racial appeals in political campaigns omits any discussion of congressional campaigns, provides an incomplete account of the secession campaign, and summarizes four disparate incidents across a dozen years that do not qualify under his own definition of racial appeals. *Id.* at 52–58. The examples he does cite are largely based

on his subjective belief that they are racial appeals. *Id.* Such subjectivity is best demonstrated by his citation to the secession movement. *Id.* at 57. The secession movement was not motivated by racial reasons, but political ones, *id.*, as Dr. Sugrue ultimately conceded, *see* Sugrue Reply 17. But by allowing his own subjective notions of racial appeals dominate his methodology, Dr. Sugrue offers unreliable opinions on this topic. Borelli Rep.57–60.

97.   Dr. Sugrue did not provide any opinion on whether those on Staten Island have anything in common with residents of Lower Manhattan.

V.   Intervenor-Respondents' Experts

A. Dr. Sean Trende

98.   The Court admitted Dr. Sean Trende as an expert in redistricting. Tr.384:16–20. Intervenor-Respondents retained Dr. Trende to evaluate and respond to Mr. Cooper's expert report dated November 17, 2025. *See* Trende Rep. Dr. Trende also analyzed partisan performance in both New York City and New York State. *Id.* at 5–9. He further provided an opinion on the consequences of adopting lenient standards under the New York Constitution and/or the NYVRA. *Id.* at 9–15.

99.   Dr. Trende is one of the nation's foremost experts on elections and legislative maps, and he has vast experience with both analyzing electoral maps to determine their legality and drawing maps that are enacted into law. *Id.* at 1–2.

100.   Dr. Trende served as one of two special masters appointed by the Supreme Court of Virginia to redraw the districts that will elect the Commonwealth's representatives to the House of Delegates, state Senate, and U.S. Congress in the following decade. *Id.* at 4. The Supreme Court of Virginia accepted those maps, and they were praised by observers across the political spectrum. *Id.* Dr. Trende was also appointed the court's expert by the Supreme Court of Belize to determine whether Belize's electoral divisions (similar to our congressional districts)

conformed with international standards of democracy as they relate to malapportionment claims, and to draw alternative maps that would remedy any existing malapportionment. *Id.*

101.   Dr. Trende coauthored the 2014 Almanac of American Politics, which is considered a foundational text for congressional districts and the representatives of those districts, as well as the dynamics in play behind the elections. *Id.* at 2.

102.   In this matter, Dr. Trende examined how often minority candidates of choice, as identified by Dr. Palmer, are defeated in CD11 and in other districts throughout New York City and the State as a whole. *Id.* at 5.

103.   Dr. Trende concluded that in New York City and in New York State, the minority candidates of choice routinely win elections. *Id.* The last registered Republican to win a mayoral election was Michael Bloomberg in 2005; no Republican has been elected Comptroller since 1938, and no Republican has ever been elected NYC Public Advocate. *Id.*

104.   At the citywide level, Democrats carried each statewide election in Dr. Palmer's dataset. *Id.* Democrats therefore can obviously win citywide elections in New York City and there is a question of whether Republicans can do so at all. *Id.*

105.   Looking to the statewide results, the Democratic candidate routinely wins statewide elections. *Id.* at 6. The last Republican to carry New York State in a presidential election was Ronald Reagan in 1984; the last Republican to win a gubernatorial election was George Pataki in 2002; the last Republican to win a Senate election was Al D'Amato in 1992; the last Republican to win an attorney general election was Dennis Vacco in 1994; and the last Republican to win a Comptroller election was Edward Regan, who won the office in 1990. *Id.*

106. Dr. Trende then analyzed election results at the level of individual congressional districts. *Id.* at 6–9. His results are shown in the table below:

District	Gov 18	AG 18	Sen 18	Comp 18	Pres 20	Comp 22	Sen 22	Gov 22	AG 22	Sen 24	Pres 24	# D Wins	% D Wins
1	50.9%	50.7%	53.1%	55.5%	49.1%	46.0%	44.3%	41.9%	42.7%	47.1%	44.9%	4	36.4%
2	52.6%	52.3%	54.6%	56.8%	48.8%	43.2%	41.8%	39.0%	40.1%	45.2%	43.0%	4	36.4%
3	58.9%	57.7%	60.0%	62.2%	55.7%	50.8%	49.8%	45.8%	46.7%	50.1%	47.8%	7	63.6%
4	60.8%	59.6%	61.6%	63.3%	57.3%	51.5%	50.6%	47.1%	48.1%	52.8%	50.6%	9	81.8%
5	88.2%	88.3%	88.3%	88.6%	81.4%	75.5%	76.6%	73.3%	74.8%	74.1%	71.3%	11	100.0%
6	74.7%	74.6%	75.0%	75.2%	64.8%	58.3%	59.8%	53.7%	55.7%	58.1%	53.3%	11	100.0%
7	90.1%	90.5%	90.5%	90.2%	80.5%	77.9%	80.3%	74.0%	77.7%	77.4%	73.6%	11	100.0%
8	86.0%	86.2%	86.1%	86.0%	77.9%	73.9%	74.7%	71.7%	73.3%	75.2%	72.5%	11	100.0%
9	85.9%	86.9%	85.5%	86.2%	76.2%	74.1%	75.1%	68.7%	72.8%	75.2%	70.6%	11	100.0%
10	89.5%	89.5%	90.1%	89.3%	85.7%	82.7%	85.1%	80.6%	82.3%	82.8%	81.0%	11	100.0%
11	54.0%	53.5%	55.4%	55.7%	46.1%	39.4%	40.1%	36.3%	37.4%	41.2%	37.6%	4	36.4%
12	86.2%	84.7%	86.6%	85.3%	86.0%	80.9%	83.5%	80.1%	79.9%	81.9%	82.4%	11	100.0%
13	95.3%	95.3%	95.2%	95.0%	88.8%	86.5%	89.1%	86.4%	87.7%	83.5%	80.1%	11	100.0%
14	86.4%	86.7%	86.7%	86.8%	77.8%	70.6%	73.1%	69.1%	70.7%	70.0%	66.2%	11	100.0%
15	93.1%	93.0%	92.9%	93.1%	85.5%	81.0%	83.5%	80.3%	81.9%	78.1%	74.4%	11	100.0%
16	74.2%	74.5%	75.6%	76.0%	72.5%	65.6%	66.2%	63.3%	64.0%	68.6%	66.6%	11	100.0%
17	55.6%	58.4%	60.0%	61.8%	55.1%	52.4%	52.3%	48.3%	50.4%	55.1%	50.3%	10	90.9%
18	49.8%	55.8%	59.3%	59.3%	54.6%	53.3%	52.2%	49.1%	51.0%	56.9%	51.7%	9	81.8%
19	46.8%	52.6%	57.6%	59.1%	52.3%	52.2%	50.3%	46.5%	48.5%	54.4%	50.9%	8	72.7%
20	49.4%	57.0%	62.1%	66.7%	59.8%	60.4%	56.6%	52.9%	54.8%	60.1%	57.2%	10	90.9%
21	35.0%	42.2%	50.9%	52.4%	42.0%	43.1%	40.0%	34.4%	37.6%	44.3%	39.6%	2	18.2%
22	49.5%	54.4%	59.5%	62.5%	55.8%	54.3%	54.1%	48.9%	50.1%	56.2%	53.8%	9	81.8%
23	36.4%	37.5%	46.8%	48.4%	40.7%	40.3%	38.9%	35.5%	36.4%	41.9%	39.4%	0	0.0%
24	33.1%	37.7%	45.5%	47.0%	39.6%	38.1%	37.2%	32.7%	34.1%	41.0%	38.4%	0	0.0%
25	54.3%	57.0%	62.2%	63.2%	60.5%	57.4%	57.0%	53.8%	54.0%	60.0%	59.3%	11	100.0%
26	59.8%	58.5%	66.9%	69.0%	62.8%	62.1%	61.6%	58.4%	58.8%	62.6%	59.8%	11	100.0%

Id. at 6.

107. The minority candidate of choice is capable of winning elections in CD11 as they won four of the eleven elections in Dr. Trende's dataset. *Id.* at 7. There is a history of Black and Latino candidates of choice either winning or coming very close in CD11. Tr.386:7–9.

108. In every district wholly within New York City outside of CD11, Democrats have never lost a statewide election, and for those districts around New York City, Democrats have won almost every statewide election. Trende Rep.9. Additionally, all of the districts wholly or partially within New York City, with the exception of CD11, have elected Democrats to Congress, representing 92% of the delegation. *Id.* at 7–8. In nearly all of these circumstances, the Democrats won by wide margins. Tr.402:11–18. Notably, about two-thirds of the New York City delegation to Congress are minorities. Tr.404:17–25.

109.   Similarly, New York's congressional delegation statewide currently includes only seven Republicans, comprising 27% of the total delegation. Trende Rep.8. Democrats thus constitute 73% of the New York congressional delegation. *Id.*

110.   Although Dr. Trende did not provide a definition of "usually defeated," he warned that without a stringent definition, the NYVRA's standards can collapse upon themselves. *Id.* at 9. Because redistricting can be robbing Peter to pay Paul, anything that one does to reduce Republican performance or White-preferred candidate performance in one district is going to change it another. Tr.411:7–13. So, changing districts so that minority-favored candidates win more would then mean that the same district would need to be changed back so that White voters' candidates of choice do not lose too often. Trende Rep.10–15. This would create what is called a "doom loop"—an endless loop of litigation. Tr.396:3–20.

111.   For example, because the NYVRA protects White voters, *see Clarke v. Town of Newburgh*, 237 A.D.3d 14, 33 (2d Dep't 2025), White voters would have viable claims all over New York's congressional map under Petitioners' theory. Trende Rep.10. This can be illustrated by looking at the areas covered by the Fifth, Eighth, and Ninth Congressional Districts. *Id.* Democrats have won every statewide election in each of these districts. *Id.* at 8. But the heatmap below shows that there is a large cluster of Republican precincts contained within these heavily Democratic districts.

Figure 2: R voting percentage by precinct using index of statewide elections, NYC
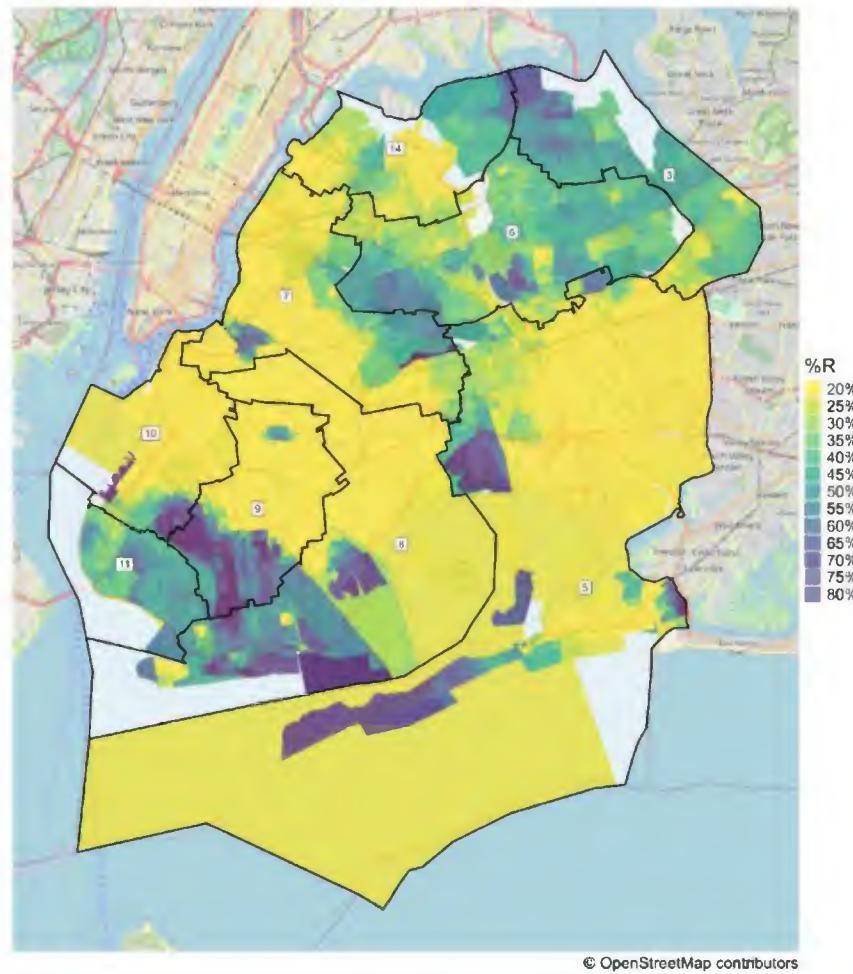
Id. at 11.

112.   These districts could be reconfigured so that the Republican candidate wins more often than not, while also seemingly satisfying the requirements of the NYVRA. *Id.* at 11–12.

113.   Similarly, if Petitioners were to succeed here, White residents of the newly created CD11 could now bring a claim and offer an even stronger map in which Republicans have won every election in the newly configured CD11 since 2022. *Id.* at 13–14.

114.   Mr. Cooper did not comply with traditional redistricting criteria as his illustrative map is not compact. Tr.411:18–412:6. Mr. Cooper's map cuts CD11's Polsby-Popper score in

28

half and its Reock Score by two thirds, sacrificing compactness to achieve his other goals. Trende Rep.16–17. Indeed, under Mr. Cooper's map, CD11 would have the worst Reock score in the entire State and would be well below average. *Id.* His theory, if taken literally, would write compactness out of the New York Constitution, according to Dr. Trende. Tr.394:21–395:1.

115. There is no justification for Mr. Cooper's low compactness scores. Although Mr. Cooper attempts to "remove" the intervening waterways and look only to the land areas of CD11, there is no precedent to judge a district's compactness by breaking it up into pieces and examining the pieces. Trende Rep.17.

116. Mr. Cooper attempted to respond to these concerns by pointing to a district that connects two subparts separated by Lake Pontchartrain, but those two subparts are connected by a causeway—making his example more like crossing the Verrazzano-Narrows Bridge to Brooklyn, not to Manhattan. Tr.417:22–418:3.

117. Finally, Mr. Cooper overstated his case when he suggested that there is ample precedent for connecting Staten Island with Manhattan. *Id.* at 18. In terms of congressional maps, Mr. Cooper points only to a single congressional map, drawn in the first Nixon Administration. But that map was drawn just seven years after the opening of the Verrazano-Narrows Bridge. *Id.* at 18. Before that, travel to Brooklyn and to Manhattan both required ferry rides; direct travel by car to other places in New York required a drive through New Jersey. *Id.* More importantly, since that map, Staten Island has always been connected to Brooklyn, much as it is in the current map. *Id.* at 18–24. As to the assembly map that Mr. Cooper points to, that map connects Staten Island to both Brooklyn and Lower Manhattan, meaning that it utilizes both the Verrazzano-Narrows Bridge connection and the ferry route. Tr.419.16–21.

B. Dr. Stephen Voss

118. The Court admitted Dr. Stephen Voss as an expert on ecological inference and redistricting. Tr.589:19–24. Intervenor-Respondents retained Dr. Voss to evaluate and respond to Dr. Palmer's expert report, focusing on Dr. Palmer's "use of ecological inference to estimate racial/ethnic voting behavior in New York City." Voss Rep.3.

119. Dr. Voss is a professor at the University of Kentucky. *Id.* at 1. Since 1996, Dr. Voss has published scholarly work on elections and voting behavior related to race and ethnicity, including in peer-reviewed disciplinary journals. *Id.*

120. Dr. Voss has experience serving as a consultant and expert witness in multiple redistricting and voting-rights cases. *Id.* at 2.

121. As part of his engagement with Intervenor-Respondents, Dr. Voss assessed whether Dr. Palmer's (1) ecological inference analysis used scientific best practices, and (2) methodology could be trusted to produce accurate results. *Id.* at 3. By extension, because Dr. Palmer's report analyzed New York congressional maps, Dr. Voss evaluated both the enacted New York congressional districts and the illustrative maps developed by Mr. Cooper. *Id.*

122. To verify Dr. Palmer's ecological inference results, Dr. Voss used the same programming language, the same ecological-inference package, and the same racial/ethnic and vote-choice data as Dr. Palmer. *Id.* Dr. Voss considered other Census and election data only when extending his review past CD11 and the rival illustrative district. *Id.*

123. Ultimately, while Dr. Voss was able to replicate Dr. Palmer's results, Dr. Voss concluded that some of the decisions that Dr. Palmer made do not conform to best practices in ecological inference research, resulting in Dr. Palmer's results being flawed in several respects, *id* at 4–5, such as: (1) Dr. Palmer's results "were inaccurate and not reliable based on the method and data he used," Tr.596:5–7; (2) Dr. Palmer implied a "higher level of confidence and a sort of

30

false sense of precision th[a]n really [was] warranted," Tr.596:8–10; and (3) Dr. Palmer "is overestimating cohesion among some of the groups in the electorate and overestimating racial polarization compared to what is defensible," Tr.596:12–15.

124.   There were several red flags that highlighted Dr. Palmer's flawed methodology and results. For one, his results differed from his practical understanding about voters and available polling data. Tr.602:4–15. For example, Dr. Voss expected Latino voters to vote for Democratic candidates at lower rates than Black voters. Tr.602:19–23. But Dr. Palmer's results did not reflect this. Palmer Rep.4. For another, Dr. Palmer's confidence intervals—a way to measure the precision of the estimate being reported—"were telling him that the Asian vote might be 50/50, but it could be as low as in the 30s, could be as high as the 60s." Tr.604:11–15. Such a wide confidence interval indicates a lack of precision in the results. Tr.619:4–9; 626:19–627:2.

125.   The first methodological decision that Dr. Palmer made that contributed to his faulty results is that he employed a simple version of ecological inference that assumes that members of a group vote the same way everywhere, aside from random variation and the occasional deviation from the norm. Voss Rep.4.

126.   In other words, Dr. Palmer's model assumes, for instance, that "Hispanic voters are going to be equally likely to vote for the democrat regardless of the type of place where they live, what their socioeconomic status is and the like." Tr.599:12–15.

127.   It is not true that "people are the same way everywhere," and assuming they are "can blow[ ] your ecological inference results." Tr.599:21–600:2. Failing to account for these contextual effects is called "aggregation bias." Voss Rep.4; Tr.601:15–23.

128.   Dr. Voss corrected for potential aggregation bias by including a covariate to "(1) soften assumptions of homogeneity within racial/ethnic groups and instead (2) invite the

methodology to account for possible contextual patterns." Voss Rep.4. In other words, Dr. Voss instructed the model to "allow for the possibility that how Hispanics vote depends on whether they're in a very White place, or a place with a very large minority population." Tr.605:11–16. When Dr. Voss repeated Dr. Palmer's analysis with that adjustment, the ecological inferences changed, putting them more in line with conventional understandings about voters as well as ecological inference results reported by other sources, like VoteHub. Voss Rep.4; Tr.608:3–7. Ultimately, this adjustment shows that, contrary to the assertion contained in Dr. Palmer's results, the "gap between Black voters and Hispanic voters appears to have widened, as consistent with [Dr. Voss'] expectations." Tr.609:1–8.

129. Dr. Palmer's second methodological error was using incorrect assumptions about voter turnout. Voss Rep.4–5. Again, the turnout estimates that Dr. Palmer's model used contradicted conventional understanding about voter behavior, saying that Asian turnout was one-third the size of Black turnout and a quarter the size of Latino turnout. Tr.614:10–14. Dr. Palmer's underestimation of Asian turnout resulted in an erroneous assignment of Asian votes to other racial and ethnic groups, making his voter preference numbers wrong. Tr.616:22–617:3.

130. Finally, Dr. Palmer employed an erroneous scope to make his ecological inferences. Dr. Palmer restricted his analysis to a single congressional district's precincts, which does not conform to best practices. Voss Rep.5. "Even if all you cared about is what's going on in District 11, you should use more information to get better estimates for District 11 . . . [the best practice is to] run the ecological inference using a broader territory to improve your CD-11 estimates over one that only looks at those precincts." Tr.617:10–618:22.

131. To attempt to correct for this error in Dr. Palmer's methodology, Dr. Voss performed an ecological inference using New York City-wide data provided by Dr. Sean Trende.

32

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Tr.620:4–12; Voss Rep. App'x B at 21. This ecological inference estimated votes by Black, White, Latino, and Asian voters in the 2022 Gubernatorial election in New York City's congressional districts (5–15) and in the illustrative CD10 and CD11. Voss Rep. App'x B at 21.

132. When using this larger data set, the results are much closer to Dr. Voss' estimates with the covariate added than they are to Dr. Palmer's results that fail to correct for aggregation bias. *Id.*

133. This correction, too, shows that "the cohesion between Black and Hispanic voters is less, and the gap between Hispanic voters and White voters is less than" Dr. Palmer reported. Tr.627:5–8. Dr. Voss "tried to correct Dr. Palmer's results in two totally separate ways and reached the same finding that his results were incorrect in the same way." Tr.625:5–15.

134. Such narrowing of the focus provides a misleading picture of how cohesive a racial or ethnic group actually is in the area where mapmakers were working, and will give a distorted view of the level of racial polarization as well. Voss Rep.5; Voss Rep. App'x B at 20.

135. By focusing only on a single congressional district, the same voters can be made to look polarized or not polarized due to the narrow focus. Voss Rep.20. For instance, Dr. Voss identified a "fairly large White population that votes overwhelmingly Republican in the current District 11." Tr.623:14–17. "But," he uncovered, "the illustrative maps crack that White vote so that those Republican voters are being buried in the new District 10, and buried in the new District 11." Tr.623:17–19.

136. Mr. Cooper's illustrative map makes the polarization numbers in each illustrative district look better "not because it groups protected minority populations who have been separated from each other artificially by district lines" but instead because White Republicans "are cracked away from like-minded voters." Voss Rep.6.

137.   "[Y]ou're not going to catch that you're taking this White Republican vote between Brooklyn and Staten Island and cracking it to create two Democratic districts unless . . . you're looking broader than a single district." Tr.623:21–25.

138.   Regarding relevant characteristics, communities who commute into larger cities do not necessarily share common interests, particularly in a city as big as New York. Tr.621:14–622:19. Instead, people who both commute into the city, such as those in Brooklyn and Staten Island, should be grouped because they go into Manhattan to work but return to their driveway communities. Tr.621:22–622:4.

139.   Finally, certain of New York City's congressional districts as a whole exhibit racially polarized voting, a portion that assists with some of Dr. Trende's analysis. *See supra* pp.19–21.

140.   In the Fifth Congressional District in the 2022 Gubernatorial race, for instance, approximately 96% of Black voters supported the Democratic candidate while only 33.8% of White voters supported that same candidate. Voss Rep. App'x B at 21; Tr.627:16–629:8. In the Eighth Congressional District, 97.1% of Black voters supported the Democratic candidate, but only 40% of White voters supported that candidate. Tr.629:9–13. And in the Ninth Congressional District, 96.2% of Black voters supported the Democratic candidate while only 37.9% of White voters supported that same candidate. Tr.629:14–17. Such a divergence is a "big gap." Tr.630:5–14.

141.   In illustrative CD11, where Black voters supported the Democratic candidate with 95.1% of the vote and White voters only supported that candidate with 42.2% of the vote, there were also "significant" levels of polarization. Tr.631:1–12.

C. Mr. Joseph Borelli

142. The Court admitted Mr. Joseph Borelli as an expert in the history and current conditions of Staten Island. Tr.731:19–732:1. Intervenor-Respondents retained Mr. Borelli to evaluate and respond to Dr. Sugrue's expert report. Borelli Rep.1.

143. Mr. Borelli is a lifelong Staten Island resident and has spent most of his career representing Staten Island in public office. *Id.*

144. Mr. Borelli is also an expert on Staten Island's history. *Id.* at 2–3. In addition to focusing his graduate research on Staten Island's political history in the 1960s and 1970s, Mr. Borelli published two books on Staten Island's history. *Id.* Mr. Borelli has written numerous articles and pieces on Staten Island, often focusing on the issues that uniquely affect Staten Island's residents, such as property taxes and secession. *Id.* at 3.

145. As part of his engagement with Intervenor-Respondents, Mr. Borelli assessed Petitioners' contention that CD11 must be reconfigured to connect "communities of interest" on Staten Island and Lower Manhattan, as well as Dr. Sugrue's reported history of Staten Island. *Id.* at 3–5.

146. Starting with the communities of interest point, the demographics and practical realities of Staten Island's geographic isolation undermine Petitioners' request to connect the "communities of interest" on Staten Island and Lower Manhattan. *Id.* at 3. The diverse populations and physical distance between these two boroughs have ensured that they have little in common, such that it is impractical to group the two areas together. *Id.*

147. Nearly everyone who moves to Staten Island moves from Brooklyn. Tr.738:6–23. They are not moving from Lower Manhattan. Tr.738:6–14. And those who move to Lower Manhattan move from around the country and world; not Staten Island. Tr.739:7–18.

35

148.   Although those in Lower Manhattan can use the ferry to travel to Staten Island, Staten Island's more suburban atmosphere makes such travel impractical. Borelli Rep.17. Most Staten Island residents have to take multiple modes of transportation to get to work in Lower Manhattan if they use the Ferry. Tr.749:1–5. Additionally, Staten Island's ferry does not carry cars, but driving is practically a must on Staten Island, which lacks Manhattan's transit system. Borelli Rep.17. Staten Island has the highest vehicle ownership rate, with the average number of vehicles per household nearly six times that of Manhattan's, which is the lowest. *Id.*

149.   That may be in part why people from Manhattan (whose vehicle ownership is less than six times that of Staten Island) do not migrate to Staten Island. *Id.* Those on Staten Island could not take their kids to school, go to the grocery store, or even really get to the ferry without a car. Tr.743:2–18. This significant difference in car ownership has led those in Lower Manhattan to want to "break[ ] the car culture"—an idea that is foreign to the Staten Island way of life. Tr.743:2–11.

150.   Another significant difference between Staten Island and Lower Manhattan is the rate of home ownership. Staten Island has a very high rate of home ownership, whereas most residents of Lower Manhattan are renters. Tr.739:21–740:4. This difference matters because those who live on Staten Island care about issues that affect homeowners uniquely, such as property tax reform, and those in Manhattan do not. Tr.742:9–21. Staten Island residents also care about congestion pricing, and those in Lower Manhattan do not. Tr.742:22–743:1.

151.   Those on Staten Island and Brooklyn also uniquely care about tolling on the Verrazzano-Narrows Bridge in way that those in Lower Manhattan—who, again, largely do not own cars—simply do not. Tr.745:1–12.

152.   From a zoning perspective, Staten Island and Lower Manhattan could not be more different.   Tr.745:25–746:25.   Lower Manhattan has some of the highest density zoning regulations in the city, but Staten Island is largely one- to three-family homes. Tr.745:25–746:25. "If [you] blindfolded someone and opened their eyes right outside of [the] courtroom in [L]ower Manhattan, nobody would think they were in Staten Island." Tr.776:8–13.

153.   Similarly, from a demographics perspective, Staten Island and Lower Manhattan are nothing alike.   Borelli Rep.15.   Lower Manhattan is a largely White population, lacking northern Staten Island's diversity. *Id.* And even their minority communities diverge from each other. For example, Puerto Ricans have historically been the most numerous Latino subgroup on Staten Island, while in Lower Manhattan the predominant Latino subset is Mexican. *Id.* at 11– 12. However, it is worth noting that southwestern Brooklyn has a Latino population that parallels Staten Island's Latino population. *Id.*

154.   Manhattan also has a greater population with a bachelor's degree or higher, as demonstrated by the map below.
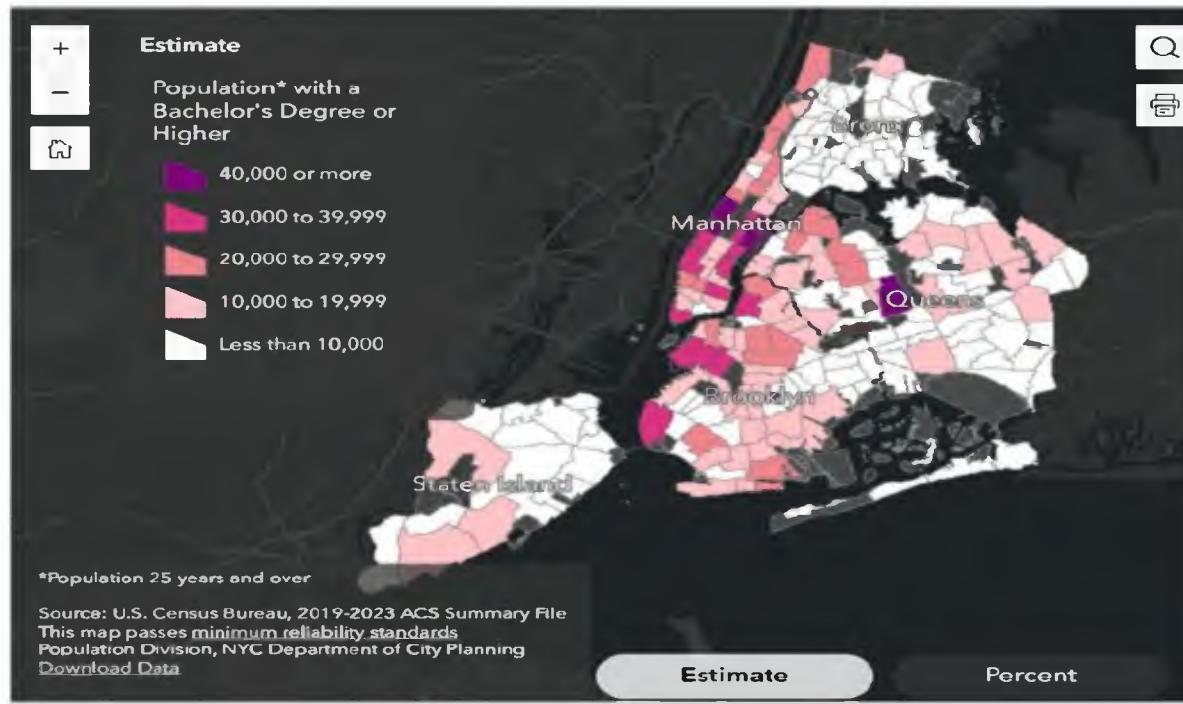
Id. at 17.

155.   Staten Island has much in common with Brooklyn. *Id.* at 18. Since the completion

of the Verrazzano-Narrows Bridge, many Brooklynites—particularly those that lived nearest the

bridge—have settled in Staten Island's growing neighborhoods. *Id.* In 2020, 26% of all Staten

Island homebuyers were from Brooklyn, a number that grew to 31% in the first half of 2021. *Id.*

And during the first half of 2025, of all Staten Island homebuyers that came from New York City

(excluding those already living on Staten Island), 92% came from Brooklyn. *Id.* at 18–19.

156.   That a number of Staten Island's residents commute to Lower Manhattan for work,

therefore, is irrelevant. Tr.740:8–741:5. If commuting into Lower Manhattan alone were

sufficient to form a community of interest, any community that commutes to Lower Manhattan

would form such a community, such as Westchester County. Tr.740:17–24.

157.   Instead, Staten Island is more like the community in Southwest Brooklyn, which

also commutes into Lower Manhattan for work. Tr.740:24–741:5; Tr.742:4–21.

38

158. Moreover, not everyone who commutes from Staten Island to Manhattan works in Lower Manhattan. Tr.749:6–20. There are two major business districts in New York, one of which is in midtown. Tr.749:9–12. Additionally, a lot of Staten Island's residents are municipal workers who work in particular precincts—specific firehouses, schools, or police stations—that are not necessarily in Lower Manhattan. Tr.749:16–20.

159. Any assertion that Staten Island bears more similarity or has deeper connections— by any metric—to any community in New York City other than southwest Brooklyn is both ahistorical and unsupported. Borelli Rep.19. The current congressional map, therefore, makes more sense from a communities-of-interest perspective. Tr.774:24–775:20.

160. Pursuant to Petitioners' theory that the NYVRA's standards apply to their constitutional claim, Mr. Borelli framed the remainder of his report and trial testimony under the NYVRA's totality-of-the-circumstances factors. Those factors are: (a) the history of discrimination in or affecting the political subdivision; (b) the extent to which members of the protected class have been elected to office in the political subdivision; (c) the use of any voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy that may enhance the dilutive effects of the election scheme; (d) denying eligible voters or candidates who are members of the protected class to processes determining which groups of candidates receive access to the ballot, financial support, or other support in a given election; (e) the extent to which members of the protected class contribute to political campaigns at lower rates; (f) the extent to which members of a protected class in the State or political subdivision vote at lower rates than other members of the electorate; (g) the extent to which members of the protected class are disadvantaged in areas including but not limited to education, employment, health, criminal justice, housing, land use, or environmental protection; (h) the extent to which

39

members of the protected class are disadvantaged in other areas that may hinder their ability to participate effectively in the political process; (i) the use of overt or subtle racial appeals in political campaigns; (j) a significant lack of responsiveness on the part of elected officials to the particularized needs of members of the protected class; and (k) whether the political subdivision has a compelling policy justification that is substantiated and supported by evidence for adopting or maintaining the method of election or the voting qualification, prerequisite to voting, law, ordinance, standard, practice, procedure, regulation, or policy. N.Y. Elec. Law § 17-206(3).

161.   None of these factors support Petitioners. Borelli Rep.3–5.

162.   Starting with factor (a)—the history of discrimination in or affecting Staten Island—Dr. Sugrue's description of racial disparities is taken out of context and deficient, ignoring the significant and thriving Asian community on Staten Island and the noteworthy advancements made by Staten Islanders in the areas of civil rights and racial equality. *Id.* at 3–4.

163.   Twelve percent of Staten Island's residents are Asian, making them the third-largest ethnic group in the county after White and Latino residents. *Id.* at 10. The Asian population on Staten Island is incredibly diverse, with numerous households representing Chinese, Indian, Filipino, Pakistani, Middle Eastern, and Korean backgrounds. *Id.* The Asian population's Index of Dissimilarity on Staten Island reveals a number that is both low and declining—meaning that they are well dispersed around Staten Island. *Id.* Asian students are well-represented in local and regional institutions of higher education. *Id.* at 11. And the thriving Asian population on Staten Island is growing—largely moving from Brooklyn. Tr.751:2–13.

164.   Mr. Borelli then responds to Dr. Sugrue's contention that a history of slavery, a literacy test, and isolated incidents of racism impair the ability of Black and Latino voters on Staten Island to fully participate through voting or electing favored candidates to office today.

Borelli Rep.19. Dr. Sugrue tends to cherry-pick facts, obscure context, ignore progress, and disregard good intentions of public officials in national, state, and county offices seeking to address serious and complicated socioeconomic problems. *Id.*

165.   A full history of racial discrimination in New York tells a more complicated story than Dr. Sugrue lets on, and, more importantly, shows significant progress in addressing racial discrimination in housing, employment, and voting rights on the state and national levels through both legal decisions and legislation. *Id.* at 19–20.

166.   Dr. Sugrue disregarded the history of the abolition movement on Staten Island, which greatly involved the residents of Staten Island. *Id.* at 20. New York, which was once a slave state, voted for emancipation well ahead of many other States. *Id.* at 21. And it did so with the help of multiple New York organizations and individuals. *Id.* For example, the New York Manumission Society, including its members from Staten Island, organized a national convention to explore how to persuade Congress to pass anti-slavery legislation and to coordinate efforts to prevent free Blacks from being kidnapped by slave traders. *Id.*

167.   Staten Island was also a significant stop along two routes of the Underground Railroad, with passengers crossing the kill either at Perth Amboy or Elizabeth. *Id.* at 22.

168.   And once slavery was outlawed in New York, Staten Island itself became a magnet for freed slaves. *Id.* at 23. In 1828, a free Black ferryboat captain named John Jackson bought land just south of Rossville, in an area known as Sandy Ground. *Id.* During its heyday, the community consisted of Black and White individuals who worshipped and went to school together. *Id.* at 24. For almost two hundred years, this settlement continues to hold the distinction of being the longest continually occupied settlement of former slaves, with many of the descendants of the original families still living in the neighborhood. *Id.* at 23.

169. Thereafter, New York became one of the leading States for civil rights advocacy. *Id.* at 25. New York enacted the Ives-Quinn Act in 1945 with broad bipartisan support, which aimed at preventing discrimination in employment. *Id.* at 26. And the State was the first to establish a state commission with broad powers to investigate claims, formulate policy, and create local and regional boards to implement policy. *Id.*

170. During a time in which the KKK was extremely active, Staten Island had a relatively minor KKK influence—especially as compared to the rest of New York City. *Id.* at 27.

171. Although Dr. Sugrue has a large focus on federal housing policy, Dr. Sugrue failed to show that any of these policies were unique to Staten Island or demonstrate that these policies that were in place over seventy years ago currently impair the ability of Black and Latino voters on Staten Island to elect minorities to office. *Id.* at 28–29.

172. Dr. Sugrue's suggestion that Latinos are segregated on Staten Island is inaccurate. *Id.* at 12–13. The diverse Latino population is spread throughout the borough, maintaining representation in each zip code and with no single zip code containing a majority of Latinos. *Id.* This wide residual distribution provides evidence of ethnic integration on Staten Island and challenges Dr. Sugrue's claims of potential racial discrimination and segregation toward Latinos. *Id.* at 13. And though the current dissimilarity rates demonstrate a "moderate degree of segregation," the dissimilarity rate on Staten Island is on the very low end of moderate. *Id.*

173. While the dissimilarity rate for Black individuals on Staten Island is on the high end, it is not as high as the dissimilarity rate for New York City as a whole. Tr.798:4–15.

174. Regarding factor (b)—the extent to which members of the protected class have been elected to office in the political subdivision—there is no evidence that members of the protected

class have been excluded from public office, and, to the contrary, racial and ethnic minorities have had great success on Staten Island in recent years. Borelli Rep.29.

175. From 2010 to 2020, the New York City Council representative for District 49, which covers nearly the entire North Shore of Staten Island, was represented by Debi Rose, a Black woman. *Id.* at 29–30. She was then succeeded by Kamillah Hanks, another Black woman. *Id.* The Assemblyman for New York 61st State Assembly District, which covers the North Shore of Staten Island, is Charles B. Fall, a Black, Muslim man whose family is from Guinea, West Africa. *Id.* at 30. CD11, which encompasses the entirety of Staten Island, is also represented by Latino Congresswoman Nicole Malliotakis in the House of Representatives. *Id.*

176. Minorities have also had success obtaining appointments to the judiciary on Staten Island—with at least one Black woman, the Honorable Anne Thompson, having been elected. *Id.* at 30.

177. As to factor (c)—the use of any voting qualification that may enhance the dilutive effects of the election scheme—Dr. Sugrue's reliance on the use of literacy tests in the 1920s to support his argument is misguided. *Id.* at 31. Beyond the fact that literacy tests were used throughout the State decades ago, Dr. Sugrue ignores the fact that New York revised the test to make it easier to pass and actively funded evening programs, public schools, and community centers to provide an extensive educational campaign to ensure an expanded electorate would pass the exam. *Id.* Due to these efforts, within its first decade, the fail rate for the exam fell from 21.4% to 10.1%. *Id.* These sustained efforts often allowed immigrants to pass in greater numbers. *Id.* Moreover, ultimately, legal and education organizations for Mexicans and Puerto Ricans helped lobby Congress, brought successful legal challenges, and helped introduce legislation to protect Spanish speakers—demonstrating the political success of Latino voters. *Id.* at 32.

43

178.   Today, there are extensive government resources meant to ensure that all eligible voters have access to the ballot, regardless of their country of origin or primary language. *Id.* at 33. For example, New York City provides foreign language services for protected classes in voting, appearing at the polls to assist non-English speakers, and provides printable resource guides in 14 different languages. *Id.*

179.   Regarding factor (d)—denying eligible voters or candidates who are members of the protected class to processes determining which groups of candidates receive access to the ballot, financial support, or other support in a given election—neither Dr. Sugrue nor Petitioners provide any support for the suggestion that Black and Latino voters or candidates have been denied access to the ballot, financial support, or other support. *Id.* To the contrary, dozens of candidates have run for office who not only qualified to be on the ballot over the last few decades but have also qualified for the City's and, more recently, the State's matching funds program—which provide candidates of all ethnicities with matching funds at a multiplier rate in addition to the dollars they raise from traditional donations. *Id.* This has resulted in diverse candidates in every election cycle. *Id.*

180.   As to factors (e) and (f)—the extent to which members of the protected class contribute to political campaigns at lower rates and vote at lower rates than other members of the electorate—there is no evidence that Black and Latino voters on Staten Island are being denied access to voting. *Id.* at 33–34.

181.   Although voting turnout in the State of New York is not categorized by race or ethnicity, the available regional and national data suggests that Latino voters have increased their election participation in New York City throughout the last decade. *Id.* at 34. During the June 2025 primaries, for example, more than 165,000 Latinos voted, apparently shattering prior turnout

records. *Id.* This is consistent with national data showing increased Latino voter eligibility throughout the country. *Id.* Similarly, Black voters have even higher turnout than Latinos nationally. *Id.* at 37.

182. As to factor (g)—the extent to which members of the protected class are disadvantaged in areas including, but not limited to, education, employment, health, criminal justice, housing, land use, or environmental protection—although there are disparities between Whites and Blacks and Latinos on Staten Island, Dr. Sugrue failed to recognize that the disparities have decreased in recent years. *Id.*

183. For example, the percentage of Blacks attaining a high school degree on Staten Island increased from 85.8% in 2015 to 86.4% in 2020 and 90.2% in 2024. *Id.* at 38. The percentage of Blacks attaining bachelor's degrees similarly increased from 24.6% in 2015 to 28.7% in 2020 and 30.0% in 2024. *Id.* Likewise, the percentage of Latinos on Staten Island earning a high school degree increased from 78.4% in 2020 to 82.8% in 2024, and the percentage of Latinos who earned a bachelor's degree increased from 18.0% in 2015 to 22.0% in 2024. *Id.* Other measures of inequality, such as per pupil spending in public schools, also suggest no disparities. *Id.* at 39–40.

184. While there is some income disparity between Whites, Blacks, and Latinos on Staten Island, the disparity must be viewed in context, which shows that the disparity is decreasing and will likely continue to do so. *Id.* at 43–45. For example, Dr. Sugrue ignores that Black and Latino median income has been increasing steadily and decreasing the income disparity. *Id.* at 43. Blacks on Staten Island have increased their mean income by more than 33%, growing from $20,785 in 2010 to $32,154 in 2024. *Id.* This resulted in a 4.14% increase in Black income as a percentage of White income. *Id.* And Latinos have similarly increased their mean income

on Staten Island. *Id.* Latino mean income grew from $21,379 in 2010 to $31,399 in 2024, increasing their percentage as compared to White income. *Id.* Likewise, Asians on Staten Island have seen an increase in mean income, from $26,439 in 2010 to $35,068 in 2024. *Id.*

185.   Additionally, focusing only on the gaps in homeownership rates between Whites, Blacks, and Latinos, Dr. Sugrue ignores that Staten Island has a far higher rate of homeownership than the New York City, New York State, and national averages, and disregards the fact that the high demand for housing on Staten Island has greatly increased the cost of housing. *Id.* at 41–42.

186.   The homeownership rate on Staten Island is 67.9%, which is more than two times greater than New York City's average of 31%, and significantly higher than the statewide average of 53.6%. *Id.* Blacks and Latinos therefore have historically had, and will likely continue to have, a better chance of owning a home on Staten Island than they would elsewhere in the area, in the State, or around the country. *Id.* at 42.

187.   Regarding factor (h)—the extent to which members of the protected class are disadvantaged in other areas which may hinder their ability to participate in the political process— Dr. Sugrue erroneously disregards Staten Island's clear commitment to supporting its minority residents and ending racism through community resources and other support. *Id.* at 45. "Without acknowledging these facts, Dr. Sugrue's presentation of Staten Island is incomplete." *Id.*

188.   For example, Dr. Sugrue ignored Staten Island's extensive minority resources meant to protect legal rights and provide an array of services for minorities, ensuring community development, voting rights, legal counseling, and minority integration. *Id.* at 45. These resources include numerous agencies and community groups, some of which are specifically dedicated to increasing political participation. *Id.* at 46–47.

189.   Dr. Sugrue myopically focuses on racism that occurred decades ago and a handful of purported hate crimes that occurred more recently, while ignoring Staten Island's significant progress in combating racism. *Id.* at 48.

190.   Staten Island has consistently had one of the lowest incident rates of hate crimes in its precincts for several decades. *Id.* at 48. Quarterly-reported hate crimes on Staten Island, most of which involve graffiti and literature rather than physical attacks, decreased 66% from 2018 to 2019, while New York City as a whole saw a 67% increase. *Id.* at 48–49. In the last five years, Staten Island has had 4% of New York City's hate crime reports, and 3% of New York City's hate crime arrests, meaning that Staten Island's hate crimes occur at a far lower rate than the rest of New York City. Tr.769:13–23. And, in 2025, the New York City Police Department Hate Crimes dashboard shows that only two hate crimes in 2025 targeted Blacks. Borelli Rep.48.

191.   Dr. Sugrue's contention that so-called "anti-immigrant" protests demonstrate an anti-Latino sentiment on Staten Island is wrong. *Id.* at 49–50. To start, the relevant protests were not anti-immigrant, but were driven by numerous legitimate concerns. *Id.* at 49–50. For instance, the New York City mayor invited migrants to stay in converted hotels, which became de facto homeless shelters, and this had a negative impact on the surrounding communities. *Id.* These protests were not unique to Staten Island, and instead occurred in nearly every neighborhood and borough where the hotels were sited, including even the most progressive neighborhoods and communities of color. *Id.*

192.   When instances of hate have occurred, residents of Staten Island have taken action in response, expressing their objection to such conduct. *Id.* at 50–52.

193.   Regarding factor (i)— use of overt or subtle racial appeals in political campaigns— Mr. Borelli conducted an objective, replicable search of newspapers on Newspapers.com to

47

determine the prevalence of racial appeals as might have appeared in congressional races. *Id.* at 52–53. Mr. Borelli selected this method because, although accusations of racial appeals are often subjective in nature, an examination of newspapers in which charges of racism are reported against a candidate provides an objective measure in collecting racial appeals. *Id.* Rather than impose his own subjective thoughts on what issues are inherently racist, Mr. Borelli relied on the reporters of the time to make that determination. *Id.* For example, while the phrase "illegal aliens" may be considered racist or disrespectful by some today, the term was in common circulation in the past by members of both political parties that sought to stop illegal entry to the United States. *Id.* at 53. "This method can be replicated by other investigators, a standard practice of social scientists." *Id.* at 53. And it was praised in *Pierce v. North Carolina*, __ F. Supp. 3d ___, 2025 WL 2841008, at *44–47 (E.D.N.C. Sept. 30, 2025). Tr.760:21–24.

194. The search examined racial appeals in congressional campaigns in the twenty-four-year period from 2000 to 2024. Borelli Rep.53. It focused on "racism" and "issues" for each general election race. *Id.* The search results showed that there was only one charge of racism and one potential charge of antisemitism that was not reported as such. *Id.* at 54.

195. Given that racial issues became more prominent nationally starting in 2014, it is remarkable that in 2020, racial identity politics played a small role in that congressional race. *Id.*

196. Dr. Sugrue's evidence of racial appeals in political campaigns does not include any incident in a congressional campaign, provides an incomplete account of the secession campaign, and summarizes four disparate incidents across a dozen years that do not qualify under Dr. Sugrue's own definition of racial appeals. *Id.* at 52.

197. Regarding the secession movement, Dr. Sugrue incorrectly framed the Staten Island secession movement solely in racial terms—though Dr. Sugrue backed off that framing in his

48

rebuttal. *Id.* at 54. In reality, the secession movement was motivated largely by poor infrastructure, overcrowded schools, a lack of sewers, tolling on the Verrazzano-Narrows Bridge, and the long history of the Fresh Kills Landfill. *Id.* at 54–55.

198.   Dr. Sugrue's citation to the criminal conduct of Mr. Richard A. Luthmann, who was indicted for election law violations and a bevy of criminal charges, as a racial appeal during the 2016-2017 election cycle is erroneous. *Id.* at 58. Mr. Luthmann was an equal opportunity political impersonator—as he had impersonated three local politicians on social media. *Id.* The primary takeaway is that this bizarre conduct was prosecuted and Mr. Luthman's efforts do not reflect the thoughts, wishes, or views of any politician or political party. *Id.* at 58–59.

199.   The ad of Max Rose that Dr. Sugrue contends is a racial appeal was actually about being anti-police, not about Black lawlessness. Tr.765:9–766:25. The ad showed individuals marching toward the police station, calling for a defunding of the police, and was meant to create a wedge between Max Rose and some of the moderate Democrats—not make a racial appeal. Tr.765:2–766:25.

200.   Finally, Dr. Sugrue's citation to four isolated incidents (more than a decade apart) were not racial appeals. To the contrary, they all show local government officials acting to protect racial minorities. Borelli Rep.59–60.

201.   In sum, Dr. Sugrue's opinions on the totality-of-the-circumstances factors do not include the full context of Staten Island's history, diversity, and great progress, making his opinions unreliable. *Id.* at 62.

VI. Respondents' Experts

A. Mr. Thomas Bryan

202.   Respondents Kosinski, Casale, and Riley retained a demographic expert, Mr. Thomas M. Bryan, to assess the demographic, geographic, and political performance characteristics of New York City congressional districts—including CD10 and CD11—under the pre-2020 plan, the 2021 plan, the 2024 plan, and Petitioners' expert Mr. Cooper's illustrative plan. *See* Bryan Rep.11.

203.   Mr. Bryan is an experienced demographer who has analyzed demography, census data, and population data for decades. *Id.* at 6. He worked as a statistician for the U.S. Census Bureau in the Population Division for multiple years. *Id.* He has extensive redistricting experience, having provided expert demographic and analytic support in over one-hundred-twenty school redistricting projects and forty-five general redistricting projects, including being retained as the redistricting expert for the State of Illinois. *Id.* at 6–8.

204.   Mr. Bryan first assessed demographic patterns across the thirteen congressional districts in and around New York City under the pre-2020 plan, the 2021 plan, and the 2024 plan. *Id.* at 20. Citywide, the Any Part Black, non-Hispanic ("APBNH") and Latino populations together constitute nearly half of the total population and CVAP, and eight to nine of the thirteen districts contain more than 25% combined APBNH and Latino CVAP, with several majority-minority districts. *Id.* at 26, 30.

205.   Focusing on CD10 and CD11, under the pre-2020 plan, CD10 was majority White non-Latino, with relatively modest APBNH and Latino shares and a sizeable Asian population, and CD11 similarly had a White non-Hispanic ("WNH") majority, with combined APBNH and

50

Latino populations around one-quarter and Asians constituting roughly one-sixth of the population. *Id.* at 26.

206. Under the 2021 and 2024 plans, the State equalized total population to within one person of the ideal district size and made various adjustments that altered the racial and ethnic composition of CD10 and CD11. *Id.* at 28–34. In CD10, WNH percentages decreased and APBNH, Latino, and Asian shares increased; in CD11, the combined APBNH + Latino share remained essentially unchanged at approximately 22–26%, while the Asian share increased and the WNH share declined slightly. *Id.*

207. CD11 is the only congressional district in or around New York City currently represented by a Republican, Congresswoman Nicole Malliotakis, who has increased her margin of victory in each successive election under the post-2020 plans despite only modest changes in the combined APBNH and Latino CVAP in CD11. *Id.* at 18.

208. Mr. Bryan's report also evaluated the compactness of the districts in each plan and explained that compactness is a "traditional redistricting criterion" required by both the federal Voting Rights Act and the New York Constitution, which provides that "[e]ach district shall be as compact in form as practicable." *Id.* at 14, 40–41.

209. Using standard empirical measures (including Reock and Polsby–Popper), the 2021 and 2024 plans substantially improved the compactness of CD10 and CD11 compared to the pre-2020 map, and the enacted 2024 version of CD11 is a highly compact district. *Id.* at 44, 46.

210. By contrast, Mr. Cooper's illustrative plan "significantly" reduces the compactness of both CD10 and CD11. *Id.* at 42, 46. In CD11, the Reock score drops from roughly 0.52 under the 2024 Plan to about 0.30, and the Polsby–Popper score is cut roughly in half—which would

place Mr. Cooper's CD11 among the least compact congressional districts nationwide under common benchmarks. *Id.* at 45–46.

211. There were also internal inconsistencies and outright errors in Mr. Cooper's compactness reporting, including Reock scores that conflict with Cooper's own averages and cannot be reproduced using accepted software. *Id.* at 14, 45–46. These errors fall below the professional standards expected of experts in redistricting analytics and undermine the reliability of Mr. Cooper's compactness analysis. *Id.* at 45–46.

212. Applying an "eyeball test" similar to that used by federal courts, Mr. Cooper's proposed CD11 is an "extremely elongated and irregular district" that stretches from Staten Island across approximately five miles of water to Lower Manhattan, in stark contrast to the 2024 Congressional Map, which connects Staten Island to adjacent Brooklyn over roughly one mile via a single bridge. *Id.* at 42, 49. In fact, Mr. Cooper's CD11 resembles the type of "oddly shaped, sprawling" district that courts have rejected as non-compact. *Id.* at 14, 47–48.

213. Cooper's argument that CD11 should be considered "compact" because its two land components—Staten Island and Lower Manhattan—are individually compact is without merit. *Id.* at 42–43. Compactness must be assessed for the district as a whole, including the water area that makes the two pieces contiguous, and treating each component separately is a "novel" and illogical approach with no support in case law or accepted redistricting practice. *Id.* Mr. Cooper's proposed map extends CD11 by miles in order to connect it with Lower Manhattan. Tr.547:9–13.

214. If Mr. Cooper's reasoning were accepted, map-drawers could justify linking distant, compact minority enclaves across large expanses of water, producing districts with

virtually no overall geographic or population compactness, notwithstanding the New York

Constitution's compactness requirement. Bryan Rep.44.

215. Mr. Bryan evaluated communities of interest in three dimensions: (1) political

geography (precinct/voting district splits), (2) neighborhood integrity (NTAs), and (3) racial and

ethnic communities—particularly Asian and Chinese-American communities—in and around

CD10 and CD11. *Id.* at 51.

216. With respect to political geography, Cooper counts splits using outdated 2020

Voting Tabulation Districts rather than current New York City precinct boundaries. *Id.* at 51–52.

Using current precinct data, neither the 2021 nor the 2024 plan splits any precincts between CD10

and CD11, whereas Cooper's illustrative plan splits twelve current precincts between the two

districts. *Id.* at 52. The enacted 2024 plan thus better respects existing political communities than

Mr. Cooper's proposed map. *Id.*

217. At the neighborhood level, the 2024 plan split two NTAs between CD10 and CD11.

Id. at 53. However, Mr. Cooper's illustrative plan reports three NTA splits. *Id.* at 54.

218. Turning to racial and ethnic communities of interest, Chinese-American

communities differ markedly across neighborhoods in income, housing patterns, and

co-residential groups. *Id.* at 54–57. Lower Manhattan's historic Chinatown has relatively low

median income and high poverty, Sunset Park combines a large Latino and Asian population, and

neighborhoods like Bensonhurst and Dyker Heights are majority White or mixed, with growing

but socioeconomically distinct Asian populations. *Id.* at 56–57.

219. Under the 2024 Congressional Map, Asians are nearly evenly distributed between

CD10 and CD11 and constitute the largest single minority group in both districts. *Id.* at 58–59.

By contrast, under Mr. Cooper's illustrative plan, approximately 36% of Asians in CD10 and 57%

of Asians in CD11 are moved to the other district, so that nearly half of the Asian population in the two districts is reassigned. *Id.* at 59.

220.   Mr. Cooper's map fractures contiguous Chinese-American communities in and around Chinatown, leaving some Chinese residents in CD11 while attaching the remainder to distant Asian pockets in Sunset Park, Bensonhurst, and other parts of Brooklyn that are separated by non-Asian neighborhoods and differ materially in socio-economic profile. *Id.* at 56–57. Mr. Cooper's map actually separates Chinese Americans that live across the street from each other to connect those in Chinatown with those in Brooklyn. Tr.515:6–22. Mr. Cooper's claim that his plan "unif[ies]" Chinese communities of interest is materially misleading and, in practice, the illustrative plan disrupts and dilutes a cohesive Asian community in CD11. Bryan Rep.56–57.

221.   There are significant differences between the Asian population on Staten Island and the Asian population in Lower Manhattan, as well as significant differences between the Latino population on Staten Island and the Latino population on Lower Manhattan. Tr.544:19–545:15; Tr.546:16–547:8. And the distance between the communities on Staten Island and Lower Manhattan—separated by miles of water with no physical connection—makes it more difficult for communities of interest to form. Tr.548:2–6; Tr.549:18–550:6. The proximity of people to one another, "especially [in] a very densely concentrated place like New York[,] is important to determining whether a community" of interest can form. Tr.550:7–11.

222.   Responding to testimony about Staten Island residents who commute to Lower Manhattan forming a community of interest with residents of Lower Manhattan, Mr. Bryan provided data regarding commuters and gave his opinion on that purported community of interest. Tr.523:17–30:4. Only one in five workers in Manhattan actually live in Manhattan; the rest commute in from elsewhere. Tr.524:10–15. Roughly 60,000 people from Staten Island commute

to Manhattan for work, Tr.524:20–24—a "relatively small" "subset of the adults that live on Staten Island," Tr.525:2–9, making up only 2.4% of Manhattan's workforce, Tr.526:2–6. And those commuters do not necessarily work in Lower Manhattan. Tr.543:15–19. Nor do they all take the ferry given that the ferry only carries about 45,000 people per day. Tr.525:10–25. Few people go into Staten Island from Manhattan for work. Tr.527:19–25.

223.   Because only a small subset of the population goes into Manhattan for work and they do not take the same mode of transportation each day, it cannot be said that Staten Island residents who work in Manhattan form a community of interest. Tr.529:20–530:4.

224.   Mr. Bryan also analyzed the partisan and racial effects of Mr. Cooper's illustrative plan using precinct-level election data from the 2024 elections. Bryan Rep.71–73.

225.   The precincts that Cooper moved from CD10 to CD11 voted approximately 80% Democratic in recent statewide and congressional contests, while the precincts moved from CD11 to CD10 voted only about 42–47% Democratic. *Id.* at 71. In fact, the portion of Lower Manhattan that Mr. Cooper carved out of CD11 is the lowest performing precinct for Democrats in Lower Manhattan. Tr.540:7–15. And Mr. Cooper did not just carve out Chinatown, he carved out "numerous blocks that go outside of Chinatown, kind of down to the southwest that have highly irregular moves, block by block that contain other relatively low performing democratic precincts as well." Tr.540:16–24. In other words, Mr. Cooper's map systematically imports heavily Democratic precincts into CD11 and exports more competitive or Republican-leaning precincts to CD10. Bryan Rep.71.

226.   Thus, notwithstanding Petitioners' characterization of Mr. Cooper's map as a remedial coalition district for Black and Latino voters, the plan's principal effect is to strengthen

the White, liberal (Democratic) vote in CD11 while diminishing the representational strength of Asians—the largest existing minority group in that district under the enacted map. *Id*. at 74.

227. Mr. Cooper's movement of vast numbers of the population—one-third of the population was moved in order to generate two percentage points of change in CD11—fails to satisfy the traditional redistricting principle of core retention. Tr.533:22–534:3.

228. Accordingly, Mr. Cooper's illustrative plan is inferior to the enacted 2024 plan on compactness and communities-of-interest metrics, and its demographic and political effects show that it is better understood as a partisan reconfiguration benefiting White, non-Latino Democratic voters than as a genuine remedy for racial vote dilution. Bryan Rep.74.

B. Dr. John R. Alford

229. The Court accepted Dr. John Alford as a witness in voter dilution and polarization. Tr.674:21–675:7. Respondents Kosinski, Casale, and Riley retained Dr. Alford in this litigation to evaluate and respond to Dr. Palmer's expert report. Alford Rep.4.

230. The improved performance for minority preferred candidates that Dr. Palmer reports in the illustrative district comes largely from swapping White voters between CD11 and CD10 to net more Democratic leaning voters in the illustrative CD11, and to a lesser extent from making a similar swap of Asian voters. *Id.* at 9.

231. Regarding Dr. Palmer's comments on the performance of various districts, in its current form CD11 leans Republican, but "in a good year for Democrats, like President Trump's midterm in 2018, Democrats can carry the district as they did in all four of the statewide contests." *Id.* at 12.

232.   In its current form, CD11 would also be expected to elect minority candidates to office. Tr.683:12–21. The empirical evidence shows that the race of a candidate is not influential in CD11. Tr.693:13–16.

233.   Petitioners' focus on party voting patterns is no accident. Alford Rep.14. Black and Latino voters in CD11 prefer Democratic candidates, and White voters in CD11 prefer Republican candidates. *Id.* "The partisan nature of this polarization clarifies the context for the attempt in the illustrative district to alter the configuration of the district to achieve a Democratic majority despite actually increasing the [White] CVAP share of the district population." *Id.*

234.   Because CD11 is not unique, with no lower bound on the proportion of minority voters needed, any Republican leaning district with any minority population, which is effectively any Republican district, is subject to the same legal liability as here. *Id.* at 15. That is particularly true because racial polarization is increasingly common. Tr.684:19–20.

235.   So, for example, the Black or Latino voters in the First and Second Congressional Districts could sue to compel both districts to be reconfigured to achieve a pro-Democratic lean by reaching further west into more Democratic voting areas, and the Seventeenth Congressional District could be forced to be reconfigured to reach down the Hudson River to incorporate more Democratic voters to the south. Alford Rep.15.

236.   The converse is also true. Tr.700:3–14. Because Hasidic Jews are a recognized minority group that lean Republican, if one of New York's congressional districts that consistently elects the Democratic candidate has a population with 9% Hasidic Jews, they will have a right to a Republican district under Petitioners' theory. Tr.699:22–700:10.

PROPOSED CONCLUSIONS OF LAW

I.   Petitioners' Claim Fails Under The New York Constitution

A. Applicable Legal Principles

1.   This Court construes the New York Constitution in the same way that it "constru[es] the language of a statute," giving "the language used its ordinary meaning" and applying well-settled principles of construction. *Sherill v. O'Brien*, 188 N.Y. 185, 207 (1907); *see Harkenrider*, 38 N.Y.3d at 509.

2.   Courts must give effect "to the entire [provision] and every part and word thereof," *Lynch v. City of New York*, 40 N.Y.3d 7, 13 (2023) (citation omitted), "avoiding a construction that treats a word or phrase as superfluous," *Columbia Mem'l Hosp. v. Hinds*, 38 N.Y.3d 253, 271 (2022).

3.   The Court cannot "amend" a provision "by adding words that are not there." *Am. Transit Ins. Co. v. Sartor*, 3 N.Y.3d 71, 76 (2004).

4.   It is a "fundamental rule of construction" that courts "presume[ ]" the Legislature "does not act in a vacuum" and was "aware of the law existing at th[e] time" it enacted the provision. *Thomas v. Bethlehem Steel Corp.*, 95 A.D.2d 118, 120 (3d Dep't 1983).

5.   When a state-law provision is either "modeled after a federal statute," *Bicknell v. Hood*, 6 N.Y.S.2d 449, 453–54 (Sup. Ct. Yates Cnty. 1938), or is "substantively and textually similar to [its] federal counterpart[ ]," the Court generally construes it "consistently with federal precedent" interpreting the federal law, "striv[ing] to resolve federal and state" claims in the same way, *Zakrzewska v. New School*, 14 N.Y.3d 469, 479 (2010) (citation modified); *see also Aurecchione v. N.Y. State Div. of Human Rights*, 98 N.Y.2d 21, 25–26 (2002). That is especially so when "state and local provisions overlap with federal" provisions that involve "civil rights,"

because "these statutes serve the same remedial purpose . . . to combat discrimination." *McGrath v. Toys "R" Us, Inc.*, 3 N.Y.3d 421, 429 (2004).

6. Finally, when a law is open to two interpretations, "one of which would obey and the other violate the Constitution, the universal rule of courts is to select the former." *People ex rel. Bridgeport Sav. Bank v. Feitner*, 191 N.Y. 88, 97–98 (1908).

B. The New York Constitution Does Not Recognize Petitioners' Theory

7. Petitioners' lawsuit rests on the assertion that New York's 2024 Congressional Map violates Article III, Section 4 of the New York Constitution by "dilut[ing]" the ability of Black and Latino voters in CD11 "to influence the outcome of elections" under the standards articulated in the NYVRA. Pet. ¶¶ 96–102.

8. The Black and Latino populations together comprise less than 30% of Staten Island, Borelli Rep.7, and there is no "reasonably configured legislative district," *Cooper v. Harris*, 581 U.S. 285, 287 (2017), in which the Black and Latino populations—whether considered independently, or even combined—would constitute a majority, Cooper Rep. ¶ 50 & Corrected Figure 9 (percentage of non-Hispanic Any Part Black plus Latino CVAP under Petitioners' illustrative map is 24.71%); Tr.347:22–24 (Mr. Cooper's testimony that Petitioners' illustrative map "doesn't make Black or Latino voters a numerical population majority").

9. Petitioners therefore seek to redraw CD11 as a "minority influence district"—that is, a district where the Black and Latino populations together constitute less than 50% of the total population. Pet. ¶¶ 96–102.

10. The New York Constitution does not recognize Petitioners' theory of the case. *See* N.Y. Const. art. III, § 4.

11.   As an initial matter, Article III, Section 4—which is modeled on Section 2 of the federal Voting Rights Act ("VRA")—does not mandate the creation of influence districts at all. *Infra* pp.60–66. For this reason alone, Petitioners' lawsuit must be dismissed.

12.   And even if the New York Constitution did require influence districts, the only influence theory that Petitioners put forward is under the NYVRA's standards. *Infra* p.68. Those standards cannot apply under the New York Constitution, where the NYVRA was adopted eight years after the 2014 amendments to Article III and only governs local elections. *Infra* pp.68–73.

13.   Finally, adjudicating this case under any approach other than the NYVRA theory that Petitioners presented in their Petition—which shaped expert submissions and all of the briefing in this case—would violate the Fourteenth Amendment's Due Process Clause and basic principles of fairness. *Infra* pp.73–76.

a. New York Modeled Article III, Section 4 On Section 2 Of The VRA, And So Article III, Section 4 Does Not Require Influence Districts

14.   Petitioners' lawsuit fails because Article III, Section 4 does not recognize Petitioners' influence district theory.

15.   To address a history of "partisan and racial gerrymandering," *Harkenrider*, 38 N.Y.3d at 503, the People in 2014 amended Article III of the New York Constitution.

16.   Today, Article III, Section 4 provides that, "[s]ubject to the requirements of the federal constitution and statutes," the "following principles shall be used in the creation" of congressional districts: "Districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgment of" "racial or language minority voting rights," but instead "shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice." N.Y. Const. art. III, § 4(c).

17. New York "modeled" Article III, Section 4 "after" Section 2 of the federal VRA, *Bicknell*, 6 N.Y.S.2d at 453–54, and it is "substantively and textually similar" to Section 2, *Zakrzewska*, 14 N.Y.3d at 479.

18. Congress enacted the VRA in 1965 to create "stringent new remedies for voting discrimination, attempting to forever banish the blight of racial discrimination in voting." *Allen v. Milligan*, 599 U.S. 1, 10 (2023) (citations omitted).

19. Section 2 originally provided that "[n]o voting qualification or prerequisite to voting or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color." 42 U.S.C. § 1973 (1970). Following the U.S. Supreme Court's interpretation of that language in 1980 "not [to] prohibit laws that are discriminatory only in effect," Congress in 1982 amended Section 2 to its current form. *Allen*, 599 U.S. at 11–14.

20. Section 2 provides that no "standard, practice, or procedure shall be imposed or applied by any State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or" "because he is a member of a language minority group." 52 U.S.C. §§ 10301(a), 10303(f)(2).

21. A violation of Section 2 occurs when, "based on the totality of circumstances," racial or language minorities "have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice." *Id.* § 10301.

22. Section 2 bars "vote dilution" through the "dispersal of a group's members into districts in which they constitute an ineffective minority of voters." *Cooper*, 581 U.S. at 292 (citation modified).

23.   *Thornburg v. Gingles*, 478 U.S. 30 (1986), identified "three threshold conditions for proving a [Section 2] vote-dilution claim," commonly referred to as the *Gingles* factors. *Id.* at 287.

24.   First, a "'minority group' must be 'sufficiently large and geographically compact to constitute a *majority*' in some reasonably configured legislative district." *Id.* (emphasis added) (quoting *Gingles*, 478 U.S. at 50).

25.   Second, "the minority group must be 'politically cohesive.'" *Id.* (quoting *Gingles*, 478 U.S. at 51).

26.   And third, "a district's white majority must 'vote[ ] sufficiently as a bloc' to usually 'defeat the minority's preferred candidate.'" *Id.* (quoting *Gingles*, 478 U.S. at 50–51).

27.   Section 2 does not demand any court-ordered relief if the minority group at issue cannot constitute a majority in a reasonably configured district. *See League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 446 (2006) ("*LULAC*") (plurality op.).

28.   In *LULAC*, for example, the U.S. Supreme Court held that Section 2's text does not require the "creat[ion of] an influence district," 548 U.S. at 446 (plurality op.), that is, a district where minority groups can "play a substantial, if not decisive, role in the electoral process," *id.* at 479 n.15 (Stevens, J., concurring in part) (citation omitted). Because Section 2 guarantees minority groups only the "opportunity" to "elect representatives of their choice," a claim under Section 2 "requires more than the ability to influence the outcome." *Id.* at 445–46 (plurality op.).

29.   Were it otherwise and Section 2 "were interpreted to protect this kind of influence, it would unnecessarily infuse race into virtually every redistricting, raising serious constitutional questions." *Id.*

30.   The U.S. Supreme Court has warned that "[d]isregarding the majority-minority rule

. . . would involve the law and courts in a perilous enterprise," "invit[ing] divisive constitutional

questions that are both unnecessary and contrary to the purposes of" the VRA. *Bartlett v.*

Strickland, 556 U.S. 1, 21–23 (2009) (plurality op.) (explaining that Section 2 does not require

"crossover districts").

31.   Following the 1982 amendments to Section 2 and the U.S. Supreme Court's

decision in *LULAC*, the People in 2014 adopted Article III, Section 4, modeling it on Section 2

and using substantially similar language. *Compare* 52 U.S.C. §§ 10301(a), 10303(f)(2), *with*

N.Y. Const. art. III, § 4(c)(1).

32.   Both provisions seek to combat discrimination by prohibiting voting districts that

"result[ ]" in the "denial or abridgement" of voting rights based on race or "language minority"

status. *Compare* 52 U.S.C. §§ 10301(a), 10303(f)(2), *with* N.Y. Const. art. III, § 4(c)(1). And

both are violated when, "based on the totality of the circumstances," racial groups "have less

opportunity to participate in the political process" and to "elect representatives of their choice."

Compare 52 U.S.C. §§ 10301(b), 10303(f)(2), *with* N.Y. Const. art. III, § 4(c)(1).

33.   Because New York modeled Article III, Section 4 on Section 2 of the VRA, Article

III, Section 4 similarly does not require drawing district lines to increase the influence of a

minority group where that group is not a majority in a reasonably configured district.

34.   Article III, Section 4 follows Section 2's language, substantively and textually. *See*

Bicknell, 6 N.Y.S.2d at 453–54; *Zakrzewska*, 14 N.Y.3d at 479.

35.   To begin, Article III, Section 4 provides that "districts shall not be drawn to have

the purpose of, *nor shall they result in, the denial or abridgment of*" "*racial or language minority*

voting rights." N.Y. Const. art. III, § 4(c)(1) (emphases added). This first provision mirrors

Section 2, which states that no "standard, practice, or procedure" (including the drawing of district lines) "shall be imposed or applied by any State or political subdivision *in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or*" "because he is a member of a language minority group." 52 U.S.C. §§ 10301(a), 10303(f)(2) (emphases added); *see Cooper*, 581 U.S. at 292.

36.   Article III, Section 4 then states that districts "shall be drawn so that, *based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice*." N.Y. Const. art. III, § 4(c)(1) (emphasis added). This second provision also tracks Section 2, which states that a violation occurs when, "*based on the totality of circumstances*," racial or language minorities "*have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice*." 52 U.S.C. § 10301 (emphases added).

37.   Accordingly, because the U.S. Supreme Court has determined that Section 2 does not require the creation of minority influence districts, *LULAC*, 548 U.S. at 446 (plurality op.); *Bartlett*, 556 U.S. at 21–23 (plurality op.), this Court must likewise construe the analogous Article III, Section 4 not to require creating minority influence districts.

38.   To succeed on their Article III, Section 4 claim, Petitioners must therefore demonstrate that either the Black population or the Latino population is "sufficiently large and geographically compact to constitute a majority in some reasonably configured legislative district." *Cooper*, 581 U.S. at 287 (citation omitted).

39.   Petitioners did not present any evidence suggesting that there is a "reasonably configured legislative district," *id.*, in which the Black and Latino populations, considered

independently or even combined, would constitute a majority. *See* Tr.347:22–24; Cooper Rep.

¶ 50 & Corrected Figure 9 (percentage of NH AP Black plus Latino CVAP under Petitioners'

illustrative map is 24.71%).

40.   Courts in other States have similarly interpreted their State's redistricting

provisions by reference to similarly worded provisions in the VRA.

41.   In *In re Colorado Independent Congressional Redistricting Commission*, 497 P.3d

493 (Colo. 2021), the Supreme Court of Colorado construed a state constitutional amendment by

reference to the federal VRA, *id.* at 512.   The Colorado constitutional amendment at issue

prohibited a redistricting plan that denied or abridged a citizen's right to vote on account of "race

or membership in a language minority group, including diluting the impact of [a] racial or

language minority group's electoral influence." *Id.* at 505 (citation omitted).

42.   Notwithstanding that additional language, the court concluded that Colorado's

amendment was "coextensive with the VRA provisions as they existed in 2018 and create[d] no

further [redistricting] requirements" to "create additional protections for [minority] voters in the

form of influence, crossover, or coalition districts." *Id.* at 512.

43.   The court reasoned that the Colorado General Assembly failed to define separately

the terms "dilution" or "electoral influence," "which [was] curious if [that] language was intended

to establish new protections beyond those existing in federal law." *Id.* at 510; *see also Asian Ams.*

Advancing Just.-L.A. v. Padilla, 41 Cal. App. 5th 850, 872 (2019) (concluding that the phrase

"single language minority" in a California election statute must be interpreted in accordance with

the federal VRA because the legislature "undoubtedly would have[ ] said so" if it intended the

phrase "to have a different meaning under state law").

44.   This logic applies with even greater force here given how closely Article III,

Section 4's language mirrors that of Section 2. *Supra* pp.63–65.

45.   Interpreting Article III, Section 4 as mandating the creation of influence districts

would also violate principles of constitutional avoidance. *Bridgeport*, 191 N.Y. at 97–98; *see*

also infra pp.67–68.

46.   Absent the *Gingles* safeguards or some equally effective safeguard, reading a

minority influence-district mandate into Article III, Section 4 would plunge New York courts into

endless race-based redraws, "unnecessarily infus[ing] race into virtually every redistricting,

raising serious constitutional questions." *LULAC*, 548 U.S. at 445–46 (plurality op.).

47.   Given the zero-sum nature of elections and the widespread phenomenon of racial

polarization—*see Cooper*, 581 U.S. at 304 n.5 (explaining that it was not a "great surprise" that

"in North Carolina, as in most States, there are discernable, non-random relationships between

race and voting"); Palmer Reply at 1 ("[r]ace and party are fundamentally linked in American

politics")—at any given time in any given district, at least one White or non-White racial minority

group (or groups) would be able to claim that it lacks sufficient "influence" because the racial

group's candidates of choice are winning too few elections. That racial group could then demand

a race-based redraw of its district, which would then lead to other racial groups having the same

race-based lack-of-influence complaint.

48.   This concern applies with full force to the map that Petitioners have proposed in

this case. *See* Cooper Rep. Corrected Figure 9.

49.   In the current CD11, there is a "fairly large White population that votes

overwhelmingly Republican." Tr.623:14–17. Petitioners' illustrative map "tak[es] this White

Republican vote between Brooklyn and Staten Island and crack[s] it to create two Democratic

districts," thereby "bur[ying]" Republican voters "in the new District 10" and "District 11."

Tr.623:17–25.

50.   If this Court were to adopt Petitioners' proposed map (or another map that achieves the same result), White Republican voters in the new CD11 would, under Petitioners' theory, very likely have a vote-dilution claim, where their votes have been "crack[ed]" and packed to diminish these voters' overall electoral influence. *See* Tr.623:14–25; Trende Rep.9–15; *see also* Tr.222:2–7 (Dr. Palmer testifying that Petitioners' proposed illustrative map could result in an NYVRA claim if "there is strong evidence of racially polarized voting so that we know who the preferred candidates of each group are, like we have in [the current] CD 11").

51.   Similarly, for White voters in New York's Eighth Congressional District, their preferred Republican candidates are routinely defeated by non-White racial groups' preferred Democratic candidates there. *See* NYSCEF Doc. No.115 at 23. That district could be redrawn to create an influence district where White voters' preferred candidates win more—but then Black voters could have an influence-district claim in the same district because they would no longer be able to elect the candidate of their choice more often than not. *See id.*; *infra* pp.80–83.

52.   The same would be true of one of New York's congressional districts that consistently elects Democratic candidates if it had, for example, a population with just 9% Hasidic Jews; they are a recognized minority group that leans Republican so they would have a right to a Republican influence district in that situation, *see* Tr.699:22–700:10, thereafter triggering the same for a Democratic leaning minority group. *Infra* pp.81–82.

53.   Such an endless loop of jurisdictions being forced to draw new districts for the express purpose of giving different racial groups more electoral influence would both trigger and fail strict scrutiny under the Equal Protection Clause of the Fourteenth Amendment to the U.S.

Constitution, because doing so constitutes race-based government action that does not further any compelling government interest in the least restrictive (*i.e.*, necessary) means. *See infra* pp.103–21.

54. Because this conclusion would apply to the creation of an influence district drawn under any influence-district mandate read into Article III, Section 4, the constitutional-avoidance canon requires this Court to reject such an interpretation of Article III, Section 4. *See Bridgeport*, 191 N.Y. at 97–98.

55. Notably, the U.S. Supreme Court cited constitutional avoidance as a reason for interpreting Section 2 of the VRA as not requiring the creation of minority influence districts, *LULAC*, 548 U.S. at 445–46 (plurality op.), and the Court has only grown more skeptical of race-based government action, *see Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 206 (2023) ("*SFFA*").

b. At Minimum, This Court Cannot Read The NYVRA Retroactively Into Article III, Section 4

56. Even if this Court believed that Article III, Section 4 could possibly be read to include some sort of influence-district mandate, *but see supra* pp.60–68, Petitioners' lawsuit would still fail as a matter of law because their only influence theory is under the NYVRA's standards, and those standards cannot be retroactively adopted into the New York Constitution.

57. Petitioners ask the Court to impose the NYVRA's statutory standards—enacted in 2022, eight years after the People adopted the current version of Article III, Section 4 that Petitioners invoke—retroactively into Article III, Section 4. Pet. ¶¶ 97–98. But this Court cannot retroactively amend the New York Constitution's language adopted in 2014 for congressional districts to reflect statutory language enacted eight years later related to other jurisdictions. *See Sgaglione v. Levitt*, 37 N.Y.2d 507, 514 (1975).

58.   The Legislature enacted the NYVRA in 2022 to establish greater voting rights protections applicable to local New York "board[s] of elections" and "political subdivision[s]." N.Y. Elec. Law § 17-206(2)(a).

59.   The NYVRA explicitly on the face of its text departs from the federal VRA and the U.S. Supreme Court's interpretation of that statute in multiple respects. *Clarke v. Town of Newburgh*, 237 A.D.3d 14, 22 (2d Dep't 2025) (citation omitted). As relevant here, the NYVRA includes a "[p]rohibition against vote dilution," which bans localities from "us[ing] any method of election, having the effect of impairing the ability of members of a protected class to elect candidates of their choice *or influence the outcome of elections*, as a result of vote dilution." N.Y. Elec. Law § 17-206(2) (emphasis added).

60.   In contrast to Article III, Section 4, the NYVRA allows plaintiffs challenging local maps to pursue claims based on minority groups' ability to "influence the outcome of elections," *id.* § 17-206(2)(b)(ii)(B), as well as claims that rely on a "combin[ation]" of multiple minority groups into a coalition, *id.* § 17-206(2)(c)(iv).

61.   To prevail on a claim against a district-specific system under the NYVRA, a plaintiff must demonstrate that the "candidates or electoral choices preferred by members of the protected class would usually be defeated." *Id.* § 17-206(2)(b)(ii); *infra* pp.76–87.

62.   If this threshold requirement is met, the NYVRA provides two paths for the plaintiff to prove a violation. The plaintiff can "either" show (a) that the "voting patterns of members of the protected class within the political subdivision are racially polarized," or (b) that "under the totality of the circumstances, the ability of members of the protected class to elect candidates of their choice or *influence the outcome* of elections is impaired." N.Y. Elec. Law § 17-206(2)(b)(ii) (emphasis added); *infra* pp.87–99.

63.   Unlike the NYVRA, Article III, Section 4 says nothing about a minority group's ability to "influence the outcome of elections." *Compare* N.Y. Elec. Law § 17-206(2), *with* N.Y. Const. art. III, § 4(c). Article III, Section 4 does not mention "influence" and instead focuses solely on ensuring an equal "opportunity to participate," N.Y. Const. art. III, § 4(c)(1), using the same language as Section 2 of the VRA, which does not recognize influence districts, *supra* pp.61–63.

64.   Nor does the NYVRA's "statement of purpose," adopted in 2022, support Petitioners' interpretation of Article III, Section 4. That 2022 statement of purpose provides New York's policy "to participate in the [State's] political processes . . . and especially to exercise the elective franchise" and recognizes "the constitutional guarantees . . . against the denial or abridgment" of voting rights. NYSCEF Doc. No.63 ("Pet'r's.Mem.") at 15 (citation omitted).

65.   There is no authority suggesting that the policy of a later-enacted statute should inform the Court's interpretation of a constitutional provision adopted eight years prior, *see generally* Pet'r's.Mem.15–16, and, in any event, interpreting Article III, Section 4 to be consistent with Section 2—without a minority-influence-district guarantee—expressly ensures the right to "participate" in New York's political process and in no way denies or abridges voting rights, *see LULAC*, 548 U.S. at 434 (plurality op.).

66.   Petitioners contend that this Court can use "[s]tatutory interpretation principles" to graft the NYVRA's vote-dilution framework retroactively onto Article III, Section 4 because courts may look to state law when interpreting a constitutional provision. Pet'r's.Mem.15. But Petitioners point to no case in which a court did so in the context of a law enacted years *after* the constitutional provision at issue.

67.   Rather, Petitioners' cited authority explains that courts may consider "*preexisting State statutory or common law*" when interpreting constitutional provisions. *People v. Harris*, 77 N.Y.2d 434, 438 (1991) (citation omitted) (emphasis added).

68.   Petitioners have also argued that *Harkenrider* supports their position because it "suggested" that Article III, Section 4, like the NYVRA, provides broader protection against vote dilution than the federal VRA. Pet'r's.Mem.17. However, *Harkenrider* stated only that the 2014 Amendments' "prohibition against discriminating against minority voting groups at the least encapsulated the requirements of the Federal Voting Rights Act, and according to many experts expanded their protection." Pet'r's.Mem.17 (citing *Harkenrider*, 173 N.Y.S.3d at 112). Even so, the views of some "experts" do not allow this Court to disregard Article III, Section 4's plain text, *Lynch*, 40 N.Y.3d at 13, and transport the NYVRA's 2022 provisions into the 2014 Amendments.

69.   Petitioners have also invoked the "distinctive attitudes of the [New York] citizenry," but have cited no case that suggests that courts can amend constitutional text to conform to the abstract desires of New York citizens to "ensur[e] strong protections against minority vote dilution in all aspects of the political process." Pet'r's.Mem.19.

70.   Petitioners argue that interpreting Article III, Section 4 according to its plain language may "create an inconsistent application of vote dilution protections across New York" because the NYVRA's "more robust protections" will apply only to "municipal and local elections," while Article III, Section 4's "lesser protections [will] apply[ ] to congressional and senate elections." Pet'r's.Mem.18. But the Legislature in the NYVRA did not impose its standards on congressional redistricting and instead limited its reach to "board[s] of elections" and local "political subdivision[s]" of New York. N.Y. Elec. Law § 17-206(2)(a).

71.   Petitioners' claim that "determin[ing] an appropriate standard under which to evaluate a vote dilution claim under the New York Constitution . . . is consistent with a core and longstanding function of this Court," NYSCEF Doc. No.156 ("Pet.Opp.") at 32, is incorrect. This Court can determine the appropriate standard to apply to a claim brought under the New York Constitution, but in doing so, the Court cannot "transgress the ordinary bounds of judicial review," *Moore v. Harper*, 600 U.S. 1, 36 (2023), in a federal election case by interpreting the New York Constitution in a manner that drastically departs from prior doctrine without violating the Elections Clause, *infra* pp.122–25.

72.   The Elections Clause "vests power to carry out its provisions in *'the Legislature'* of each State," *Moore*, 600 U.S. at 34 (emphasis added), and a state court violates that provision by "arrogat[ing] to [itself] the power vested in state legislatures to regulate federal elections," *id.* at 36. This Court thus does not have "free rein," *id.*, to disregard New York's longstanding principles of constitutional interpretation to achieve Petitioners' desired policy ends, whether they are workable or not. *See infra* pp.122–25.

73.   Adopting Petitioners' theory would drastically depart from longstanding rules of construction under New York law by requiring the Court retroactively to amend Article III, Section 4's text to adopt standards from the NYVRA that were enacted eight years later, *Am. Transit Ins. Co*, 3 N.Y.3d at 76, and by requiring the Court to read the NYVRA's express reference to "influence" as superfluous, *Columbia Mem'l Hosp.*, 38 N.Y.3d at 271; *supra* pp.69–70.

74.   As Article III, Section 4 makes no mention of "influence" and uses substantially similar language to Section 2 of the VRA—which the U.S. Supreme Court has held does not require influence districts, *supra* pp.61–63—accepting Petitioners' theory would "impermissibly

distort[ ]" state law "in a federal election case," *Moore*, 600 U.S. at 38 & n.1 (Kavanaugh, J., concurring), for the purpose of striking down a legislatively drawn congressional map, plainly violating the Elections Clause, *see id.* at 36 (majority op); *see infra* pp.125–26.

75.   That Petitioners believe that the NYVRA provides a "workable standard" for influence claims, Pet.Opp.32, is legally irrelevant. It is immaterial whether the NYVRA provides a "workable standard," *contra* Pet.Opp.32, because—even though the NYVRA's standard contains multiple important legal wrinkles that the Court would need to adjudicate to decide Petitioners' claim on the merits, *see* Int'r.Resp't.Br.20–31—the Court cannot read the NYVRA's standard as retroactively applying to a constitutional provision adopted eight years before the NYVRA existed.

76.   Under the Elections Clause, the proper course of action for Petitioners to accomplish their desired policy ends for a congressional redistricting plan is to bring their requests to the Legislature—not ask this Court to depart from established notions of New York constitutional interpretation to mandate the alteration of a legislatively adopted map.

c. Adjudicating Petitioners' Claim On Any Non-NYVRA Theory Would Violate Due Process And Basic Principles Of Fairness

77.   Rather than defend Petitioners' sole theory of reading the NYVRA's standards into Article III, Section 4, the Governor and certain *amici* have attempted to reframe Petitioners' case. But adjudicating this case under any theory other than the one that Petitioners placed into their Petition—which shaped expert submissions and all briefing in this case—would violate the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution and basic principles of fairness to litigants.

78.   The Fourteenth Amendment's Due Process Clause "centrally concerns the fundamental fairness of governmental activity," *N.C. Dep't cf Revenue v. Kimberly Rice Kaestner 1992 Fam. Tr.*, 588 U.S. 262, 268 (2019); *see also People v. Collier*, 223 A.D.3d 539, 542 (1st

73

Dep't 2024), *leave to appeal denied*, 42 N.Y.3d 962 (2024), and "imposes on the States the standards necessary to ensure that judicial proceedings are fundamentally fair," *Lassiter v. Dep't of Soc. Servs.*, 452 U.S. 18, 33 (1981).

79.   "[A]t a minimum," those standards require "notice and opportunity for hearing appropriate to the nature of the case," *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 313 (1950); *see also People ex rel. Abrams v. Apple Health & Sports Clubs, Ltd., Inc.*, 80 N.Y.2d 803, 806 (1992), that is "reasonably calculated, under all the circumstances, to . . . afford [participating parties] an opportunity to present their objections," *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 272 (2010); *see Am. Surety Co. v. Baldwin*, 287 U.S. 156, 168 (1932) (due process requires "an opportunity to present every available defense").

80.   A court deprives a party "of the right of fair warning," *Bouie v. City of Columbia*, 378 U.S. 347, 352 (1964), when it "reconfigure[s]" the applicable "scheme, unfairly, in *midcourse* [ ] to 'bait and switch'" the responding party, *Reich v. Collins*, 513 U.S. 106, 111 (1994) (emphasis in original).

81.   Here, the Governor has advised this Court that it may adopt whatever standard it sees fit to resolve this case in Petitioners' favor. Gov.Ltr.2–3. Petitioners similarly claim that this Court must ultimately "decide in the first instance what standard governs [their] vote dilution claim," Pet.Opp.4 (emphasis omitted), while claiming only that their own NYVRA-based standard is the "better framework," Pet.Opp.5. Two sets of *amici* urge the Court to adopt their own separate standards, despite the fact that no party has briefed the constitutionality of those standards or submitted expert evidence tailored to those standards. NYCLU Am.Br.11; Prof.Am.Br.19–20.

82.   This Court following any of these suggestions to decide this case under a different standard from the one articulated in the Petition would unconstitutionally "bait and switch" the

parties "unfairly, *in midcourse*," *Reich*, 513 U.S. at 111, depriving them of the "right of fair warning," *Bouie*, 378 U.S. at 352, and transgressing basic principles of fairness, *see N.C. Dep't of Revenue*, 588 U.S. at 268.

83.   The only theory that the Petition argued was that this Court should "apply the same standards set forth under the NY VRA to adjudicate" Petitioners' Article III, Section 4 claim, Pet. ¶ 50, and determine whether, under that NYVRA standard, "[a] minority influence district is both possible and required" in CD11, Pet. ¶¶ 97–102.

84.   Given that framing, the other parties developed expert evidence responding to Petitioners' claim under the NYVRA's standards and, relying on those experts, submitted extensive merits briefing under that theory. *See* Int'r.Resp't.Br.20–31. Similarly, the sole theory explored at trial was the one set forth in the Petition: that Article III, Section 4—like the NYVRA— mandates the creation of influence districts.

85.   Altering the applicable standard now and adjudicating this case under an approach that Petitioners did not articulate in their Petition—whether put forward by *amici* or adopted by this Court upon Petitioners' and the Governor's belated invitation—would deny other parties the "minimum," guarantees of due process, *Mullane*, 339 U.S. at 313, by failing to provide them a meaningful "opportunity to present their objections," *United Student Aid Funds*, 559 U.S. at 272.

86.   The suggestion is even more inappropriate given the timing of this case. Petitioners waited twenty months after Governor Hochul signed the 2024 Congressional Map to bring this lawsuit, and they could have spent that unreasonably long amount of time determining how best to frame their argument and developing alternative theories. Petitioners' failure to do so is not something that other parties, *amici*, or this Court can change now at this late stage.

87.　　Here, due process requires the Court to consider only the standard that Petitioners advanced at the outset of this litigation and that Intervenor-Respondents had an opportunity to respond to—that the NYVRA governs claims brought under Article III, Section 4.

88.　　Because that theory is a legal nonstarter, *supra* pp.59–72, this Court must deny the Petition on this basis alone.

II.　Even If The NYVRA's Standards Applied, Petitioners Still Cannot Prevail

A. Petitioners Have Not Satisfied The NYVRA's Threshold "Usually Be Defeated" Mandate

89.　　Even under Petitioners' theory that Article III, Section 4 incorporates the NYVRA's later-enacted vote-dilution standards, Petitioners failed to put forth sufficient evidence to satisfy the NYVRA's threshold "usually be defeated" inquiry. N.Y. Elec. Law § 17-206(2)(b)(ii).

a. Petitioners Need To Satisfy The NYVRA's "Usually Be Defeated" Standard

90.　　The NYVRA is a recently enacted statute, and no court has determined what it means for a candidate to "usually be defeated," a threshold requirement for district-specific vote dilution claims under the NYVRA. *Id.* Accordingly, adjudicating Petitioners' only merits theory requires this Court to be the first to determine how that provision works, and to do so in the context of congressional redistricting—a context that the NYVRA does not even cover.

91.　　To conduct that inquiry, this Court must apply the same interpretative principles discussed above, *supra* pp.58–59, including taking care to avoid adopting any interpretation that leads to absurd results, *see People ex rel. McCurdy v. Warden*, 36 N.Y.3d 251, 262–63 (2020).

92.　　If this Court accepts Petitioners' Article-III-Section-4-Equals-NYVRA theory, this Court must interpret Subsection 17-206(2)(b)(ii)'s "usually be defeated" language as requiring an

NYVRA vote-dilution plaintiff to demonstrate that minority-preferred candidates are routinely defeated in elections across the entire jurisdiction.

93.   The NYVRA does not define "usually," *see* N.Y. Elec. Law § 17-204, but the plain meaning of "usually" reveals that the Legislature intended this to be a robust requirement.

94.   "Usually" refers to something that occurs "ordinarily" or "as a rule." *Usually*, Oxford English Dictionary ("OED") (2024)[3]; *see Usually*, MerriamWebster.com Dictionary, Merriam-Webster (2024) (defining usually as "most often" or "as a rule").[4]

95.   Thus, the NYVRA's "usually be defeated" language means that one will routinely or "as a rule" be defeated, implying a standard that is far more robust than "more likely than not" or 50% plus one. In other words, one could not reasonably conclude that a racial group's preferred candidates are defeated "ordinarily" or "as a rule" in a political subdivision where they win, for example, 49% of races in the relevant jurisdiction. *See Usually*, OED, *supra*.

96.   The best reading of the NYVRA's statutory text also compels the Court to evaluate NYVRA vote-dilution claims on a jurisdiction-wide basis—here, across New York's entire 2024 Congressional Map or at least CD11's surrounding region—because the NYVRA's vote-dilution analysis is not district-specific by its statutory text.

97.   The NYVRA provides that "evidence concerning whether members of a protected class are geographically compact or concentrated," N.Y. Elec. Law § 17-206(2)(c)(viii), such that they could form a voting "majority in a reasonably configured district," *Wis. Legislature*, 595 U.S. at 402, "shall *not* be considered [for liability]," N.Y. Elec. Law § 17-206(2)(c)(viii) (emphasis added). The NYVRA also allows vote-dilution plaintiffs to reach all over the relevant jurisdiction, "combin[ing]" members of multiple minority groups to bring a vote-dilution "[c]oalition claim[ ],"

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[3] Available at https://www.oed.com/dictionary/usually_adv?tab=factsheet#16029712.
[4] Available at https://www.merriam-webster.com/dictionary/usually.

N.Y. Elec. Law § 17-206(8), regardless of what district those members live in within the jurisdiction. Further, if a violation is found, the NYVRA provides a host of remedies that affect the entire "political subdivision" and do not alter the boundaries of any particular district. *See id.* § 17-206(5).

98.   Thus, unlike with Section 2 of the VRA, there is no requirement for a court evaluating an NYVRA claim to "carefully evaluat[e] evidence at the district level," or evaluate "the design of [a new] district." *Wis. Legislature*, 595 U.S. at 401, 404. Accordingly, the best reading of the NYVRA's text is that NYVRA vote-dilution claims should be evaluated on a jurisdiction-wide basis.

99.   This conclusion is confirmed by the fact that any other approach would "lead to absurd results." *McCurdy*, 36 N.Y.3d at 262.

100.   Reading "usually be defeated," N.Y. Elec. Law § 17-206(2)(b)(ii), as meaning anything less than a minority group's preferred candidates losing elections "ordinarily" or "as a rule," *see Usually*, Oxford English Dictionary, *supra*, across the entire relevant jurisdiction would often render compliance with the NYVRA impossible. After all, at least *some* racial groups' candidates of choice are bound to be defeated more than 50% of the time in any given jurisdiction at any given time that has racial polarized voting as between any racial group, absent some unusual and mathematically improbable (or impossible) circumstance. *See* Trende Rep.9–15.

101.   "Redistricting is always a zero-sum game" where "[m]oves that benefit one side hurt another side," *id.* at 15, meaning that by redrawing districts to ensure that one racial group's preferred candidates will not be defeated over 50% of the time in one individual district, the jurisdiction would inevitably "hurt" another racial group's ability to elect its preferred candidates in at least one other district, *see id.* at 9–15.

102.   Given the zero-sum nature of elections, at least some racial group's candidates of choice will be defeated over 50% of the time in any hand-selected district or districts where there is racially polarized voting. *See id.* Racially polarized voting is common. *See Cooper*, 581 U.S. at 304 n.5; Palmer Reply ¶ 4 ("[r]ace and party are fundamentally linked in American politics"). This Court cannot assume that the New York Legislature enacted an absurd statute that makes compliance with the NYVRA impossible in any political subdivision that happens to have the commonplace condition of racially polarized voting. *See McCurdy*, 36 N.Y.3d at 262.

103.   This is especially true given that the NYVRA has been interpreted "as allowing members of *all* racial groups, including white voters, to bring vote dilution claims," *Clarke*, 237 A.D.3d at 33 (emphasis added), making it almost certain that either Whites or at least one non-White racial group (or groups) would be able to bring a vote-dilution claim at any given time there is racially-polarized voting. *See supra* pp.66–68.

104.   Petitioners' theory would exacerbate that "absurd result[ ]," *McCurdy*, 36 N.Y.3d at 262, because any racial group (or groups)—including Whites—whose preferred candidates are defeated more often than not in a jurisdiction could claim that they lack "an equal opportunity to influence elections," Pet'r's.Mem.14, as other racial groups and demand that jurisdiction's maps be redrawn to create a new "minority influence district" for them, *id.* at 39.

105.   This is not "a purely hypothetical concern" in New York: there is "racially polarized voting in the area covered by district[s] 5, 8, and 9," and, under Petitioners' interpretation of the NYVRA, "it would appear that White voters would have viable claims all over New York's congressional map"; and "changing districts so that minority-favored candidates of choice win more would then mean the same district would need to be changed back so that White voters' candidates of choice are not usually defeated." Trende Rep.10; *supra* pp.66–68.

79

106.   The NYVRA defines "racially polarized voting" to mean "voting in which there is a divergence in the candidate, political preferences, or electoral choice of members in a protected class from the candidates, or electoral choice of the rest of the electorate." N.Y. Elec. Law § 17-204(6). Again, the NYVRA protects White voters, in addition to all other "class[es] of individuals who are members of a race, color, or language-minority group." *Id.* § 17-204(5); *see Clarke*, 237 A.D.3d at 33.

107.   In several current New York districts where the White population constitutes the minority, there is clear racial polarization—that is, a "divergence" in "political preferences" and "electoral choice" between White voters and Black and Latino voters, with White voters preferring the Republican candidate and Black and Latino voters preferring the Democratic candidate. N.Y. Elec. Law § 17-204(6); Voss Rep.21 Table 6; Tr.627:13–630:14; *see* Trende Rep.10–15.

108.   That is evidenced by the 2022 Gubernatorial race. *See* Tr.627:13–630:14. In District 5, 96% of Black voters and 74.89% of Latino voters voted for the Democratic candidate, whereas only 33.8% of White voters voted for the Democratic candidate. Tr.627:20–629:8. In District 8, 97.1% of Black voters and 78.2% of Latino voters voted for the Democratic candidate, whereas only 40% of White voters voted for the Democratic candidate. Tr.629:9–13. And in District 9, 96.2% of Black voters and 77.6% of Latino voters voted for the Democratic candidate, whereas only 37.9% of White voters voted for the Democratic candidate. Tr.629:14–17.

109.   These "big gap[s]," Tr.630:11–12, or "divergence[s]," N.Y. Elec. Law § 17-204(6), in political preferences constitute racial polarization. *See id.*

110.   In any of these racially polarized districts, White voters would, under Petitioners' theory, be able to claim that they lack an equal opportunity to influence elections as compared to other racial groups and request that their district be redrawn as a "minority influence district."

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111.   For example, District 8, where Whites constitute "a minority" and non-White racial groups' preferred Democratic candidates routinely defeat White-preferred Republican candidates, Trende Rep.10, could be redrawn to create a district "where Republican candidates win more often than not," *id.* at 12, while keeping the remaining districts "heavily Democratic," *id.* at 10, but then "the minorities in District 8 . . . would have a claim" because they would no longer be able to "elect their candidate of choice" more often than not and "[t]here is still racially polarized voting in District 8," *id.* at 14.

112.   Similarly, because Hasidic Jews are a recognized minority group that lean Republican, if one of New York's congressional districts that consistently elects Democratic candidates has "a population of Hasidic Jews that reaches 7, 8, 9 percent, as the Black population does on Staten Island," the NYVRA would, under Petitioners' interpretation, give these voters a vote-dilution claim. Tr.699:22–700:10.

113.   Petitioners' expert, Dr. Palmer, himself confirmed that even Petitioners' proposed illustrative map—which would result in the Democratic candidate winning approximately 88% of the time, *see* Palmer Rep.8—could, if adopted, result in an NYVRA claim, if "there is strong evidence of racially polarized voting so that we know who the preferred candidates of each group are, like we have in [the current] CD 11." Tr.222:2–7; *see* Tr.686:1–10 (Dr. Alford testifying that "White non-Hispanic voters vote decidedly republican" in the current CD11, and that Black and Latino voters vote "overwhelmingly democratic").

114.   Dr. Palmer concluded that, on average in the illustrative map, White voters only support the Black and Latino preferred candidates with 41.8% of the vote, Palmer Rep. ¶ 25; Tr.213:13–17, whereas Black voters supported that candidate with 87.9% of the vote and Latino voters supported that candidate with 83.1% of the vote, Palmer Rep. ¶¶ 23–24. This "big gap,"

Tr.630:11–12, or "divergence," between the "political preferences" of White voters, on the one hand, and the political preferences of Black and Latino voters, on the other hand, is indicative of racially polarized voting, N.Y. Elec. Law § 17-204(6), such that the illustrative map would give rise to an NYVRA claim for White voters.

115.   To make the point more generally, for any district that exhibits racially polarized voting—which again is an extremely common condition, *see, e.g.*, *Cooper*, 581 U.S. at 304 n.5; Palmer Reply ¶ 4 ("[r]ace and party are fundamentally linked in American politics")—reconfiguring that district to ensure that one racial group's preferred candidate is not "usually defeated" will necessarily mean that the other racial group's preferred candidate *will* be "usually defeated" in future elections under Petitioners' theory, giving rise to a new NYVRA claim.

116.   Thus, "[c]onducting the analysis only on the basis of the district in question—especially without a stringent requirement that the racial group's candidate of choice be 'usually defeated'" routinely in elections across the jurisdiction—would lead to a never-ending cycle of jurisdictions being forced to draw new districts to benefit different racial groups, Trende Rep.10—a manifestly "absurd result[ ]" that this Court should avoid, *McCurdy*, 36 N.Y.3d at 262.

117.   Section 2 of the VRA does not share this never-ending-violation issue, *see Wis. Legislature*, 595 U.S. at 401–04, because Section 2 requires plaintiffs to satisfy the stringent two-step framework for evaluating vote-dilution claims that the U.S. Supreme Court established in *Gingles*. A given jurisdiction only violates Section 2's vote-dilution provisions if a plaintiff can first satisfy all three *Gingles* preconditions as to each new majority-minority district that the plaintiff seeks to force the jurisdiction to create. *Gingles*, 478 U.S. at 50–51; *Wis. Legislature*, 595 U.S. at 402.

118.   Under the first precondition, "[t]he minority group must be sufficiently large and compact to constitute a majority in a reasonably configured district." *Wis. Legislature*, 595 U.S. at 402. A plaintiff cannot satisfy this precondition by showing that it is possible to create an "influence district[ ]." *LULAC*, 548 U.S. at 446 (plurality op.). The second precondition requires that "the minority group must be politically cohesive." *Wis. Legislature*, 595 U.S. at 402. And the third precondition requires that "a majority group must vote sufficiently as a bloc to enable it to usually defeat the minority group's preferred candidate." *Id.*

119.   If the plaintiff satisfies those preconditions, the plaintiff would then need to make the required showing under the separate second-step of *Gingles*' vote-dilution analysis—the totality-of-the-circumstances inquiry—by demonstrating that "the political process is [not] equally open to minority voters" in the jurisdiction. *Id.* (citations omitted).

120.   These safeguards—which are absent from the NYVRA—cabin Section 2's application, ensuring that jurisdictions can comply with its requirements and that creating a new majority-minority district to remedy a violation under Section 2 will not generally give rise to another Section 2 claim in another jurisdiction.

b. Petitioners Do Not Satisfy The NYVRA's "Usually Be Defeated" Standard

121.   Here, Petitioners failed to make the NYVRA's threshold "usually be defeated" showing. Black and Latino voters' candidates of choice—Democrats—are not "usually defeated" across the State of New York, within the region surrounding CD11, or even within CD11 itself. Trende Rep.6–9.

122.   First, Black and Latino voters' candidates of choice—Democrats—are not "usually defeated" across the State of New York. *See* Alford.Rep.14; Tr.686:6–10 (Dr. Alford testifying that the preferred candidate for Black and Latino voters in CD11 is "overwhelmingly democratic");

Tr.208:19–209:2 (Dr. Palmer testifying that it is "plausible" that Democratic candidates are the "Black preferred candidates" throughout the State).

123.   Statewide across New York's twenty-six congressional districts, Democrats comprise 73% of New York's congressional delegation, leaving Republicans with the remaining 27%—only seven seats.   Trende Rep.8.   The below table summarizes Democratic candidates' performance in statewide races in New York's congressional districts.

District	Gov 18	AG 18	Sen 18	Comp 18	Pres 20	Comp 22	Sen 22	Gov 22	AG 22	Sen 24	Pres 24	# D Wins	% D Wins
1	50.9%	50.7%	53.1%	55.5%	49.1%	46.0%	44.3%	41.9%	42.7%	47.1%	44.9%	4	36.4%
2	52.6%	52.3%	54.6%	56.8%	48.8%	43.2%	41.8%	39.0%	40.1%	45.2%	43.0%	4	36.4%
3	58.9%	57.7%	60.0%	62.2%	55.7%	50.8%	49.8%	45.8%	46.7%	50.1%	47.8%	7	63.6%
4	60.8%	59.6%	61.6%	63.3%	57.3%	51.5%	50.6%	47.1%	48.1%	52.8%	50.6%	9	81.8%
5	88.2%	88.3%	88.3%	88.6%	81.4%	75.5%	76.6%	73.3%	74.8%	74.1%	71.3%	11	100.0%
6	74.7%	74.6%	75.0%	75.2%	64.8%	58.3%	59.8%	53.7%	55.7%	58.1%	53.3%	11	100.0%
7	90.1%	90.5%	90.5%	90.2%	80.5%	77.9%	80.3%	74.0%	77.7%	77.4%	73.6%	11	100.0%
8	86.0%	86.2%	86.1%	86.0%	77.9%	73.9%	74.7%	71.7%	73.3%	75.2%	72.5%	11	100.0%
9	85.9%	86.9%	85.5%	86.2%	76.2%	74.1%	75.1%	68.7%	72.8%	75.2%	70.6%	11	100.0%
10	89.5%	89.5%	90.1%	89.3%	85.7%	82.7%	85.1%	80.6%	82.3%	82.8%	81.0%	11	100.0%
11	54.0%	53.5%	55.4%	55.7%	46.1%	39.4%	40.1%	36.3%	37.4%	41.2%	37.6%	4	36.4%
12	86.2%	84.7%	86.6%	85.3%	86.0%	80.9%	83.5%	80.1%	79.9%	81.9%	82.4%	11	100.0%
13	95.3%	95.3%	95.2%	95.0%	88.8%	86.5%	89.1%	86.4%	87.7%	83.5%	80.1%	11	100.0%
14	86.4%	86.7%	86.7%	86.8%	77.8%	70.6%	73.1%	69.1%	70.7%	70.0%	66.2%	11	100.0%
15	93.1%	93.0%	92.9%	93.1%	85.5%	81.0%	83.5%	80.3%	81.9%	78.1%	74.4%	11	100.0%
16	74.2%	74.5%	75.6%	76.0%	72.5%	65.6%	66.2%	63.3%	64.0%	68.6%	66.6%	11	100.0%
17	55.6%	58.4%	60.0%	61.8%	55.1%	52.4%	52.3%	48.3%	50.4%	55.1%	50.3%	10	90.9%
18	49.8%	55.8%	59.3%	59.3%	54.6%	53.3%	52.2%	49.1%	51.0%	56.9%	51.7%	9	81.8%
19	46.8%	52.6%	57.6%	59.1%	52.3%	52.2%	50.3%	46.5%	48.5%	54.4%	50.9%	8	72.7%
20	49.4%	57.0%	62.1%	66.7%	59.8%	60.4%	56.6%	52.9%	54.8%	60.1%	57.2%	10	90.9%
21	35.0%	42.2%	50.9%	52.4%	42.0%	43.1%	40.0%	34.4%	37.6%	44.3%	39.6%	2	18.2%
22	49.5%	54.4%	59.5%	62.5%	55.8%	54.3%	54.1%	48.9%	50.1%	56.2%	53.8%	9	81.8%
23	36.4%	37.5%	46.8%	48.4%	40.7%	40.3%	38.9%	35.5%	36.4%	41.9%	39.4%	0	0.0%
24	33.1%	37.7%	45.5%	47.0%	39.6%	38.1%	37.2%	32.7%	34.1%	41.0%	38.4%	0	0.0%
25	54.3%	57.0%	62.2%	63.2%	60.5%	57.4%	57.0%	53.8%	54.0%	60.0%	59.3%	11	100.0%
26	59.8%	58.5%	66.9%	69.0%	62.8%	62.1%	61.6%	58.4%	58.8%	62.6%	59.8%	11	100.0%

Id. at 6.

124.   As the table above demonstrates, Democratic statewide candidates have won in *every* New York congressional district except for two districts, the Twenty-Third Congressional District and the Twenty-Fourth Congressional District in upstate New York.   *Id.* at 8–9; *see* Tr.686:6–10 (Dr. Alford testifying that the preferred candidate for Black and Latino voters in CD11 is "overwhelmingly democratic"); Tr.208:19–209:2 (Dr. Palmer testifying that it is "plausible" that Democratic candidates are the "Black preferred candidates" throughout the State).

84

125. Outside of the First and Second Congressional Districts on Long Island—where Democrats have still won four elections—Democrats have won most of the statewide elections in every remaining district throughout the State. Trende Rep.8–9.

126. Overall, Democratic statewide candidates have won an outright majority of the statewide races that Petitioners' expert, Dr. Palmer, analyzed in all but six of New York's twenty-six districts—a staggering 77%. *Id.*

127. Second, Black and Latino voters' candidates of choice, Democrats, *see* Alford.Rep.14; Tr.686:6–10; Tr.208.19–209:2, are not "usually defeated" within the region surrounding CD11.

128. With the exception of CD11, Democrats have *never* lost a statewide election in any of the eleven districts wholly within New York City. Trende Rep.7; *see* Tr.686:6–10 (Dr. Alford testifying that the preferred candidate for Black and Latino voters in CD11 is "overwhelmingly democratic," and that "White non-Hispanic voters vote decidedly republican"); Tr.208:19–209:2 (Dr. Palmer testifying that it is "plausible" that Democratic candidates are the "Black preferred candidates" throughout the State). Moreover, Democrats usually win those elections "by wide margins," such that there is only one district wholly within New York City "where a Democratic candidate has ever dropped below 60%." Trende Rep.8.

129. Even including the two districts that are partly within New York City, the Third Congressional District and the Sixteenth Congressional District, does not change this conclusion because Democrats still routinely win or are at least competitive in statewide elections in those districts as well. *See id.* at 5–7.

130. Accordingly, far from being usually defeated, minority-preferred candidates "routinely win[ ] elections in congressional districts across New York City." *Id.* at 7.

131.   Finally, Black and Latino voters' candidates of choice in CD11 itself are Democratic candidates, Tr.686:6–10 (Dr. Alford testifying that the preferred candidate for Black and Latino voters in CD11 is "overwhelmingly democratic"); *see* Alford.Rep.14, and these candidates are not "usually defeated" within CD11.

132.   As shown in the above chart, the minority candidate of choice is plainly still "capable of winning elections in District 11." Trende Rep.7.

133.   Dr. Trende explained that Democrats "have won four of eleven elections" there since 2018, *id.*, when looking at "more probative" statewide elections held in even years there (the same years as congressional elections) as opposed to local races held in odd-numbered years when congressional races are not held, *id.* at 5 & n.1. Democrats "have won a third of recent [statewide] elections" in the district, *id.* at 8, and "Joe Biden carried 46% of the vote in 2020," *id.* at 7. This means that Black and Latino voters' preferred Democratic candidates are certainly capable of winning in CD11, *see id.*, and often win a greater share of the vote than Black and Latino voters' approximate 30% proportion of the population in CD11, *see* Pet. ¶ 52.

134.   Even applying Dr. Palmer's numbers—that include odd-year local elections when congressional races are not held—leads to the same conclusion: Democrats won five of the twenty elections Dr. Palmer examined, meaning Black and Latino voters achieve almost near proportionality between their population share in the district and their preferred candidates' electoral success (winning 25% of elections with less than 30% of the electorate). *See* Palmer Rep.5–6.

135.   In all, Black and Latino favored candidates do not lose "routinely" or "as a rule" in New York State, New York City, or even CD11 (even assuming that focusing only on that district was appropriate, which it is not).

136. Petitioners have thus failed to make the necessary "usually defeated" showing under the NYVRA's standards.

B. Petitioners Have Not Satisfied The NYVRA's Racially-Polarized-Voting Test Or Totality-Of-The-Circumstances Test

137. But even if Petitioners had satisfied the "usually defeated" showing, they did not submit sufficient evidence to establish that CD11 violates the NYVRA under either the statute's racially-polarized-voting or totality-of-the-circumstances inquiries.

138. For jurisdictions using a district-based system of election, the NYVRA provides that the political subdivision has engaged in "vote dilution" when minority-preferred candidates "would usually be defeated" and either of two showings are made: (A) there is "racially polarized" voting in the jurisdiction; "or (B) under the totality of the circumstances, the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired." N.Y. Elec. Law § 17-206(2)(b)(ii).

139. Petitioners failed to make either showing.

a. Petitioners Did Not Satisfy The Racially-Polarized-Voting Test Because Their Only Evidence On This Element—Dr. Palmer's Testimony—Is Too Limited And Flawed In Multiple Respects

140. Under the NYVRA, "racially polarized voting" means the "divergence in the . . . choice[s] of members in a protected class from the . . . choice[s] of the rest of the electorate." *Id.* § 17-204(6). The U.S. Supreme Court has explained that "racially polarized voting" is the "discernible, non-random relationship[ ] between race and voting." *Cooper*, 581 U.S. at 304 n.5.

141. Accordingly, to establish the existence of racially polarized voting, an NYVRA plaintiff must present evidence of a "discernible, non-random relationship[ ] between race and voting" choices among the plaintiff's identified minority group, *id.*, and that those electoral choices

87

"diverge[ ]" from the "electoral choice[s] of the rest of the electorate," N.Y. Elec. Law § 17-204(6), on a statewide (or at least region-wide) basis—which, as explained, *supra* pp.20–25, is the proper way to conduct the NYVRA's vote-dilution analysis.

142.   The NYVRA requires evaluating vote-dilution claims on a statewide basis or, at minimum, a regional basis. *Supra* pp.76–83.

143.   The *only* evidence that Petitioners, who carry the burden here, provided was one "inaccurate," Tr.596:5–7, and "unreliable," Voss Rep. at App'x B at 9, expert opinion on the existence of a "discernible, non-random relationship [ ]" between Black and Latino CD11 residents' "race" and their "voting" for Democratic candidates, *Cooper*, 581 U.S. at 304 n.5, and evidence showing that those "choice[s]" "diverge[ ]" from the "choice[s] of the rest of the electorate," N.Y. Elec. Law § 17-204(6), in CD11 who tend to favor Republicans, *see* Palmer Rep.2–5.

144.   Petitioners' expert, Dr. Palmer, made a series of methodological errors that render his report unreliable. For instance, he used a simple version of ecological inference that generally assumes members of a group vote the same way everywhere, Palmer Rep.4, but is it simply not true that people "vote the same way everywhere," and Dr. Palmer's failure to account for these contextual effects constitutes "aggregation bias," Voss Rep.4; Tr.601:15–23.   He also used incorrect assumptions about voter turnout, Voss Rep.4–5, which resulted in an erroneous assignment of Asian votes to other racial and ethnic groups, Tr.616:22–617:3.

145.   In addition to these methodological flaws in Dr. Palmer's report, Petitioners also presented *no* expert evidence on a regional or statewide basis.

146.   Rather, Dr. Palmer "restrict[ed] his analysis to a single congressional district's precincts—either only the precincts in the current [CD11] or only the illustrative district's precincts"—rendering his analysis "unreliable." Voss Rep.5.

147.   "[A]n analysis of group cohesion and of racially polarized voting [ ] needs to extend beyond a single legislative district," *id.*, as an analyst conducting a racially polarized voting analysis should "[i]deally" identify "meaningful subdivisions within a state—such as regions with a shared history or that share known economic or cultural commonalities—and conduct[ ] the ecological inferences within those regions, combining them into statewide results if desired," *id.* at App'x B at 19.

148.   The "substantive[ ] problem" with Dr. Palmer's narrow focus on a "single district" to "conduct[ ] ecological inferences" is that the "same voters can be made to look polarized, or not polarized, depending on how one draws the lines." *Id.* at App'x B at 20. In other words, "[f]ocusing on a single district . . . renders a vote-dilution analysis practically worthless, because mapmakers can manipulate the level of racial/ethnic voting cohesion—by separating or merging like-minded members of a demographic group." *Id.* at 5.

149.   "A cohesive White and Asian population in Staten Island"—currently in CD11 and who tend to "prefer Republican representation"—"can be brought into relief, or hidden, depending on the other precincts tossed into the district" from the current CD10. *Id.* at App'x B at 20. Similarly, "[f]airly cohesive Republican communities in Brooklyn can be made to look less cohesive by merging them into CD10." *Id.*

150.   Since Petitioners' only expert on racially polarized voting presented only a flawed, limited analysis of the issue, Petitioners failed to carry their burden on this element of their theory.

b. Petitioners Have Not Satisfied The NYVRA's Totality-Of-The-Circumstances Test

151.   Regarding the totality-of-the-circumstances inquiry, the NYVRA provides a non-exhaustive list of eleven factors that courts may consider in determining whether "the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired," N.Y. Elec. Law § 17-206(2)(b)(ii), in order to "establish[ ] that [ ] a violation" of the NYVRA's vote-dilution prohibition "has occurred," *id.* § 17-206(3).

152.   Those factors include "the history of discrimination" in the jurisdiction, the use of voting or election practices that have had "dilutive effects" on the identified minority group's voting strength, the use of "racial appeals" in campaigns, the extent to which members of the minority group have participated in the electoral and political processes and been elected to office, and whether those members "are disadvantaged" in other socioeconomic areas such as "education" and "employment." N.Y. Elec. Law § 17-206(3)

153.   Looking at these factors, an NYVRA plaintiff must show that "the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections is impaired," *id.* § 17-206(2)(b)(ii), in order to "establish[ ] that [ ] a violation" of the NYVRA's vote-dilution prohibition "has occurred," *id.* § 17-206(3).

154.   Petitioners' evidence was insufficient to establish that "the ability of" Black and Latino voters in CD11 "to elect candidates of their choice or influence the outcome of elections is impaired," *id.* § 17-206(2)(b)(ii), under a proper application of the NYVRA's vote-dilution prohibition.

155.   As Mr. Borelli explained, the history of racism on Staten Island provided by Petitioners' expert, Dr. Sugrue, is one-sided and omits the significant progress that Staten Island has made to counter any disparate treatment of minorities. Borelli Rep.18–26.

90

156.   First, the "history of discrimination," *id.* § 17-206(3), in New York is not a simple story of persistent oppression but one of sustained and meaningful progress, including on Staten Island. Borelli Rep.19.

157.   New York voted for emancipation well ahead of many other States, aided by organizations such as the New York Manumission Society—including members from Staten Island—who organized national conventions to press Congress for anti-slavery legislation and to prevent the kidnapping of free Blacks. *Id.* at 21. Beyond attempting to change the laws, the New York Manumission Society provided education to Blacks to equip them for citizenship, including by teaching them financial and other skills necessary for free Black leaders. *Id.* at 21.

158.   Staten Island's own residents attempted to further the abolitionist cause. *Id.* at 22. Governor Daniel Tomkins was a long champion of abolition, and Staten Island's residents threw a great reception when Governor Tomkins' manumission bill passed in 1817, emancipating every slave in New York within ten years. *Id.* at 22. Nearly every elected official on the island participated in the celebration. *Id.*

159.   Staten Island was also a significant stop along two routes of the Underground Railroad, serving as a refuge for those crossing from New Jersey. *Id.*

160.   After slavery was abolished in New York, a number of freed Blacks moved to Staten Island, resulting in the establishment of Sandy Ground by John Jackson, a free Black ferryboat captain who purchased land in 1828. *Id.* at 23. For nearly two centuries, Sandy Ground has remained the longest continually occupied settlement of former slaves, with Black and White residents historically worshipping and going to school together. *Id.* at 23–24.

161.   Further, New York—and Staten Island as part of it—has long been a leader in civil-rights protections. New York enacted the Ives-Quinn Act in 1945, with broad bipartisan

support, to prevent discrimination in employment and became the first State to establish a commission with broad powers to investigate claims, formulate policy, and create local and regional boards to implement anti-discrimination measures. *Id.* at 25–26.

162. Petitioners' reliance on sporadic KKK activity and decades-old federal housing policies is misleading. Staten Island had a relatively minor KKK influence as compared to the rest of New York City. *Id.* at 27. Even in the late 1980s and 1990s when there was a national uptick in KKK activity, neo-Nazi activity remained minimal on Staten Island. *Id.* And Staten Island never had full scale race riots—which cannot be said of its neighboring boroughs. *Id.* Moreover, Petitioners offer no evidence that such incidents left lingering political disabilities for modern Black and Latino voters. *Id.*

163. Likewise, while federal housing policies from over seventy years ago were deeply flawed, Petitioners failed to show that any of those policies were unique to Staten Island or demonstrate that they impair the ability of Black and Latino voters currently on Staten Island to elect minorities to office. *Id.* at 28–29. And though Dr. Sugrue suggests there continues to be significant segregation on Staten Island as a result of these policies, he ignores that minorities live all over Staten Island. *Id.* at 9–14.

164. For example, Staten Island's diverse Latino population is spread significantly throughout the borough, with representation in every zip code and no single zip code containing a majority of Latinos. *Id.* at 12–13. The dissimilarity score for Latino residents on Staten Island is on the very low end of moderate, indicating substantial integration rather than the type of entrenched residential segregation that might impair political participation. *Id.*

165. Dr. Sugrue also ignored the significant and thriving Asian community on Staten Island. *Id.* at 7. Asians constitute approximately 12% of Staten Island's population—making them

the third-largest ethnic group, after White and Latino residents—and include diverse national origins (Chinese, Indian, Filipino, Pakistani, Middle Eastern, Korean, among others). *Id.* at 10. Their Index of Dissimilarity score is both low and declining, and Asian students are well-represented in local and regional institutions of higher education. *Id.*

166.   The Index of Dissimilarity score for Black residents also remains lower than the score for New York City as a whole, indicating that Black residents of Staten Island are more dispersed throughout the borough as compared to the rest of the City. *Id.*

167.   Second, Black and Latino candidates have "been elected to office" and are not excluded from political power. N.Y. Elec. Law § 17-206(3)(b). Petitioners identified no pattern of minority candidates being systematically defeated by bloc voting or barred from office, and the undisputed record instead shows that Black and Latino candidates can and do attain elected office on Staten Island.

168.   CD11 is represented by a Latino woman and the daughter of immigrants. Borelli Rep.30.

169.   The North Shore of Staten Island—which Petitioners claim is the center of Black and Latino political disadvantage—has repeatedly elected Black representatives at multiple levels of government. *Supra* pp.42–43. From 2010 to 2020, a Black woman, Debi Rose, represented New York City Council District 49, covering nearly the entire North Shore. Borelli Rep.29–30. Kamillah Hanks, another Black woman, succeeded her and currently holds that seat. *Id.*

170.   Likewise, Charles B. Fall, a Black Muslim man whose family hails from Guinea, represents the 61st State Assembly District covering the North Shore. *Id.* at 30. Minority candidates have also had success in the local judiciary, including at least one Black woman, the Honorable Anne Thompson, who has been elected to the bench. *Id.* at 30–31.

171.   Third, Petitioners' reliance on historic "voting qualification[s]," N.Y. Elec. Law § 17-206(3)(c), such as the use of literacy tests that were abolished decades ago, is misplaced. Borelli Rep.31–33. Literacy tests were not unique to Staten Island; they were used statewide decades ago. *Id.* at 31. And New York actually revised its exam to make it easier to pass and actively funded evening programs, public schools, and community centers to provide an extensive educational campaign so that a broader electorate could pass. *Id.* Within the first decade after these reforms, the exam's fail rate dropped from 21.4% to 10.1%. *Id.*

172.   Petitioners do not identify any current Staten Island voting qualification that operates like a literacy test or otherwise furthers vote dilution.

173.   Rather, New York and Staten Island now offer extensive government resources in order to ensure that all eligible voters have access to the ballots, regardless of their country of origin or primary language. *Id.* at 33. New York City provides foreign-language services for protected classes at the polls, deploys interpreters to assist non-English speakers, and distributes printable resource guides in fourteen different languages. *Id.*

174.   Fourth, Black and Latino candidates and voters are not "den[ied]" ballot access or campaign resources on Staten Island. N.Y. Elec. Law § 17-206(3)(d). Over the last several decades, dozens of candidates of various ethnic backgrounds have successfully qualified for the ballot in Staten Island elections and the record shows diverse candidates in every election cycle. Borelli Rep.31–33.

175.   Diverse candidates have also qualified for New York City's—and New York State's—public matching-funds programs, which provide candidates with matching funds at a multiple of each dollar raised from small donor contributions, making it easier for challengers, including candidates from minority communities, to mount credible campaigns. *Id.*

176.   Fifth, there is no evidence that Black and Latino Staten Islanders are systematically "contribut[ing] to political campaigns at lower rates," N.Y. Elec. Law § 17-206(3)(e), nor that such contributions—or any supposed disparities in them—translate into an impaired ability to elect preferred candidates in CD11.

177.   The success of minority candidates in Staten Island elections, *supra* pp.42–43, suggests that minority communities are able to mobilize sufficient political and financial support.

178.   Sixth, the available data suggests that the "rate[ ]" of voting participation, N.Y. Elec. Law § 17-206(3)(f), is increasing nationally, particularly among Latino voters, Borelli Rep.33–34.

179.   Latino participation in New York City has increased throughout the last decade, culminating in more than 165,000 Latinos voting in the June 2025 primaries—shattering prior turnout records. *Id.* at 34.

180.   This trend is consistent with national data showing increased Latino voter eligibility and participation across the country. *Id.*

181.   Black voters, in turn, have even higher turnout than Latinos nationally, *id.* at 37, and Black turnout is comparable to, or in some instances higher than, White turnout, *see id.* at 35.

182.   Seventh, socioeconomic disparities—"in areas including but not limited to education, employment, health, criminal justice, housing, land use, or environmental protection"— between members of different races are narrowing on Staten Island and do not translate into impaired electoral opportunity. *See* N.Y. Elec. Law § 17-206(3)(g).

183.   Educational attainment among Black and Latino Staten Islanders has improved over the last decade, with the percentage of Black residents attaining a high-school diploma increasing from 85.8% in 2015 to 86.4% in 2020 and 90.2% in 2024. Borelli Rep.38.

184.   Black bachelor's-degree attainment likewise rose from 24.6% in 2015 to 28.7% in 2020 and 30.0% in 2024. *Id.*

185.   For Latinos, the percentage earning a high-school diploma increased from 78.4% in 2020 to 82.8% in 2024, and the share with bachelor's degrees grew from 18.0% in 2015 to 22.0% in 2024. *Id.*

186.   Further, per-pupil spending in public schools shows no evidence of disfavored treatment of Black and Latino students. *Id.* at 39–40.

187.   These trends reflect expanding, not shrinking, human capital in minority communities—conditions that naturally support, rather than impede, political participation.

188.   Similarly, income gaps are narrowing and homeownership rates are high on Staten Island. *Id.* at 41–45.

189.   Black mean income on Staten Island increased by more than 33%, from $20,785 in 2010 to $32,154 in 2024, resulting in a 4.14% increase in Black income as a percentage of White income. *Id.* at 43. Latino mean income likewise rose from $21,379 in 2010 to $31,399 in 2024, and Asian mean income increased from $26,439 to $35,068 over the same period. *Id.*

190.   As for housing, Staten Island has a far higher rate of homeownership than the New York City, New York State, and national averages. *Id.* at 41–42. Staten Island's overall homeownership rate is 67.9%—more than twice New York City's rate of 31% and substantially above the statewide rate of 53.6%. *Id.*

191.   As such, Black and Latino residents have historically had, and will likely continue to have, a better chance of owning a home on Staten Island than they would elsewhere in the area, in the State, or around the country. *Id.* at 42.

96

192.   Eighth, Black and Latino residents are not "disadvantaged in other areas which may hinder their ability to participate effectively in the political process." *See* N.Y. Elec. Law § 17-206(3)(h). Instead, community resources, integration, and low hate-crime levels support, rather than hinder, minority political participation, and Petitioners erroneously disregard Staten Island's clear commitment to supporting its minority residents and ending racism through community resources and other support. Borelli Rep. 45.

193.   Numerous agencies and community groups operate in the borough to assist minority residents. *Id.* at 45–48. These organizations provide economic, social justice, immigration, legal, voting, family, and other social support. *Id.* at 46–47. And they demonstrate that Staten Island is committed to supporting its minority residents.

194.   Staten Island has also consistently had one of the lowest incident rates of hate crimes among New York City precincts for several decades. *Id.* Quarterly reported hate-crime incidents—most involving graffiti or literature rather than physical attacks—decreased by 66% from 2018 to 2019 on Staten Island, even as the city as a whole saw a 67% increase. *Id.* at 49. Over the last five years, Staten Island accounted for only 4% of New York City's hate-crime reports and 3% of hate-crime arrests—far below its share of the city's population. Tr.769:13–23. According to the NYPD Hate Crimes dashboard, there were only two hate crimes in 2025 targeted at Black individuals on Staten Island. Borelli Rep.48.

195.   Although Petitioners suggest Staten Island is anti-Latino by pointing to certain "anti-immigrant" protests, that is wrong. Those protests were driven by legitimate concerns about the City's decision to convert hotels into de facto homeless shelters for migrants—decisions that had significant impacts on surrounding communities. *Id.* at 49–50. Similar protests occurred in nearly every neighborhood and borough where the hotels were sited, including even the most

progressive neighborhoods and communities of color. *Id.* Far from evidencing an anti-Latino climate on Staten Island, these protests reflected a citywide policy dispute.

196. In reality, Staten Island's community consistently responds to isolated incidents of racism by showing support for their minority communities. For example, after a racist group chat's messages were leaked from the Manhattan-based New York Young Republic Club to the media, every Staten Island elected official, including every Republican politician, rallied against the messages and denounced all those involved. *Id.* at 52.

197. Ninth, there have been no "overt or subtle racial appeals in political campaigns" on Staten Island. N.Y. Elec. Law § 17-206(3)(i). To assess this factor objectively, Mr. Borelli conducted a replicable content analysis of campaign-related newspaper coverage using Newspapers.com, focusing on congressional general elections from 2000 through 2024. Borelli Rep.52–54. Using this method, Mr. Borelli found only one explicit charge of racism and one potential charge of antisemitism (which was not reported as such) over a twenty-four-year period. *Id.* at 54.

198. The four disparate incidents that Petitioners' expert Dr. Sugrue identifies as racial appeals over more than a decade do not qualify under his own definition of racial appeals. *Id.* at 52, 54–60. And none of those incidents involved a congressional campaign. *Id.*

199. Nor does the criminal conduct of Richard A. Luthmann—who was indicted for election-law violations and other crimes and created a fake social media account—qualify as a racial appeal. Luthmann was an equal-opportunity political impersonator, who impersonated multiple local politicians on social media—and, in any case, his conduct was prosecuted and does not reflect the thoughts, wishes, or views of any politician or political party. *Id.* at 59.

200. Likewise, a campaign ad by Max Rose, which Dr. Sugrue labels a racial appeal, centered on law-enforcement issues and was aimed at creating a political wedge between Rose and moderate Democrats, not to make a racial appeal. Tr.765:9–766:25.

201. Tenth, and finally, Petitioners do not identify any pattern of "a significant lack of responsiveness on the part of [Staten Island's] elected officials" toward Black and Latino residents. N.Y. Elec. Law § 17-206(3)(j). New York's early enactment of the Ives-Quinn Act and the creation of a powerful state anti-discrimination commission, Borelli Rep.25–26, as well as more recent citywide initiatives to provide language assistance, voting-rights protections, and public financing for campaigns, *id.* at 32–33, all demonstrate governmental responsiveness to minority needs.

202. The presence of extensive minority-serving organizations on Staten Island, often supported or facilitated by public institutions, *id.* at 45–47, and the swift condemnation and prosecution of hate-motivated incidents such as Luthmann's conduct, *id.* at 58–59, further indicate that officials are responsive—not indifferent—to the concerns of Black and Latino residents.

203. In sum, Petitioners have not shown, under the totality of the circumstances, that "the ability of" Black and Latino voters in Staten Island "to elect candidates of their choice or influence the outcome of elections is impaired." N.Y. Elec. Law § 17-206(2)(b)(ii).

III. **The Equal Protection Clause Bars Petitioners' Lawsuit**

204. Petitioners' request to order the redrawing of CD11 to create an "influence" district for Black and Latino voters triggers strict-scrutiny review, because doing so would mandate the placement of voters either within or without CD11 predominantly (and, indeed, solely) to give voters lumped together by race the benefit of a greater chance of electing their preferred candidates

99

(and, given the zero-sum nature of elections, give citizens grouped together by other races a lesser chance to elect their preferred candidates).

A. Applicable Legal Principles

205.   A map-drawer has separated "citizens into different voting districts on the basis of race"—triggering strict-scrutiny review—when "race was the predominant factor motivating the [map-drawer's] decision to place a significant number of voters within or without a particular district." *Cooper*, 581 U.S. at 291 (citation omitted); *see also Miller v. Johnson*, 515 U.S. 900, 916 (1995).

206.   Adhering to these principles is necessary to ensure that redistricting does not reinforce "impermissible racial stereotypes," *Shaw v. Reno*, 509 U.S. 630, 647 (1993) ("*Shaw I*"), or result in a district "being represented by a legislator who believes his primary obligation is to represent only the members of a particular racial group," *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 263 (2015) (citation omitted). These principles also apply regardless of whether the map-drawer is a legislature, *Cooper*, 581 U.S. at 291, or a court, *Wis. Legislature*, 595 U.S. at 401.

207.   Strict-scrutiny review applies where a map-drawer draws a district based on race because that alone establishes that "race furnished the predominant rationale for that district's redesign." *Cooper*, 581 U.S. at 299–301.

208.   That is, a map-drawer can only achieve such a racial goal by moving voters "within or without a particular district" based on race until the goal is met—the definition of racial predominance. *Id.* at 291, 299–300.

209.   That conclusion holds even if the district at issue "respects traditional [redistricting] principles" if race was nevertheless the one "criterion that, in the [map-drawers' view], could not be compromised." *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 189 (2017) (citations omitted; alterations omitted).

210. The U.S. Supreme Court has repeatedly reaffirmed these principles, concluding that a map-drawer drawing district lines with race as the "predominant motive for the design of the district as a whole"—that is, redistricting with a specific racial goal—triggers strict scrutiny. *See, e.g., id.* at 192–93; *Cooper*, 581 U.S. at 299–301; *Wis. Legislature*, 595 U.S. at 402–03.

211. Specifically, the U.S. Supreme Court's decisions in *Wisconsin Legislature* and *Cooper* show the correct articulation of the predominant-rationale test.

212. In *Wisconsin Legislature*, the Court held that a remedial redistricting map adopted by the Wisconsin Supreme Court for Wisconsin's legislative districts triggered strict-scrutiny review under this test. *See* 595 U.S. at 399–404.

213. The Court reasoned that, under the predominant-rationale test, the "intentional addition of a seventh majority-black district" in the map alone triggered "strict-scrutiny" review, meaning no further showing was necessary for the map to constitute "race-based redistricting" because "race [was] the predominant factor motivating the placement of voters in or out of [that] particular district." *Id.* at 402–03. That was so despite the Wisconsin Governor's arguments that the map did comply with those principles. *See* Resp. To Appl. From Resp't Governor Tony Evers at 19, *Wis. Legislature*, No.21A471 (U.S. Mar. 11, 2022) (asserting that Petitioners did not "identify any specific respect in which its map conflicts with or subordinates traditional redistricting criteria").[5]

214. The Court thus found it unnecessary to decide whether the map, for example, satisfied traditional redistricting principles when determining that it triggered strict-scrutiny review. *Wis. Legislature*, 595 U.S. at 401–04.

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[5] Available at https://www.supremecourt.gov/DocketPDF/21/21A471/218427/20220311165107226_21A471%20Wisconsin%20-%20SCOTUS%20Opp%20Final.pdf (last visited December 23, 2025).

215. Similarly, in *Cooper*, the U.S. Supreme Court again held that a state legislative map—this time drawn by the North Carolina General Assembly—triggered strict-scrutiny review under the predominant-rationale test. 581 U.S. at 291, 295–96.

216. As the Court explained, that test permits a party to "make the required showing" that "race was the predominant factor motivating the [map-drawer's] decision to place a significant number of voters within or without a particular district" through one of three evidentiary pathways: "[1] direct evidence of legislative intent, [2] circumstantial evidence of a district's shape and demographics, or [3] a mix of both." *Id.* at 291 (citations omitted). In other words, a party's task "is simply to persuade the trial court—without any special evidentiary prerequisite—that race (not [some other factor]) was the predominant consideration in deciding to place a significant number of voters within or without a particular district." *Id.* at 318 (citation omitted).

217. Pursuant to this standard, *Cooper* held that one of the districts at issue triggered strict scrutiny because there was direct evidence that the North Carolina General Assembly had "purposefully established a racial target" in drawing that district—namely ensuring that Black voters "ma[d]e up no less than a majority of the voting-age population" there. *Id.* at 299–301.

218. Consistent with the Court's reasoning in *Wisconsin Legislature*, that decision standing alone was sufficient to trigger strict-scrutiny review without the need for the Court to discuss the district's compliance with traditional redistricting principles. *See id.*

219. These cases taken together firmly establish that a map triggers strict scrutiny under the predominant-rationale test whenever there is evidence that a map-drawer had express race-based purposes in drawing the map. That is, a map-drawer's expressed race-based goal constitutes "direct evidence of [ ] intent" and alone satisfies the predominant-rationale test. *Id.* at 291.

220. In such situations, there is no need for a court to undertake the kind of "holistic analysis," *Bethune-Hill*, 580 U.S. at 192, and consideration of "several essential ingredients," *Bush v. Vera*, 517 U.S. 952, 962 (1996), of the type that the U.S. Supreme Court has discussed in its prior case law. Such analyses refer to additional pathways for satisfying the predominant-rationale test discussed in *Cooper*—demonstrating intent through circumstantial or a mix of direct and circumstantial evidence. *See* 581 U.S. at 291.

B. Petitioners' Requested Remedy Triggers, And Fails, Strict Scrutiny Review

a. Petitioners' Requested Remedy Triggers Strict Scrutiny

221. Petitioners' requested remedy of judicially ordering a change to the boundaries of CD11 so that Black and Latino candidates will win more elections triggers strict-scrutiny review because it mandates placing voters in or out of CD11 based not just predominantly, *Cooper*, 581 U.S. at 299–301; *Bethune-Hill*, 580 U.S. at 192–93, but entirely upon racial considerations. Put another way, Petitioners ask this Court to order the creation of a new district with the express goal of giving Black and Latino voters the benefit of increased electoral "influence" as compared to the current map. Pet.27–28.

222. Petitioners' "predominant motive for the design of the district as a whole" is race-based, *Bethune-Hill*, 580 U.S. at 192–93; *see also Cooper*, 581 U.S. at 299–301; *Wis. Legislature*, 595 U.S. at 402–03, because map-drawers must move new voters into the district and/or take current voters out of the district until Black and Latino voters have enough "influence" to satisfy Petitioners' demands, *see* Pet.28.

223. Such race-based action inflicts the very harms that the Equal Protection Clause prohibits: the use of racial stereotypes, the presumption that individuals of the same race or ethnicity share political preferences, and the signaling that the district exists to serve a particular racial constituency. *Shaw I*, 509 U.S. at 647; *Alabama*, 575 U.S. at 263.

224.   Indeed, Petitioners' theory threatens to harm the Individual Voters who all live in CD11 and expressly attested that they do not wish to reside in a racially gerrymandered district or be subjected to a racial classification due to reliance on racial criteria in amending CD11's boundaries. *See* Lai Aff. ¶ 11; Medina Aff. ¶ 10; Sisto Aff. ¶ 9; Togba Aff. ¶ 9.

225.   Petitioners' request to create an "influence" district here would trigger strict scrutiny even if the adopted map "complie[d] with traditional redistricting criteria," Pet.28, which Petitioners' proposed map plainly does not. That is because moving enough voters either in or out of CD11 with the express goal of giving Black and Latino voters the benefit of more electoral influence—as Petitioners' requested remedy requires—makes race the "predominant motive" for redrawing the district, *see Bethune-Hill*, 580 U.S. at 192, which is all that is required to trigger strict-scrutiny review, *see Wis. Legislature*, 595 U.S. at 401–04; *Cooper*, 581 U.S. at 291.

226.   In other words, a minority influence district necessarily uses race or ethnicity as the principle for "the design of the district as a whole." *Bethune-Hill*, 580 U.S. at 192. So, even if other traditional redistricting criteria were considered, race would be the "predominant [motivating] factor" in the redraw. *E.g., Cooper*, 581 U.S. at 291.

227.   This same conclusion would hold as to *any* map adopted pursuant to Petitioners' theory, as the "predominant motive," *Bethune-Hill*, 580 U.S. at 192, for any influence district is to give voters in a "protected class"—that is, voters of a certain race or national origin, N.Y. Elec. Law § 17-204(5)—greater electoral success that they would not have otherwise had.

228.   All that said, as the expert evidence showed, the specific redraw of CD11 that Petitioners proposed would disregard traditional redistricting principles.

229.   Petitioners' proposed redraw of CD10 and CD11—the latter of which combines the physically separated Manhattan and Staten Island boroughs—is not "as compact in form as

104

practicable," as required under the New York Constitution. N.Y. Const. art. III, § 4(c)(4); *see* Cooper Rep.19–21; Bryan Rep.14–15; Trende Rep.16–17. Mr. Cooper's map cuts CD11's Polsby-Popper score in half and its Reock Score by two thirds. Trende Rep.16–17. Under Mr. Cooper's own compactness calculations, CD11 would have the worst Reock score *in the entire State*. Trende Rep.17. In fact, the populations that Mr. Cooper attempts to connect are five miles apart and are connected to Staten Island only by ferry. Bryan Rep.15.

230. Mr. Cooper's attempt to justify the significant decrease in compactness that results from connecting two communities that have no physical connection is to consider the compactness of the two sub-parts—Staten Island and Lower Manhattan—and largely ignore the large body of water in between them. Cooper Rep.19–21. But, beyond the fact that, even under this approach, both CD10 and CD11 are made less compact, Trende Rep.17, "this approach lacks both precedent and logic." Bryan Rep.43. Indeed, neither Dr. Trende nor Mr. Bryan have ever heard of a district's compactness being judged by breaking it into separate pieces and examining those pieces. Trende Rep.17; Bryan Rep.43. And it would be counterintuitive for a compactness consideration to simply ignore areas that are either unpopulated or consist solely of water to improve compactness measures. Bryan Rep.43.

231. Thus, Petitioners' proposed map is not "as compact in form as practicable," as is required by the New York Constitution. N.Y. Const. Art. III, § 4(c)(4).

232. Petitioners' proposal for CD11 also disregards communities of interest, including because Lower Manhattanites do not have much in common with Staten Islanders, Borelli Rep.15–19, and Petitioners presented no evidence to the contrary.

233. Notably, Mr. Cooper made no attempt at analyzing the community of interest similarities between Lower Manhattan and Staten Island. He explained at trial that he had "hear[d]

something about Chelsea being known for art" and "think[s]" that Chelsea is "maybe predominately White," but otherwise did not "know much at all about Chelsea" and had "not looked into the details of Chelsea." Tr.317:23–318:22; Tr.318:23–319:21 (similar testimony as to the East Village); Tr.323:6–25 (similar testimony as to Greenwich Village); Tr.327:9–13 (similar testimony as to the Lower East Side); Tr.329:24–330:1 (similar testimony as to SoHo); Tr.330:12–331:6 (similar testimony as to Tribeca and the West Village).

234.   Mr. Cooper testified that he "was under the assumption there would probably be petitioners here to testify as there usually are in federal court," and was planning "to defer to their testimony" on this point. Tr.329:15–20; *see* Tr.343:13–25. Petitioners presented no such evidence.

235.   Rather, the undisputed evidence before the Court is that Staten Island and Lower Manhattan have almost nothing in common. Staten Island has a very high rate of home ownership; while most residents of Lower Manhattan are renters. Tr.739:21–740:4. This affects the issues that matter most to Staten Islanders, such as property tax reform. Tr.742:9–21. The increased rate of car ownership on Staten Island only furthers these distinctions, having Staten Island residents worrying about congestion pricing, Tr.742:22–743:1, and the tolling of the Verrazzano Bridge, Tr.745:1–12, while those in Lower Manhattan seek to break the car culture, Tr.745:1–12.

236.   Moreover, with its neighborhoods zoned differently, Manhattan looks different. Lower Manhattan is full of skyscrapers and high-density zoning, while Staten Island largely consists of one- to three-family homes. Tr.745:25–746:25. As Mr. Borelli aptly put it, "if [he] blindfolded someone and opened their eyes right outside of this courtroom in [L]ower Manhattan, nobody would think they were in Staten Island." Tr.776:8–13.

237.   Nor do the demographics within Staten Island and Lower Manhattan compare. Lower Manhattan's largely White population lacks Staten Island's diversity. Borelli Rep.15. Even within Lower Manhattan's pockets of diversity, there are major differences between the two boroughs. For example, Puerto Ricans have historically been the most numerous Latino subgroup on Staten Island, but Lower Manhattan's Latino population is predominately Mexican. *Id.* at 11–12. Lower Manhattan also has a greater population with a bachelor's degree or higher. *Id.* at 17.

238.   The fact that "the Staten Island ferry carries tens of thousands of people between boroughs every single day," Pet.Opp.23–24 (emphasis omitted), does not change this conclusion. That people choose to travel between New York boroughs every day, as opposed to moving to Staten Island, supports Intervenor-Respondents' contention that it makes "little practical sense" to combine Staten Island's diverse, suburban population with Lower Manhattan's largely White, city dwellers. Int'r.Resp'ts.Br.34.

239.   And while those in Lower Manhattan can travel to Staten Island via ferry, Staten Island's more suburban atmosphere and lack of a transit system makes such travel impractical. Borelli Rep.17. If lower-Manhattanites believed that their lifestyle matched those of Staten Islanders, they would not undertake a daily commute, and vice versa.

240.   Staten Island has much in common with Brooklyn. *Id.* at 18. Both communities have a more suburban atmosphere. A number of residents from both Staten Island and Brooklyn commute into Manhattan for work, reaping the benefits of working in the City but a house with a yard. Tr.740:24–741:5; 742:1–21. And their demographics parallel each other. Borelli Rep.11–12. These shared characteristics may be why, for generations, countless Brooklynites—particularly those living closest to the Verrazano Bridge—have moved to Staten Island. *Id.* at 18.

241. The only community of interest that Mr. Cooper's map purports to advance is that of the Chinese Americans found in Chinatown, Sunset Park, Bensonhurst, and Bath Beach. Cooper Rep. ¶ 59; *see* Tr.327:18–23; *see also* Bryan Rep.21.

242. But the illustrative map actually *divides* the Chinese-American community of interest in Lower Manhattan by neglecting two of the highest concentrations of Chinese-Americans in Brooklyn (found in Dyker Heights and Gravesend). Bryan Rep.56–57. And Mr. Cooper's map further displaces a large number (46.5%) of Asians. *Id.* at 59.

243. Petitioners contend that "Article III, § 4 does not require new congressional districts to *create* communities of interest," so, "the absence of a community of interest does not mean a map should *fail*." Pet.Opp.24. But it is Petitioners who contend that Article III, Section 4 requires map-drawers to link communities of interest in Staten Island and Lower Manhattan. Pet. ¶ 12. That the two boroughs have little in common is relevant to that question. Borelli Rep.15–19.

244. For all these reasons, strict scrutiny necessarily applies. *Wis. Legislature*, 595 U.S. at 402–03.

245. Petitioners' contrary arguments are meritless.

246. Petitioners admit that, under binding U.S. Supreme Court precedent, a redistricting map triggers strict scrutiny where it is drawn with race as the predominant rationale. Pet.Opp.22–23. They nevertheless attempt to muddy the predominant-rationale test with misplaced quotations of *Bush v. Vera*, 517 U.S. 952 (1996), Pet.Opp.22–23—which Petitioners fail to cite as a plurality opinion, *see* Pet.Opp.18, 22–23, 30—and *Bethune-Hill v. Virginia State Board of Elections*, 580 U.S. 178 (2017), Pet.Opp.22–23.

247. The U.S. Supreme Court's decisions in *Wisconsin Legislature* and *Cooper* articulate the proper formulation of the predominant-rationale test; put Petitioners' misplaced quotations from *Vera* and *Bethune-Hill* in the correct context; and demonstrate that redrawing CD11 for race-based reasons triggers strict-scrutiny review.

248. In *Wisconsin Legislature*, the U.S. Supreme Court applied the predominant-rationale test to hold that a judicially adopted remedial redistricting map for Wisconsin's legislative districts triggered, and failed, strict-scrutiny review. 595 U.S. at 401–04.

249. There, the Wisconsin Supreme Court had adopted a remedial map following the Wisconsin Governor's proposal. *Id.* at 399–400. That map had "intentional[ly] add[ed]" a "seventh majority-black district," *id.* at 402—"one more" than the State's prior map, *id.* at 400.

250. Applying the predominant-rationale test, *id.* at 401, the U.S. Supreme Court concluded that the "intentional addition of a seventh majority-black district" in the remedial map, standing alone, meant that the "strict-scrutiny test must [ ] be satisfied" for the map to comply with the Equal Protection Clause, *id.* at 402–03.

251. In other words, "drawing the seventh majority-black district" into the map, *id.* at 403—without any further showing—constituted "race-based redistricting," *id.* at 402, because that decision alone demonstrated that "race [was] the predominant factor motivating the placement of voters in or out of [that] particular district," *id.* at 401.

252. In holding that strict scrutiny applied, the U.S. Supreme Court saw no need to discuss, for instance, whether the remedial map at issue also failed to satisfy the traditional redistricting principles, *see generally id.* at 401–04, despite arguments from the Wisconsin Governor that the map did comply with those principles, *see* Resp. To Appl. From Resp't Governor Tony Evers, *supra*, at 19.

253. Similarly, in *Cooper*, the U.S. Supreme Court applied the predominant-rational test to hold that two districts within a state legislative map drawn by the North Carolina General Assembly triggered and, again, failed strict scrutiny. *Cooper*, 581 U.S. at 291, 295–96.

254. As the Court explained, under the predominant-rationale test, a party may "make the required showing" that "race was the predominant factor motivating the [map-drawer's] decision to place a significant number of voters within or without a particular district" through three different evidentiary pathways: "[1] direct evidence of legislative intent, [2] circumstantial evidence of a district's shape and demographics, or [3] a mix of both." *Id.* at 291 (citations omitted).

255. A party's "task, in other words, is simply to persuade the trial court—without any special evidentiary prerequisite—that race (not [some other factor]) was the predominant consideration in deciding to place a significant number of voters within or without a particular district." *Id.* at 318; *accord Bethune-Hill*, 580 U.S. at 189 ("the criterion that . . . could not be compromised" (citations omitted)).

256. The *Cooper* Court determined that, under this test, one of the districts at issue triggered strict scrutiny based upon the first pathway ("direct evidence of the [map-drawer's] intent"), given that the North Carolina General Assembly "purposefully established a racial target" with the district—that is, the goal of ensuring that Black voters "ma[d]e up no less than a majority of the voting-age population" in that district. 581 U.S. at 299–301.

257. Like in *Wisconsin Legislature*, that decision alone was sufficient to trigger strict-scrutiny review as to that district, regardless of whether the district complied with traditional redistricting principles. *Compare id.*, *with* Br. For Appellants at 45, *Cooper v. Harris*, No.15-1262, 2016 WL 4771954 (U.S. Sept. 12, 2016) (contending that "a plaintiff must prove—and a

110

court must find—that the challenged district lines are inconsistent with traditional districting principles").

258.   The U.S. Supreme Court's *Wisconsin Legislature* and *Cooper* decisions provide essential context for Petitioners' misplaced quotations of the *Vera* plurality and *Bethune-Hill*. Pet.Opp.22–23.

259.   Petitioners quote the *Vera* plurality's statement that the decision "to create a majority-minority district" in the map there was "merely one of several essential ingredients" to the plurality's conclusion that strict scrutiny applied under the predominant-rationale test. *Vera*, 517 U.S. at 962 (lead plurality of O'Connor, J.); Pet.Opp.22–23. Petitioners then cite *Bethune-Hill*, contending that it holds that the predominant-rationale test requires a "'holistic analysis'" and the consideration of multiple "factor[s]." Pet.Opp.23 (citing *Bethune-Hill*, 580 U.S. at 192). Then, based on these two citations, Petitioners claim that their own map-drawing "goal of giving Black and Latino voters the benefit of increased electoral 'influence' than under the prior map" cannot by itself trigger strict scrutiny under the predominant-rationale test. Pet.Opp.22 (citing Int'r.Resp't.Br.33).

260.   *Wisconsin Legislature* and *Cooper* definitively refute that argument. Both of these decisions concluded that the maps at issue triggered strict scrutiny under the predominant-rationale test solely because the map-drawers had express race-based purposes when drawing the maps. *See supra* pp.109–11.

261.   That is because a map-drawer's express race-based goal is itself "direct evidence of [ ] intent," which alone is sufficient to require strict scrutiny under the predominant-rationale test. *Cooper*, 581 U.S. at 291.

262. The *Vera* plurality and *Bethune-Hill* do not conflict with *Wisconsin Legislature* and *Cooper* in this respect. Rather, both refer to the *additional* pathways of establishing a map-drawer's predominant racial motive expressly recognized in *Cooper*—that is, such intent through "circumstantial evidence" or a mix of "direct" and "circumstantial evidence," *see id.*, which does require consideration of "several essential ingredients," *Vera*, 517 U.S. at 962, and a "holistic analysis," *Bethune-Hill*, 580 U.S. at 192.

263. But here, as in *Wisconsin Legislature* and *Cooper*, Petitioners' requested remedy triggers strict scrutiny because race is the *only* (and thus necessarily the predominant) rationale for redrawing of CD11. That is because Petitioners' requested remedy requires either this Court or the Legislature to move voters in or out of CD11 until there are sufficient Black and Latino voters within the redrawn district to give those voters enough electoral "influence." *Supra* pp.103–05.

264. This intentional and purposeful redrawing of a district to give more electoral benefit to voters lumped together by race is itself "direct evidence of [the] intent" that "race was the predominant factor" in redistricting. *Cooper*, 581 U.S. at 291.

265. Such "race-based redistricting" requires strict-scrutiny review under the predominant-rationale test, *Wis. Legislature*, 595 U.S. at 401–02, and no further evidentiary showing of race-based intent is necessary, *Cooper*, 581 U.S. at 291, 319.

266. Petitioners' related argument that their proposed map avoids strict-scrutiny review because it "respects the other redistricting criteria" fails for the same reasons. As the U.S. Supreme Court explained in *Wisconsin Legislature* and *Cooper*, when a map-drawer's explicit intent in drawing a map is based on race, race is necessarily the predominant rationale, regardless of whether the proposed map adheres to traditional redistricting criteria. *Supra* pp.109–11.

112

267. "[S]howing a deviation from, or conflict with, traditional redistricting principles is *not* a necessary prerequisite to establishing racial predominance," *Bethune-Hill*, 580 U.S. at 191, as "[r]ace may predominate even when a reapportionment plan respects traditional principles . . . if race was the criterion that, in the [map-drawer's] view, could not be compromised, and race-neutral considerations came into play only after the race-based decision had been made," *id.* at 189 (citations omitted; brackets in original).

268. In any event, Petitioners' proposed map does not comply with traditional redistricting principles, and instead disregards communities of interest in multiple ways; *supra* pp.106–08, and is not as compact as practicable; *supra* pp.105–06.

269. Petitioners also try to avoid strict-scrutiny review by claiming that their request to redraw CD11 to give Black and Latino voters more "influence" does not "rely on 'the use of an express racial target.'" Pet.Opp.23 (citing *Bethune-Hill*, 580 U.S. at 192).

270. But Petitioners' requested relief requires either this Court or the Legislature to move voters in and out of CD11 until Petitioners' express goal of giving Black and Latino voters within the district enough electoral "influence" is met. *See* Pet.28; Int'r.Resp't.Br.33–34.

271. The choice to use a qualitative racial target still makes race the explicit—and, indeed, sole—"rationale" for the "design" of the redrawn CD11 that Petitioners have proposed, which necessarily means that race is the "predominant" factor here, *Cooper*, 581 U.S. at 299–301; *Wis. Legislature*, 595 U.S. at 401–04, for all the reasons already discussed above, *supra* pp.103–13. Strict scrutiny therefore applies.

272. Petitioners' reliance on *Bartlett v. Strickland*, 556 U.S. 1 (2009), *see* Pet.Opp.23, is also misplaced. In *Bartlett*, the U.S. Supreme Court stated (in a controlling plurality by Justice Kennedy) that, although Section 2 of the VRA does not require the creation of "cross-over

113

districts," such districts may "diminish the significance and influence of race by encouraging minority and majority voters to work together toward a common goal." *Bartlett*, 556 U.S. at 23 (plurality op.). Thus, the Court continued, "States that wish to draw crossover districts are free to do so where no other prohibition exists." *Id.* at 24.

273. These statements do not help Petitioners because they do not water down the controlling racial-predominance inquiry applicable here. "[T]here is a difference between being aware of racial considerations and being motivated by them." *Allen v. Milligan*, 599 U.S. 1, 30 (2023) (citation omitted). "The former is permissible; the latter is usually not," given that it triggers exacting, strict-scrutiny review. *Id.*

274. Under *Bartlett*, a State is permitted to draw a district that happens to be a crossover district even if the State has "aware[ness] of racial considerations" or "racial demographics," *id.*, but the State is not allowed to draw such districts where "the overriding reason for choosing [them]" is "race for its own sake," unless it satisfies strict scrutiny, *id.* at 31.

275. Petitioners' overriding reason for redrawing CD11 here—to increase the "influence" of Black and Latino voters—is race for its own sake, *supra* pp.103–05, and *Bartlett* does not insulate such race-based redistricting decisions from strict-scrutiny review.

b. Petitioners Defaulted On Their Burden To Show That Racially Reconfiguring CD11 Is Narrowly Tailored To Achieving Any Compelling State Interest

276. When a law allocates benefits or burdens based on race, it violates the Equal Protection Clause unless it can pass strict scrutiny by showing that it is "narrowly tailored to achieving a compelling state interest." *Wis. Legislature*, 595 U.S. at 401.

277. The party seeking to apply or defend the law bears the burden of establishing that the law is narrowly tailored to achieving a compelling state interest. *See Bethune-Hill*, 580 U.S. at 180 ("Where a challenger succeeds in establishing racial predominance, the burden shifts to the

114

State to 'demonstrate that its districting legislation is narrowly tailored to achieve a compelling interest.'" (citation omitted)).

278.   Only two relevant compelling interests can justify race-based government action.

279.   First, the State has a compelling interest in "remediating specific, identified instances of past discrimination that violated the Constitution or a statute." *SFFA*, 600 U.S. at 207; *see Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007). "[G]eneralized assertion[s] of past discrimination" are insufficient to constitute a compelling interest. *Shaw v. Hunt*, 517 U.S. 899, 909–10 (1996) ("*Shaw II*").

280.   Second, the U.S. Supreme Court has "long assumed" that, in the redistricting context, attempted compliance with Section 2 of the VRA is a "compelling interest" that could justify drawing district lines with predominately racial motives. *Cooper*, 581 U.S. at 292; *see also Abbott v. Perez*, 585 U.S. 579, 587 (2018); *Wis. Legislature*, 595 U.S. at 401–02. That is because Section 2 is the rare race-based law that satisfies strict scrutiny due to its "exacting requirements" and safeguards that narrowly tailor its application. *Allen*, 599 U.S. at 30.

281.   Petitioners failed to meet their burden of showing that mandating the creation of a minority influence district would further a compelling government interest.

282.   Petitioners did not present any evidentiary basis—let alone the requisite "strong" evidentiary basis—to conclude that race-based action is "necessary" to remediate "*identified* discrimination.*" Shaw II*, 517 U.S. at 909–10 (emphasis added; citation omitted). Petitioners have pointed only to isolated and "generalized," *id.*, instances of past discrimination against Black and Latino populations on Staten Island generally, having nothing to do with voting, *see* Pet. ¶¶ 67–95; *see also* Tr.73:17–76:20 (Dr. Sugrue using stop-and-frisk practices and racial appeals as the "most significant" examples of the "history of discriminatory treatment").

283. For example, Petitioners have asserted that "remnants" of redlining and discriminatory housing practices still exist on Staten Island, *see* Pet. ¶¶ 75–77, without explaining how the ability to influence an election will remedy that alleged discrimination, *see* Tr.60:2–64:4 (Dr. Sugrue discussing redlining and voting practices without any reference to voting or explanation of how it supports adopting the illustrative map); *see also* Tr.123:5–18 (Dr. Sugrue stating that "redlining existed around the country" and was not "unique to State Island"). That is not a compelling interest that satisfies strict scrutiny. *SFFA*, 600 U.S. at 207.

284. The States also lack Congress' constitutional entitlement to use voting-rights laws to remedy societal discrimination, which further shows that mandating influence districts advances no compelling *state* interest.

285. The Fourteenth Amendment bars the *States* from using "race as a criterion for legislative action," including "benign racial classifications," *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 490–91, 495 (1989) (citation omitted). This prevents States from undertaking the "odious" exercise of "pick[ing] winners and losers based on the color of their skin," *SFFA*, 600 U.S. at 208, 229 (citation omitted).

286. While "Congress may identify and redress the effects of society-wide discrimination[, this] does not mean that, *a fortiori*, the States and their political subdivisions are free to decide that such remedies are appropriate." *City of Richmond*, 488 U.S. at 490 (plurality op.); *accord Trump v. Anderson*, 601 U.S. 100, 112 (2024).

287. And although the U.S. Supreme Court has in the past assumed that ensuring compliance with the federal VRA is a compelling interest, *see Cooper*, 581 U.S. at 292, that interest is not available here because the federal VRA does not require influence districts, *supra* pp.61–63, nor have Petitioners brought a claim under the federal VRA.

116

288.   Petitioners have argued that redrawing CD11 furthers a compelling interest in complying with a *state* constitutional provision, Article III, Section 4. Pet.Opp.24–25.

289.   But the U.S. Supreme Court has never recognized compliance with *state* law to be a compelling state interest for purposes of the Fourteenth Amendment's strict-scrutiny test. *See Cooper*, 581 U.S. at 292; *SFFA*, 600 U.S. at 207–08. That makes good sense. The Fourteenth Amendment is a prohibition on *the States* engaging in racial discrimination, such that States are not "free to decide" when race-based "remedies are appropriate." *City of Richmond*, 488 U.S. at 490 (plurality op.).

290.   More broadly, the U.S. Supreme Court has expressed deep skepticism of recognizing new compelling state interests in this context, as it is only the "rare" and "extraordinary case" where a State's race-based action serves a *compelling* interest. *SFFA*, 600 U.S. at 208.

291.   None of the caselaw that Petitioners cite supports their position. For instance, *Bartlett* merely recognized that a State may "appropriate[ly]" create a crossover district "where no other prohibition exists," 556 U.S. at 24 (plurality op.). A State pursuing an "appropriate" state policy is a far cry from a *compelling* state interest.

292.   Even if there were some compelling interest here, Petitioners did not even attempt to show that their requested remedy—the intentional redrawing of district lines based upon racial considerations—is narrowly tailored to achieving that interest.

293.   A law is "narrowly tailored" when its use of race is "necessary" to "achiev[ing] [the law's] interest." *SFFA*, 600 U.S. at 206–07 (citations omitted; emphasis added).

294.   This is an exceedingly demanding standard that is only satisfied where "the means chosen to accomplish the government's asserted purpose [are] specifically and narrowly framed

117

3532a

to accomplish that purpose." *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 312 (2013) (citations omitted).

295. For instance, if the State has a compelling interest in remediating a specific instance of past intentional discrimination, its chosen remedy must be "necessary to cure [the] effects" of that particular discrimination. *See City of Richmond*, 488 U.S. at 510 (plurality op.); *accord SFFA*, 600 U.S. at 249 (Thomas, J., concurring).

296. It is Petitioners' burden to show that a race-based remedy is "necessary" in order to satisfy the narrow-tailoring prong. *SFFA*, 600 U.S. at 206–07 (citations omitted).

297. Petitioners did not even try to submit evidence that could satisfy narrow tailoring here. Petitioners have at most showed that—using their own experts' hand-picked elections—a district can be drawn where the Black and Latino population that comprises less than 30% of the district wins roughly 90% of elections—as compared to the far more proportionate 25% of elections in CD11's current configuration. *See supra* pp.20–21.

298. But that does not show that race-based redistricting is *necessary* to achieve a compelling governmental interest. Petitioners have not attempted to explain why a race-neutral remedy would fail to sufficiently increase Black and Latino voters' electoral influence in CD11 from its current baseline (winning 25% of elections with less than 30% of the population), including the race-neutral remedies listed in the NYVRA itself. *See supra* pp.117–19.

299. Petitioners' remedy is also unconstitutional because it is not "narrowly tailored— meaning *necessary*—to" alleviate demonstrated past discrimination by the political subdivision. *SFFA*, 600 U.S. at 206–07 (citation omitted; emphasis added); *see Fisher*, 570 U.S. at 311.

300. Petitioners' theory lacks *any* tailoring to the remediation of any past instances of racial discrimination in CD11. Petitioners made no attempt to tie Article III, Section 4's supposed

mandate to redraw CD11 into an influence district under the NYVRA's standards to any showing that the State engaged in racially discriminatory conduct in the past or that there are ongoing consequences of such discrimination either generally or with respect to CD11, in particular. *Supra* pp.116–17.

301.   The remedies offered in the NYVRA further highlight Petitioners' failure to show that the race-based redrawing of CD11 into an influence district is "necessary." *SFFA*, 600 U.S. at 206–07.

302.   The NYVRA offers multiple remedies to "ensure that voters of race, color, and language-minority groups have equitable access to fully participate in the electoral process." N.Y. Elec. Law § 17-206(5). For instance, a jurisdiction could mandate "additional voting hours or days," or "additional polling locations." *Id.* § 17-206(5)(viii), (ix). A jurisdiction could also "requir[e] expanded opportunities for voter registration," or "requir[e] additional voter education." *Id.* § 17-206(xii), (xiii).

303.   Importantly, the Appellate Division has acknowledged that these other "possible remedies under the NYVRA"—unlike "race-based [re]districting"—are not "race-based" and "do not sort voters based on race." *Clarke*, 237 A.D.3d at 36; *see Clarke v. Town of Newburgh*, __ N.E.3d ___, 2025 WL 3235042, at *4 (N.Y. Nov. 20, 2025) (noting that "several of the potential remedies mentioned by the NYVRA," such as "longer polling hours or enhanced voter education," do not require "alterations of an [existing] election system").

304.   These remedies are all potentially ones that could further Petitioners' asserted interest without requiring a race-based redrawing of CD11, yet Petitioners made no effort to show that these alternative, non-race-based remedies would fail to provide Black and Latino voters in CD11 a greater opportunity to "influence" the outcome of elections there.

305.   This is especially so because, under their own expert's numbers, Black and Latino voters' electoral success in CD11 already is almost at near proportionality to their population, and it may well be possible for modest, race-neutral measures to bring it to complete proportionality.

306.   For this reason as well, Petitioners have failed to show that it is "necessary" to redraw CD11 into an influence district.

307.   Petitioners' contrary arguments lack merit.

308.   Even if this Court were to conclude that "the current boundaries of CD-11 result in unlawful vote dilution of Black and Latino voters" under Article III, Section 4 and that remedying that state-constitutional violation were a compelling state interest under the Fourteenth Amendment's Equal Protection Clause, Pet.Opp.25, that conclusion would not "necessarily demonstrate[ ]" that *a race-based remedy* for that violation is narrowly tailored for purposes of the strict-scrutiny analysis, *contra* Pet.Opp.25.

309.   It was Petitioners' burden to show that a *race-based remedy*, as opposed to a race-neutral remedy, is "*necessary.*" *SFFA*, 600 U.S. at 206–07 (citations omitted; emphasis added). But Petitioners did not present any evidence or argument suggesting that a race-neutral remedy (such as some remedies listed in the NYVRA itself) would fail to increase sufficiently the electoral "influence" of Black and Latino voters.

310.   Petitioners further contend that the NYVRA itself does not facially violate the Equal Protection Clause, *see* Int'r.Resp't.Br.25–31, but that is irrelevant here.

311.   The question is whether redrawing *cf CD11* into an "influence" district, per the NYVRA's influence-district mandate, is necessary to achieve any compelling state interest. Petitioners have entirely defaulted on their burden to make this showing.

IV.   The Elections Clause Prohibits Petitioners' Requested Remedy

312.   Granting Petitioners any remedy here would require adopting the theory that Article III, Section 4 incorporates the NYVRA's standards. *Supra* pp.68–75. That would make this Court the first to read language identical to Section 2 of the federal VRA as including an influence-district mandate (or, indeed, read later-enacted statutory language into any provision of the New York Constitution).

313.   Reading Article III, Section 4 in this manner would impermissibly "add[ ] words" to the New York Constitution, *Am. Transit Ins. Co.*, 3 N.Y.3d at 76, by judicially creating an atextual requirement to redraw a legislatively adopted congressional map.

314.   Such an interpretation would plainly exceed "the ordinary bounds of judicial review" and violate the Elections Clause of the U.S. Constitution. *Moore*, 600 U.S. at 36–37.

A. Applicable Legal Principles

315.   Pursuant to the Elections Clause, "[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State *by the Legislature thereof.*" U.S. Const. art. I, § 4 (emphasis added).

316.   The Elections Clause therefore "expressly vests power to carry out its provisions in '*the Legislature*' of each State," which is "a deliberate choice that [courts] must respect." *Moore*, 600 U.S. at 34 (citation omitted; emphasis added).

317.   When "state court[s] interpret[ ] [ ] state law in cases implicating the Elections Clause"—such as cases adjudicating state law challenges to congressional maps—those courts must take care to "not transgress the ordinary bounds of judicial review," thereby "arrogat[ing] to themselves the power vested in state legislatures to regulate federal elections." *Id.* at 36.

318.   Recently, in *Moore*, the U.S. Supreme Court provided guidance on state courts' proper role in adjudicating state-law challenges to congressional redistricting maps. There, North Carolina voters and voting-rights organizations challenged North Carolina's congressional map as a partisan gerrymander in violation of that State's constitution. *Id.* at 11.

319.   The legislative defendants in *Moore* argued that the Elections Clause "insulates state legislatures [drawing congressional maps] from review by state courts for compliance with state law," *id.* at 19, while other parties argued that state courts have plenary authority to review congressional maps and "free rein" to say what state law is, *id.* at 34.

320.   These arguments presented the Court with two extreme theories: one that would undermine state courts' authority to ensure that redistricting maps comply with state law, and another that would effectively nullify the Elections Clause's protections for state Legislatures' constitutional role in redistricting. *See id.* at 34–37.

321.   The Court chose a middle path, instructing state courts not to use novel or strained interpretations of state law to exert too much authority over the congressional-redistricting process. *See id.* Although "the Elections Clause does not exempt state legislatures from the ordinary constraints imposed by state law," it also does not mean that "state courts . . . have free rein" when deciding whether a congressional map satisfies state law. *Id.* at 34.

322.   Specifically, state courts must "ensure that [their] interpretations of [state] law do not evade federal law," *id.*, by "read[ing] state law in such a manner as to circumvent federal constitutional provisions," *id.* at 34–35. Otherwise, state courts would "transgress the ordinary bounds of judicial review such that they arrogate to themselves the power vested in state legislatures to regulate federal elections." *Id.* at 36.

323.   If a state court does "so exceed the bounds of ordinary judicial review as to unconstitutionally intrude upon the role specifically reserved to state legislatures by Article I, Section 4, of the Federal Constitution," the U.S. Supreme Court stands ready "to exercise judicial review." *Id.* at 37.

324.   In his *Moore* concurrence, Justice Kavanaugh directly addressed the question of the "standard a federal court should employ to review a state court's interpretation of state law in a case implicating the Elections Clause" to determine whether such an interpretation exceeds the bounds of "ordinary state court review." *Id.* at 38 (Kavanaugh, J., concurring).

325.   Justice Kavanaugh considered three possible standards, each of which "convey[ed] essentially the same point: Federal court review of a state court's interpretation of state law in a federal election case should be deferential, but deference is not abdication." *Id.* at 39 & n.1.

326.   He urged the Court to "adopt Chief Justice Rehnquist's straightforward standard" from *Bush v. Gore. Id.* at 39–40. This standard provides that state courts must not "'impermissibly distort[ ]' state law 'beyond what a fair reading required.'" *Id.* at 38 (citation omitted).

327.   In articulating that standard, Chief Justice Rehnquist explained that it "does not imply a disrespect for state *courts* but rather a respect for the constitutionally prescribed role of state *legislatures*," because giving "definitive weight to the pronouncement of a state court, when the very question at issue is whether the court has actually departed from the statutory meaning, would be to abdicate [the Court's] responsibility to enforce the explicit requirements of [the federal Constitution]." *Bush v. Gore*, 531 U.S. 98, 115 (2000) (Rehnquist, C.J., concurring).

328.   Justice Kavanaugh clarified that this standard "should apply not only to state court interpretations of state statutes, but also to state court interpretations of state constitutions," and that, in reviewing state-court interpretations of state law, courts "necessarily must examine the law

123

of the State as it existed prior to the action of the state court." *Moore*, 600 U.S. at 39 (Kavanaugh, J., concurring) (citation omitted). Applying this "straightforward standard," *id.* at 39, will "ensure that state court interpretations of" state law governing federal election cases "do not evade federal law," *id.* at 34 (majority op.).

B. Adopting Petitioners' Theory Would Violate The Elections Clause

329. Adopting Petitioners' Article-III-Section 4-Equals-NYVRA theory (or, indeed, any theory that inserts an influence-district mandate into Article III, Section 4) to invalidate and require the redrawing of a legislatively adopted congressional map mid-decade is precisely the kind of "impermissibl[e] distort[ion]" of state law "in a federal election case," *id.* at 38 & n.1 (Kavanaugh, J., concurring), that would "[dis]respect [ ] the constitutionally prescribed role of state *legislatures*," *Bush*, 531 U.S. at 115 (Rehnquist, C.J., concurring), and violate the Elections Clause under *Moore*.

330. Petitioners invite this Court to jettison a legislatively adopted congressional map based on a radical departure from established New York principles of constitutional interpretation. *Supra* pp.58–73. As discussed, nothing in Article III, Section 4 references a right to "influence" elections like the NYVRA does. *Supra* pp.68–73. Rather, Article III, Section 4 uses nearly identical language to Section 2 of the VRA—which the U.S. Supreme Court has held does not require influence districts—and longstanding rules of interpretation therefore require that the Court give that identical language the same meaning. *Supra* pp.61–64.

331. To adopt Petitioners' theory, the Court would need to both disregard the Legislature's clear intention, as indicated through its use of identical language as Section 2, and unlawfully amend Article III, Section 4's text to adopt standards from the NYVRA, *Am. Transit Ins. Co*, 3 N.Y.3d at 76—which was enacted eight years after Article III, Section 4. It would also need to erroneously read the NYVRA's express inclusion of "influence" as superfluous. *Columbia*

Mem'l Hosp., 38 N.Y.3d at 271; *supra* pp.69–70. This unprecedented bit of judicial redrafting

with no analogue in any prior New York case would "transgress the ordinary bounds of judicial

review," *Moore*, 600 U.S. at 36, and "'impermissibly distort[ ]' state law 'beyond what a fair

reading required,'" *id.* at 38 (Kavanaugh, J., concurring) (citation omitted), in a federal election

case.

332.   Indeed, judicially injecting a textually baseless "minority influence district"

requirement into Article III, Section 4 is more than an "[un]fair reading," of state law. *Moore*, 600

U.S. at 38 (Kavanaugh, J., concurring) (citation omitted). It is a complete redrafting of the New

York Constitution that would impermissibly allow New York state courts to "arrogate to

themselves the power vested *in state legislatures* to regulate federal elections." *Id.* at 36 (majority

op.) (emphasis added).

333.   Distorting New York law in this way would "unconstitutionally intrude upon the

role specifically reserved to state legislatures by Article I, Section 4, of the Federal Constitution"

and undoubtedly violate the Elections Clause. *Id.* at 36–37 (majority op.). That is especially true

given that Petitioners make this request in a clear effort to further an unlawful partisan

gerrymander. *Id.* at 36.

V.   Laches Bars The Petition

334.   The equitable doctrine of laches requires this Court to dismiss a petition where the

petitioner has engaged in a "lengthy neglect or omission to assert a right" that results in "prejudice

to an adverse party." *Saratoga Cnty. Chamber cf Com., Inc. v. Pataki*, 100 N.Y.2d 801, 816

(2003); *see* CPLR 103(a); *Sheerin v. N.Y. Fire Dep't Articles 1 & 1B Pension Funds*, 46 N.Y.2d

488, 496–97 (1979).

335.   Applying laches is appropriate where the delay was "entirely avoidable and undertaken without any reasonable explanation," and this is especially true in "time sensitive" "election matters." *League of Women Voters of N.Y. State v. N.Y. State Bd. of Elections*, 206 A.D.3d 1227, 1228–30 (3d Dep't 2022); *see Nichols v. Hochul*, 206 A.D.3d 463, 464 (1st Dep't 2022).

336.   Notably, New York courts routinely dismiss elections-related claims as untimely for relatively short delays. *See, e.g., MacDonald v. County of Monroe*, 191 N.Y.S.3d 578, 571–72 (Sup. Ct. Monroe Cnty. 2023) (two-month delay); *Nichols v. Hochul*, 76 Misc.3d 379, 384–85 (Sup. Ct. N.Y. Cnty. 2022), *aff'd as modified*, 206 A.D.3d 463 (three-and-a-half-month delay); *League of Women Voters*, 206 A.D.3d at 1228 (same); *Amedure v. State*, 210 A.D.3d 1134, 1138–39 (3d Dep't 2022) (nine-month delay).

337.   Here, laches bars the Petition because Petitioners inexplicably waited until late October 2025 to challenge CD11's boundaries, which boundaries "have remained static since 1980," Pet.15, under a legal theory that allegedly existed the moment New York ratified the 2014 Amendments, *see id.* ¶¶ 99–101; *see* N.Y. Const. art. III, § 4(c) (effective January 1, 2015).

338.   At minimum, Petitioners could have brought their claim immediately after the *Harkenrider* Map was adopted on May 20, 2022, or after the 2024 Congressional Map was adopted on February 28, 2024, as neither map altered the District's boundaries. *See* Pet. ¶¶ 58–59.

339.   Yet, Petitioners offer no explanation—let alone a reasonable one—for their "entirely avoidable" delay, *League of Women Voters*, 206 A.D.3d at 1230, which "prejudice[s] [ ] voters[,] candidates," and the Legislature, *id.*

340.   Petitioners assert that it was not unreasonable to wait eighteen months after the 2024 Congressional Map's enactment to sue, Pet.Opp.33, but they fail to explain how their claim

126

was not ripe in 2014, when the 2014 Amendments' enactment (under their theory) required a minority influence district to prevent vote-dilution in a nearly identical CD11, Pet. ¶¶ 96–102.

341.   Petitioners also claim that "voting has become increasingly racially polarized," Pet.Opp.34, but their own experts claim a "consistent pattern of racially polarized voting" going back to 2017, Palmer Rep.4.

342.   At the absolute latest, Petitioners could have brought their claim right after the enactment of the 2024 Congressional Map on February 28, 2024. Yet, they delayed in doing so for another year and a half.

343.   Such a delay is unreasonable in any context, and is especially unreasonable in the election context, as New York courts have repeatedly recognized. *See MacDonald*, 191 N.Y.S.3d at 571–72 (dismissing petition filed two months after enactment); *Nichols*, 76 Misc.3d at 384–85 (dismissing petition filed three and a half months after adopting map); *Amedure*, 210 A.D.3d at 1137–39 (dismissing petition filed nine months after adoption of election process).

344.   Petitioners' claim that laches should not apply here because their delay caused no prejudice, Pet.Opp.33, is wrong. Petitioners' inexcusable and entirely avoidable delay causes "significant and immeasurable prejudice to voters[,] candidates," and the Legislature. *League of Women Voters of N.Y. State*, 206 A.D.3d at 1230.

345.   Further, Petitioners' delay also prejudices Intervenor-Respondents, who have invested significant time and resources campaigning in CD11 based upon the understanding that the 2024 Congressional Map would govern until the next Census in 2030—not just one election cycle. *See* Malliotakis Aff. ¶¶ 5–6; Lai Aff. ¶¶ 2–10; Medina Aff. ¶¶ 2–10; Reeves Aff. ¶¶ 2–9; Sisto Aff. ¶¶ 2–8; Togba Aff. ¶¶ 2–8. Congresswoman Malliotakis has spent substantial time getting to know and developing "a significant relationship with [her] constituents." Malliotakis

Aff. ¶ 5. And the Individual Voters have spent countless hours supporting her. *See* Lai Aff. ¶¶ 7–10; Medina Aff. ¶¶ 2–10; Reeves Aff. ¶¶ 2–9; Sisto Aff. ¶¶ 2–8; Togba Aff. ¶¶ 2–8.

CONCLUSION

346. ORDERED that JUDGMENT is entered in Respondents' favor and Petitioners' Petition is dismissed.

Dated: January _____, 2025

By_____
Hon. Jeffrey Pearlman, J.S.C.

Dated: New York, New York
      January 16, 2026

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By: _____

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CERTIFICATION

I certify pursuant to Rule 18 of the Part 44 Rules that no generative artificial intelligence program was used in the drafting of any affidavit, affirmation, or memorandum of law contained within this submission.

Dated: New York, New York
      January 16, 2026
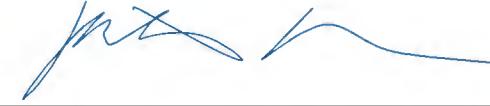
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EXHIBIT X

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michael Williams, José Ramírez-Garofalo, Aixa Torres, and
Melissa Carty,

<div align="center">Petitioners,</div>

   -against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-Executive
Director of the Board of Elections of the State of New York;
Raymond J. Riley, III, in his official capacity as Co-
Executive Director of the Board of Elections of the State of
New York; Peter S. Kosinski, in his official capacity as Co-
Chair and Commissioner of the Board of Elections of the
State of New York; Henry T. Berger, in his official capacity
as Co-Chair and Commissioner of the Board of Elections of
the State of New York; Anthony J. Casale, in his official
capacity as Commissioner of the Board of Elections of the
State of New York; Essma Bagnuola, in her official capacity
as Commissioner of the Board of Elections of the State of
New York; Kathy Hochul, in her official capacity as
Governor of New York; Andrea Stewart-Cousins, in her
official capacity as Senate Majority Leader and President Pro
Tempore of the New York State Senate; Carl E. Heastie, in
his official capacity as Speaker of the New York State
Assembly; and Letitia James, in her official capacity as
Attorney General of New York,

<div align="center">Respondents,</div>

   -and-

Representative Nicole Malliotakis, Edward L. Lai, Joel
Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba,

<div align="center">Intervenor-Respondents.</div>

Index No.: 164002/2025

Hon. Jeffrey H. Pearlman

Mot. Seq. 001

<div align="center">

**MEMORANDUM OF LAW
REGARDING AVAILABLE REMEDIES**

[Counsel for Respondents Listed on the Following Page]

</div>

35416251

CULLEN AND DYKMAN LLP
80 State Street, Suite 900
Albany, New York 12207
(518) 788-9440

Cf Counsel:

    Nicholas J. Faso, Esq.

    Christopher E. Buckey, Esq.

Counsel to Respondents Peter S. Kosinski Anthony J. Casale, and Raymond J. Riley, III

ii

TABLE OF CONTENTS

iii

TABLE OF AUTHORITIES

PRELIMINARY STATEMENT

Respondents Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York ("BOE"), Anthony J. Casale, in his official capacity as a Commissioner of the BOE, and Raymond J. Riley, III, in his official capacity as Co-Executive Director of the BOE (collectively, "Respondents"), respectfully submit this memorandum of law in response to the Court's request for briefing on available remedies in the event the Court finds the 2024 Congressional Map unconstitutional.[1] Respondents adopt and expressly incorporate herein the arguments made by Intervenor-Respondents Congresswoman Nicole Malliotakis and Individual Voters Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba on this subject.

ARGUMENT

I.   This Court cannot compel the Legislature to enact Petitioners' redistricting plan

Petitioners request that the Court "order the Legislature to adopt a valid congressional redistricting plan in which Staten Island is paired with voters in lower Manhattan to create a minority influence district in CD-11 that complies with traditional redistricting criteria."[2] In other words, Petitioners ask this Court to direct the Legislature to enact a specific redistricting plan combining Staten Island and lower Manhattan. This request violates fundamental principles of separation of powers.

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[1] For the reasons explained in Respondents' motion to dismiss, Respondents respectfully submit that this proceeding should be dismissed as a matter of law and that the Court need not reach the question of an appropriate remedy.

[2] NYSCEF Doc. No. 1, Petition, at 27-28 (Prayer for Relief, section B).

1

This Court is without power to direct the Legislature "how it should perform" its legislative function (*Campaign for Fiscal Equity, Inc. v State*, 29 AD3d 175, 186 [1st Dept 2006], *affd as mod,* 8 NY3d 14 [2006]). As the Court of Appeals has explained, the courts may only compel the other branches to "satisfy[] nondiscretionary obligations to perform certain functions" (*Klostermann v Cuomo*, 61 NY2d 525, 541 [1984]), but "[t]he activity that the courts must be careful to avoid is the fashioning of orders or judgments *that go beyond any mandatory directives of existing statutes and regulations* and intrude upon the policy-making and discretionary decisions that are reserved to the legislative and executive branches" (*id.* [emphasis added]; *see also Matter of Gonzalez v Vil. of Port Chester*, 109 AD3d 614, 615 [2d Dept 2013] ["However, mandamus will not lie to compel the performance of a purely legislative function"]; *Davis v Pomeroy*, 283 AD2d 874, 875 [3d Dept 2001] [holding that courts may not compel adoption of a law because that is "itself a discretionary legislative action"]).

Here, Petitioners ask this Court to violate this separation of powers principle by directing the Legislature to draw a map specifically pairing Staten Island with lower Manhattan. This request is wholly improper because the Legislature is under no "nondiscretionary obligation[]" to implement such a map (*id.*). To the contrary, in fact, the NY Constitution *prohibits* the Legislature from drawing district lines unless the Independent Redistricting Commission ("IRC") proposes two redistricting plans that have been considered and rejected by the Legislature (*see Harkenrider v Hochul*, 38 NY3d 494, 511 [2022] ["Article III, § 4 is permeated with language that, when given its full effect, permits the legislature to undertake the drawing of district lines *only* after two redistricting plans composed by the IRC have been duly considered and rejected."]). Moreover, the Legislature's authority is further limited because any redistricting plan it adopts "must be founded upon a plan submitted by the IRC" (*id.* at 512). Thus, as *Harkenrider* makes clear, the

2

Legislature may not adopt a redistricting plan independent of the IRC process, which is precisely what Petitioners impermissibly request here.

II.   *Harkenrider* and *Hoffmann* delineate the available remedies

New York's 2014 constitutional amendments established a structured, bipartisan process for congressional and state legislative redistricting. This process is centered on the IRC's submission of plans to the Legislature followed by legislative consideration and enactment. The amendments both created the IRC process and limited judicial intervention to what is "required as a remedy for a violation of law" (NY Const., Art. III, § 4 [e]).

The Court of Appeals first addressed remedial measures under this provision in *Harkenrider*. There, the Court rejected the argument that, under Article III, § 5, "the legislature possesses exclusive jurisdiction and unrestricted power over redistricting" (*Harkenrider*, 38 NY3d at 523). Article III, § 5 provides that "the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities." The Court found that this provision does not apply in the face of impending electoral deadlines and a breakdown of the IRC process "at that juncture" (*id.*). Under the facts of *Harkenrider*, the unconstitutionality of the redistricting plan was "incapable of a legislative cure" (*id.*). Accordingly, the *Harkenrider* Court held that a court may order the adoption of a redistricting plan with the assistance of a neutral "special master" (*id.*).

Following *Harkenrider*, the Court of Appeals revisited remedial options under the 2014 Amendments in *Hoffmann*. The *Hoffmann* Court explained that the IRC process is preferred over judicial remedies. The Court emphasized that "[c]ourt-drawn judicial districts are generally disfavored because redistricting is predominantly legislative" (*Hoffmann v New York State Ind. Redistricting Commn.*, 41 NY3d 341, 361 [2023]).

3

The Court further observed that the Constitution prioritizes the IRC-driven legislative process over judicially drawn maps (*id.* at 360). On that point, the Court relied on Article III, § 5-b, which expressly provides that "at any other time a court orders that congressional or state legislative districts be amended, an independent redistricting commission shall be established to determine the district lines for congressional and state legislative offices" (*id.*). Under this provision, even where a court directs the IRC to create a map, the resulting map is not deemed judicially-created, but "adopted by the IRC and legislature" (*id.*).

III.   The election timeline

The accompanying affidavit of Raymond J. Riley, III, Co-Executive Director of the New York State Board of Elections, provides the timeline for implementing a remedial map for the 2026 election.

The election calendar begins on February 24, 2026, which is the first day candidates may circulate designating petitions under Election Law § 6-134(4).[3] To implement a new map for the 2026 election, the map must be completed in advance of petitioning to give NYSBOE time to prepare for the possibility that the map will actually be implemented following ensuing emergency appeals to the Court of Appeals and, if necessary, the United States Supreme Court.[4]

NYSBOE's preparations include changes to election districts resulting from changes to congressional district boundaries, geocoding addresses and migrating voters to the correct election districts, reconciling these changes with the statewide registration system, assessment of poll sites, and generating updated enrollment reports based on the new election districts.[5] This process requires coordination with the New York City Board of Elections ("NYCBOE") since CD-10 and

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[3] Affirmation of Raymond J. Riley, III, NYSCEF Doc. No. 204 ("Riley Aff.") ¶¶ 3, 11.
[4] Riley Aff. ¶ 5.
[5] Riley Aff. ¶ 9.

CD-11 are within the City of New York.[6] Among other things, the NYCBOE must reapportion local districts,[7] the NYC Department of City Planning must complete geocoding, and the NYCBOE must apply the geocoded addresses to its voter registration system.[8] Following this process, NYCBOE confirms any changes against its own records to ensure accuracy.[9] Finally, any affected EDs must be reassigned to existing poll sites or assigned to new poll sites.[10]

As Mr. Riley explains, this process will be particularly challenging in 2026 because both New York County and Queens County are currently conducting three active special elections between them, which will burden NYCBOE with the work of managing these election certifications while also potentially redrawing maps as a result of this proceeding.[11]

Given the election calendar and the work required before the start of petitioning on February 24, 2026, any remedial map ordered by this Court under *Harkenrider* must be completed by February 6, 2026.[12]

Alternatively, if this Court does not follow *Harkenrider*, it must direct the IRC to reconvene pursuant to Article III, § 5-b, in accordance with *Hofmann*, and propose a map to the Legislature for the 2028 election cycle. The Court of Appeals has instructed that this alternative is preferred over a judicially drawn map because the "2014 constitutional reforms unambiguously promised New York's citizens an IRC redistricting process with minimal resort to court-drawn districts . . . ." (*Hofmann*, 41 NY3d at 362-63).

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[6] Riley Aff. ¶ 13.
[7] Riley Aff. ¶ 15.
[8] Riley Aff. ¶¶ 18-21.
[9] Riley Aff. ¶ 23.
[10] Riley Aff. ¶ 24.
[11] Riley Aff. ¶ 25.
[12] Riley Aff. ¶ 26.

CONCLUSION

This Court lacks power to grant the relief Petitioners seek in the form of an order compelling the Legislature to adopt a remedial map joining Staten Island and Manhattan. The only lawful remedies available are those endorsed in *Harkenrider* and *Hoffmann*. Based on the election calendar and the work that must precede it, any remedial map ordered by this Court must be completed by February 6, 2026. Alternatively, if this Court follows *Hoffmann*, it may direct the IRC to reconvene and deliver a map to the Legislature for the 2028 election cycle.

Dated: January 12, 2026
      Albany, New York

                    CULLEN AND DYKMAN LLP

By: */s/ Nicholas J. Faso*
       Nicholas J. Faso, Esq.
       Christopher E. Buckey, Esq.
       80 State Street, Suite 900
       Albany, New York 12207
       (518) 788-9416
       nfaso@cullenllp.com
       cbuckey@cullenllp.com

       Attorneys for Respondents

6

CERTIFICATE OF COMPLIANCE

The undersigned counsel hereby certifies pursuant to the word count stipulation in this action that, with the exception of the caption, table of contents, table of authorities, and signature block, the foregoing memorandum contains 1,515 words, based on the calculation made by the word-processing system used to prepare this document.

I certify that no generative artificial intelligence program was used in the drafting of any affidavit, affirmation, or memorandum of law contained within the submission.

Dated: January 12, 2026
      Albany, New York

                                        /s/ *Nicholas J. Faso*

EXHIBIT Y

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michael Williams, José Ramirez-Garofalo, Aixa
Torres, and Melissa Carty,

                                Petitioners,

        -against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the
State of New York; Raymond J. Riley, III, in his
official capacity as Co-Executive Director of the
Board of Elections of the State of New York; Peter S.
Kosinski, in his official capacity as Co-Chair and
Commissioner of the Borad of Elections of the State
of New York; Henry T. Berger, in his official capacity
as Co-Chair and Commissioner of the Board of
Elections of the State of New York; Anthony J.
Casale, in his official capacity as Commissioner of
the Board of Elections of the State of New York;
Essma Bagnuola, in her official capacity as
Commissioner of the Board of Elections of the State
of New York; Kathy Hochul, in her official capacity
as Governor of New York; Andrea Stewart-Cousins,
in her official capacity as Senate Majority Leader and
President *Pro Tempore* of the New York State Senate;
Carl E. Heastie, in his official capacity as Speaker of
the New York State Assembly; and Letita James, in
her official capacity as Attorney General of New
York,

                              Respondents.

Index No.164002/2025

Hon. Jeffrey S. Pearlman

Motion Seq.

AFFIRMATION OF EDWARD L. LAI IN SUPPORT MOTION FOR LEAVE TO INTERVENE

      Edward L. Lai hereby affirms the truth of the following under penalty of perjury pursuant

to CPLR § 2106:

      1.   This affirmation is based on my personal knowledge.

2.   I am a voter of the age of 18 and I am registered to vote in the State of New York.

3.   I am Asian-Chinese, and a naturalized U.S. citizen immigrated from Hong Kong.

4.   My primary residence is located in Brooklyn, New York at 8861 18th Ave., Brooklyn, NY 11214.

5.   My primary residence is located within New York's 11th Congressional District.

6.   I work in the 11th Congressional District and have served 11 years on Brooklyn Community Boards (7 and 11).

7.   In the November 2024 general election for the U.S. House of Representatives, I voted for Congresswoman Nicole Malliotakis.

8.   Further, in the months and weeks before the November 2024 general election for the U.S. House of Representatives, I spent significant time and resources supporting campaigning for the reelection of Congresswoman Malliotakis—whom again, I voted for in the November 2024 election.

9.   For the upcoming November 2026 general election for the U.S. House of Representatives, I again intend to vote for Congresswoman Malliotakis.

10.   Further, as with the November 2024 election, I expect to spend significant time and resources campaigning for the reelection of Congresswoman Malliotakis in the months and weeks before the November 2026 general election for the U.S. House of Representatives.

11.   As a resident and voter in the 11th Congressional District, I do not wish to reside in a racially gerrymandered district and subjected to a racial classification due to reliance on racial criteria in changing the boundaries of the 11th Congressional District.

I affirm this 30th day of October, 2025, under the penalties of perjury under the laws of

New York, which may include a fine or imprisonment, that the foregoing is true, and I

understand that this document may be filed in an action or proceeding in a court of law.

/s/
Edward L. Lai

WORD COUNT CERTIFICATION

Pursuant to NYCRR 202.8-b, I hereby certify that this Affirmation contains 329 words, exclusive of the caption and signature blocks, and therefore complies with the word-count limit of 7,000 words.

Dated: October 30, 2025
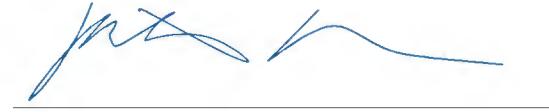
_____
Bennet J. Moskowitz

EXHIBIT Z

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michael Williams, José Ramirez-Garofalo, Aixa
Torres, and Melissa Carty,

Petitioners,

-against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the
State of New York; Raymond J. Riley, III, in his
official capacity as Co-Executive Director of the
Board of Elections of the State of New York; Peter S.
Kosinski, in his official capacity as Co-Chair and
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Casale, in his official capacity as Commissioner of
the Board of Elections of the State of New York;
Essma Bagnuola, in her official capacity as
Commissioner of the Board of Elections of the State
of New York; Kathy Hochul, in her official capacity
as Governor of New York; Andrea Stewart-Cousins,
in her official capacity as Senate Majority Leader and
President *Pro Tempore* of the New York State
Senate; Carl E. Heastie, in his official capacity as
Speaker of the New York State Assembly; and Letita
James, in her official capacity as Attorney General of
New York,

Respondents.

Index No.164002/2025

Hon. Jeffrey S. Pearlman

Motion Seq.

<u>AFFIRMATION OF JOEL MEDINA IN SUPPORT OF MOTION FOR LEAVE TO INTERVENE</u>

Joel Medina hereby affirms the truth of the following under penalty of perjury pursuant to

CPLR § 2106:

1.   This affirmation is based on my personal knowledge.

2.   I am a voter of the age of 18 and I am registered to vote in the State of New York.

3.   I am Hispanic.

4.   My primary residence is located in Staten Island, New York at 100 Beach St., Staten Island, N.Y. 10304.

5.   My primary residence is located within New York's 11th Congressional District.

6.   In the November 2024 general election for the U.S. House of Representatives, I voted for Congresswoman Nicole Malliotakis.

7.   Further, in the months and weeks before the November 2024 general election for the U.S. House of Representatives, I spent significant time and resources campaigning for the reelection of Congresswoman Malliotakis—whom again, I voted for in the November 2024 election.

8.   For the upcoming November 2026 general election for the U.S. House of Representatives, I again intend to vote for Congresswoman Malliotakis.

9.   Further, as with the November 2024 election, I expect to spend significant time and resources campaigning for the reelection of Congresswoman Malliotakis in the months and weeks before the November 2026 general election for the U.S. House of Representatives.

10.   As a resident and voter in the 11th Congressional District, I do not wish to reside in a racially gerrymandered district and subjected to a racial classification due to reliance on racial criteria in changing the boundaries of the 11th Congressional District.

I affirm this 30th day of October, 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.
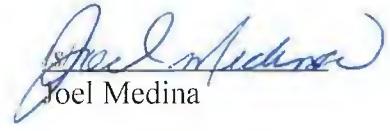
Joel Medina

WORD COUNT CERTIFICATION

Pursuant to NYCRR 202.8-b, I hereby certify that this Affirmation contains 300 words, exclusive of the caption and signature blocks, and therefore complies with the word-count limit of 7,000 words.

Dated: October 31, 2025
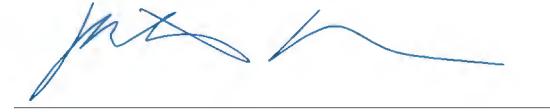
_____
Bennet J. Moskowitz

EXHIBIT AA

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michael Williams, José Ramirez-Garofalo, Aixa
Torres, and Melissa Carty,

                                Petitioners,

        -against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the
State of New York; Raymond J. Riley, III, in his
official capacity as Co-Executive Director of the
Board of Elections of the State of New York; Peter S.
Kosinski, in his official capacity as Co-Chair and
Commissioner of the Borad of Elections of the State
of New York; Henry T. Berger, in his official
capacity as Co-Chair and Commissioner of the Board
of Elections of the State of New York; Anthony J.
Casale, in his official capacity as Commissioner of
the Board of Elections of the State of New York;
Essma Bagnuola, in her official capacity as
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President *Pro Tempore* of the New York State
Senate; Carl E. Heastie, in his official capacity as
Speaker of the New York State Assembly; and Letita
James, in her official capacity as Attorney General of
New York,

                                Respondents.

Index No.164002/2025

Hon. Jeffrey S. Pearlman

Motion Seq.

AFFIRMATION OF SOLOMON B. REEVES IN SUPPORT OF MOTION FOR LEAVE TO INTERVENE

       Solomon B. Reeves hereby affirms the truth of the following under penalty of perjury

pursuant to CPLR § 2106:

    1.   This affirmation is based on my personal knowledge.

2.   I am a voter of the age of 18 and I am registered to vote in the State of New York.

3.   My primary residence is located in Staten Island, New York at 456 Van Duzer St., Apt. D2, Staten Island, N.Y. 10304.

4.   I am a Liberian-American (dark brown skin).

5.   My primary residence is located within New York's 11th Congressional District.

6.   In the November 2024 general election for the U.S. House of Representatives, I voted for Congresswoman Nicole Malliotakis.

7.   Further, in the months and weeks before the November 2024 general election for the U.S. House of Representatives, I spent significant time and resources campaigning for the reelection of Congresswoman Malliotakis—whom again, I voted for in the November 2024 election.

8.   For the upcoming November 2026 general election for the U.S. House of Representatives, I again intend to vote for Congresswoman Malliotakis.

9.   Further, as with the November 2024 election, I expect to spend significant time and resources campaigning for the reelection of Congresswoman Malliotakis in the months and weeks before the November 2026 general election for the U.S. House of Representatives.

I affirm this 30th day of October, 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.
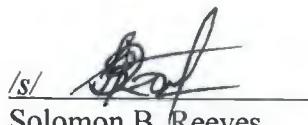
/s/ _____

Solomon B. Reeves

WORD COUNT CERTIFICATION

Pursuant to NYCRR 202.8-b, I hereby certify that this Affirmation contains 270 words, exclusive of the caption and signature blocks, and therefore complies with the word-count limit of 7,000 words.

Dated: October 30, 2025
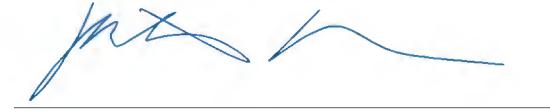
_____
Bennet J. Moskowitz

EXHIBIT BB

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michael Williams, José Ramirez-Garofalo, Aixa
Torres, and Melissa Carty,

                             Petitioners,

     -against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
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State of New York; Raymond J. Riley, III, in his
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of New York; Kathy Hochul, in her official capacity
as Governor of New York; Andrea Stewart-Cousins,
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President *Pro Tempore* of the New York State Senate;
Carl E. Heastie, in his official capacity as Speaker of
the New York State Assembly; and Letita James, in
her official capacity as Attorney General of New
York,

                           Respondents.

Index No.164002/2025

Hon. Jeffrey S. Pearlman

Motion Seq.

AFFIRMATION OF ANGELA SISTO IN SUPPORT OF MOTION FOR LEAVE TO INTERVENE

    Angela Sisto hereby affirms the truth of the following under penalty of perjury pursuant to CPLR § 2106:

    1.   This affirmation is based on my personal knowledge.

2.   I am a voter of the age of 18 and I am registered to vote in the State of New York.

3.   My primary residence is located in Brooklyn, New York at 6917 6th Ave., Brooklyn, N.Y. 11209.

4.   My primary residence is located within New York's 11th Congressional District.

5.   In the November 2024 general election for the U.S. House of Representatives, I voted for Congresswoman Nicole Malliotakis.

6.   Further, in the months and weeks before the November 2024 general election for the U.S. House of Representatives, I spent significant time and resources campaigning for the reelection of Congresswoman Malliotakis—whom again, I voted for in the November 2024 election.

7.   For the upcoming November 2026 general election for the U.S. House of Representatives, I again intend to vote for Congresswoman Malliotakis.

8.   Further, as with the November 2024 election, I expect to spend significant time and resources campaigning for the reelection of Congresswoman Malliotakis in the months and weeks before the November 2026 general election for the U.S. House of Representatives.

9.   As a resident and voter in the 11th Congressional District, I do not wish to reside in a racially gerrymandered district and subjected to a racial classification due to reliance on racial criteria in changing the boundaries of the 11th Congressional District.

I affirm this 30th day of October, 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

/s/ _____
Angela Sisto

- 2 -

WORD COUNT CERTIFICATION

Pursuant to NYCRR 202.8-b, I hereby certify that this Affirmation contains 294 words, exclusive of the caption and signature blocks, and therefore complies with the word-count limit of 7,000 words.

Dated: October 30, 2025
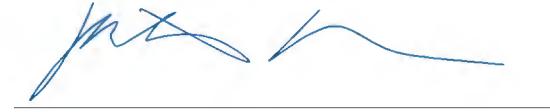
_____
Bennet J. Moskowitz

EXHIBIT CC

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Michael Williams, José Ramirez-Garofalo, Aixa
Torres, and Melissa Carty,

                          Petitioners,

          -against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the
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the Board of Elections of the State of New York;
Essma Bagnuola, in her official capacity as
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in her official capacity as Senate Majority Leader and
President *Pro Tempore* of the New York State Senate;
Carl E. Heastie, in his official capacity as Speaker of
the New York State Assembly; and Letita James, in
her official capacity as Attorney General of New
York,

                          Respondents.

Index No.164002/2025

Hon. Jeffrey S. Pearlman

Motion Seq.

AFFIRMATION OF FAITH TOGBA IN SUPPORT OF MOTION FOR LEAVE TO INTERVENE

Faith Togba hereby affirms the truth of the following under penalty of perjury pursuant to

CPLR § 2106:

1.   This affirmation is based on my personal knowledge.

2. I am a voter of the age of 18 and I am registered to vote in the State of New York.

3. My primary residence is located in Staten Island, New York at 44 Christopher St., Staten Island, N.Y. 10303.

4. My primary residence is located within New York's 11th Congressional District.

5. In the November 2024 general election for the U.S. House of Representatives, I voted for Congresswoman Nicole Malliotakis.

6. Further, in the months and weeks before the November 2024 general election for the U.S. House of Representatives, I spent significant time and resources campaigning for the reelection of Congresswoman Malliotakis—whom again, I voted for in the November 2024 election.

7. For the upcoming November 2026 general election for the U.S. House of Representatives, I again intend to vote for Congresswoman Malliotakis.

8. Further, as with the November 2024 election, I expect to spend significant time and resources campaigning for the reelection of Congresswoman Malliotakis in the months and weeks before the November 2026 general election for the U.S. House of Representatives.

9. As a resident and voter in the 11th Congressional District, I do not wish to reside in a racially gerrymandered district and subjected to a racial classification due to reliance on racial criteria in changing the boundaries of the 11th Congressional District.

I affirm this 30th day of October, 2025, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, and I understand that this document may be filed in an action or proceeding in a court of law.

/s/ _____

Faith Togba

WORD COUNT CERTIFICATION

Pursuant to NYCRR 202.8-b, I hereby certify that this Affirmation contains 296 words, exclusive of the caption and signature blocks, and therefore complies with the word-count limit of 7,000 words.

Dated: October 30, 2025

_____
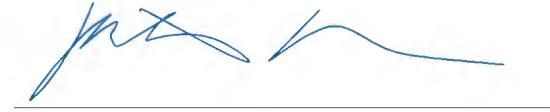
Bennet J. Moskowitz

EXHIBIT DD

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
--X
Michael Williams; José Ramírez-Garofalo; Aixa Torres;
and Melissa Carty,

                                          Petitioners,

                -against-

Board of Elections of the State of New York; Kristen
Zebrowski Stavisky, in her official capacity as Co-
Executive Director of the Board of Elections of the State of
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James, in her official capacity as Attorney General of New
York,

                                      Respondents,
                -and-

Nicole Malliotakis; Edward L. Lai, Joel Medina, Solomon
B. Reeves, Angela Sisto, and Faith Togba,

                            Intervenor-Respondents.
--X

Index No. 164002/2025

Hon. Jeffrey H. Pearlman

<u>NOTICE OF APPEAL</u>

        PLEASE TAKE NOTICE that Intervenor-Respondents Congresswomen Nicole

Malliotakis and Individual Voters Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto,

and Faith Togba (together, the "Appellants-Intervenor-Respondents"), by their attorneys,

Troutman Pepper Locke LLP, hereby appeal to the Appellate Division of the Supreme Court of the State of New York, First Judicial Department from the Opinion and Order of the Hon. Jeffrey S. Pearlman, J.S.C., of the Supreme Court of the State of New York, County of New York, dated January 21, 2026 and entered in the office of the Clerk of the County of New York on January 22, 2026. Appellants-Intervenor-Respondents appeal from each and every part of the aforementioned Opinion and Order.

Appellants-Intervenor-Respondents served a Notice of Entry on Petitioners Michael Williams, José Ramírez-Garofalo, Aixa Torres, and Melissa Carty, and Respondents Board of Elections of the State of New York, Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the Board of Elections of the State of New York, Raymond J. Riley, III, in his official capacity as Co-Executive Director of the Board of Elections of the State of New York, Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York, Henry T. Berger, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York, Anthony J. Casale, in his official capacity as Commissioner of the Board of Elections of the State of New York, Essma Bagnuola, in her official capacity as Commissioner of the Board of Elections of the State of New York, Kathy Hochul, in her official capacity as Governor of New York; Andrea Stewart-Cousins, in her official capacity as Senate Majority Leader and President *Pro Tempore* of the New York State Senate, Carl E. Heastie, in his official capacity as Speaker of the New York State Assembly, Letitia James, in her official capacity as Attorney General of New York, New York Civil Liberties Union Foundation, and Nicholas O. Stephanopoulos on January 26, 2026, a copy of which is attached as Exhibit A.

An information statement pursuant to 22 NYCRR 1250.3 is attached as Exhibit B.

Dated: New York, New York
       January 26, 2026

_____
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Dated: New York, New York
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SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT

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Appellate Division Index No.:
2026-00384

New York County Index No.:
164002/2025

**INTERVENOR-RESPONDENTS'
MEMORANDUM OF LAW IN
SUPPORT OF EMERGENCY
MOTION FOR INTERIM STAY,
STAY AND LEAVE TO APPEAL**

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

ii

iii

iv

Constitutional Provisions

Other Authorities

PRELIMINARY STATEMENT

The order on appeal here has thrown New York's elections into chaos on the eve of the 2026 Congressional Election, which is slated to begin on February 24, 2026. The order has no chance of surviving appellate review, and leaving it in place will only cause massive irreparable harm and prejudice to New York voters, including Intervenor-Respondents Congresswoman Nicole Malliotakis and Individual Voters Edward L. Lai, Joel Medina, Solomon B. Reeves, Angela Sisto, and Faith Togba (collectively, the "Intervenor-Respondents"). **Intervenor-Respondents thus respectfully request emergency relief from the New York appellate courts <u>by no later than February 10, 2026</u>, making clear that the 2026 Congressional Election can begin on February 24, 2026 under the current congressional map.[1] If the New York appellate courts are unable to provide such relief by February 10, Intervenor-Respondents intend to seek emergency relief from the U.S. Supreme Court so that the 2026 Congressional Election can take place under the entirely lawful current map starting on February 24.**

This case involves an entirely meritless challenge to the 11th Congressional District ("CD11"), which has had the same general configuration for decades. CD11 is represented by Congresswoman Malliotakis, the daughter of a Greek immigrant and Cuban refugee, and it has been won by both Democrats and Republicans in the last decade. Just two years ago, the

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[1] It is unclear whether Intervenor-Respondents are able to take a direct appeal from the Supreme Court's decision and order to the New York Court of Appeals, or whether they must instead seek relief in the Appellate Division. The Supreme Court labeled its order as a non-final disposition and stated that "this case shall not be deemed resolved until the successful implementation of a new Congressional Map complying with this order." Affirmation of B. Moskowitz ("Moskowitz Aff."), Ex.A ("Order") at 18. And so it appears that because no final judgment has been issued, Intervenor-Respondents may well need to file their appeal in the Appellate Division, although it is not certain. *See* CPLR § 5601(b)(2). But if that is correct, then Intervenor-Respondents could never seek relief from the Supreme Court's order in the Court of Appeals for the same reason, unless this Court grants leave to seek such review (or if there is a dissent authored by two Justices in the Appellate Division). *See id.* § 5601(a)–(b). Given the uncertainty on these matters, Intervenor-Respondents have filed Notices of Appeal in both courts, Moskowitz Aff., Exs.DD, EE, and have also requested in this Motion that this Court grant Intervenor-Respondents leave to appeal directly to the Court of Appeals, *see infra* Part II.

Legislature adopted a map with the same general configuration, with an overwhelming majority of Black and Latino senators and assembly members voting in favor of the map maintaining CD11's current boundaries, including Respondents Andrea Stewart-Cousins and Carl E. Heastie. Notwithstanding the foregoing, Petitioners brought a Hail Mary lawsuit last year advancing the thesis that because the Black and Latino voters who together make up about 23% of CD11 are expected to elect their candidate of choice at least 25% of the time,[2] this somehow means that these voters do not win enough elections and are entitled to an "influence district" under Article III, Section 4 of the New York Constitution. Petitioners contended that these groups must have a new map where their preferred candidates are expected to win more than half of all congressional elections, which would be accomplished by removing a bipartisan mix of Asian and White voters who live in Southern Brooklyn from CD11 and replacing them with almost uniformly Democratic White voters from Lower Manhattan. Petitioners' *only* legal theory was that Article III, Section 4—adopted in 2014—somehow incorporates the influence district standards in the New York Voting Rights Act of 2022 ("NYVRA"), which apply on their face only to local elections. Even though Petitioners inexplicably waited 18 months after the Legislature's adoption of the map to bring their lawsuit, they demanded that the Supreme Court order the Legislature to adopt their racial reconfiguration of CD11 for the 2026 Congressional Election.

The Supreme Court's decision, issued late last week, rejected much of what Petitioners asked for, but then adopted an approach and remedy that is just as legally indefensible. The Supreme Court correctly dispatched Petitioners' only theory of the case—that Article III, Section 4

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[2] Together, Black and Latino residents comprise approximately 30% or less of Staten Island, Moskowitz Aff., Ex.R ("Borelli Rep.") at 7; *infra* p.13, and comprise less than 23% of CD11's voting-age population, *infra* p.11. Although the relevant inquiry involves voting outcomes in the current congressional district, even if the Court were to look only at the percentage of Black and Latino residents on Staten Island, these residents are achieving near-proportionality with respect to election outcomes.

of the New York Constitution incorporates the "influence district" standards in the NYVRA—while also rejecting Petitioners' remedy of creating an "influence district" by adding White voters from Lower Manhattan into CD11. But rather than dismiss the case as it should have, the Court adopted a different theory gleaned from an *amicus* brief submitted by two academics, based upon those Professors' suggestion—not grounded in any analysis of the New York Constitution—of what constitutes a so-called "coalition crossover" district. Several elements of the Professors' test that the Supreme Court adopted involve evidentiary issues and burdens of proof that no party or expert in this case even opined upon. To make matters even worse—if that were possible—even though the parties briefed at length whether a racial reconfiguration of CD11 would violate the U.S. Constitution's Equal Protection Clause, the Supreme Court ignored that issue entirely. And to top all of this off, the Court blocked any elections from taking place under New York's current congressional map, while ordering the Independent Redistricting Commission ("IRC") to implement the Court's racial gerrymander by no later than February 6, 2026—without even considering whether the IRC could work that quickly and without acknowledging the practical reality that the Court's directive to the IRC would be automatically stayed pending appeal under CPLR Section 5519(a) as soon as any of the Respondents appealed (which has now occurred).

This Court should end the needless chaos that the Supreme Court's order has unleashed, where New York's entirely lawful map is now enjoined with no end in sight. That the order is unlikely to survive review is an understatement. The Court's adoption and application of a test that no party asked for or submitted evidence on is an egregious violation of due process and basic fairness principles. The Court's incorporation of *amici*'s theory into Article III, Section 4—with no basis in the constitutional text or history, and without even the benefit of adversarial briefing—is so indefensible as to violate not only the New York Constitution itself but also the U.S.

Constitution's Elections Clause under *Moore v. Harper*, 600 U.S. 1 (2023). And the order's disregard for the U.S. Supreme Court by not even addressing how its decision could possibly comply with that Court's Equal Protection Clause caselaw, notwithstanding substantial briefing on that issue, is inexplicable.

The equities call out for an immediate stay of the Supreme Court's order prohibiting the 2026 Congressional Election from taking place under the current congressional map—which appears to apply to every congressional district in the State—while also staying all further proceedings in the Supreme Court. The People have the right to start the election on February 24 under the lawful map that the Legislature adopted, including as to CD11. A stay of the Supreme Court's order and proceedings will allow the appellate courts to sort out the many errors in that Court's decision, which will very likely end up requiring dismissal of Petitioners' lawsuit. But at the absolute minimum, if their case somehow survives appeal, it will need to be changed entirely under a legal standard that complies with Article III, Section 4's text, and is consistent with U.S. Supreme Court caselaw. All of that can take place after the 2026 elections, which Petitioners cannot legitimately complain about given their inexplicable delay in launching this lawsuit.

BACKGROUND

A.   CD11's Boundaries Have Been In Place For Decades

What is now New York's CD11 first linked Staten Island with the Southern Brooklyn neighborhoods of Bay Ridge and Dyker Heights in 1982, expanding in 1992 to include Bath Beach and parts of Gravesend and Bensonhurst. Moskowitz Aff., Ex.B ("Trende Rep.") at 19–20. Apart from minor alterations in 2002 and 2012, CD11—renumbered from CD13 in 2012—has retained that configuration, tying Staten Island and Southern Brooklyn. *Id.* at 21–22.

Following the 2020 census, population shifts rendered New York's "2012 congressional apportionment . . . unconstitutional" and required "the drawing of new district lines," giving the

4

IRC its "first opportunity" to redistrict under the "procedures established by the 2014 constitutional amendments" to the New York Constitution (the "2014 Amendments"). *Harkenrider v. Hochul*, 38 N.Y.3d 494, 504 (2022) (citation omitted); *see* N.Y. Const. art. III, §§ 4, 5-b. The IRC ultimately deadlocked, and so the Legislature purported to adopt its own congressional redistricting plan that Governor Hochul signed into law on February 3, 2022. *Harkenrider*, 38 N.Y.3d at 504–05. The Court of Appeals in *Harkenrider* struck down that map as unconstitutional on both procedural and substantive grounds. *Id.* at 508–20. To remedy the procedural flaw, *Harkenrider* ordered the Steuben County Supreme Court to "adopt [a] constitutional map[ ]" itself, 38 N.Y.3d at 524, which resulted in the *Harkenrider* Map, *see Harkenrider*, Index No. E2022-0116CV, NYSCEF Doc. No.670 at 1–2, 5; *see also Harkenrider*, Index No.E2022-0116CV, NYSCEF Doc. No.696 at 1 (adopting modified map correcting technical violations). The *Harkenrider* Map largely maintained CD11's historical boundaries, linking Staten Island and Southern Brooklyn. *See Harkenrider*, Index No. E2022-0116CV, NYSCEF Doc. No.670 at 25.

The *Harkenrider* Map governed New York's 2022 congressional election, *see Hoffmann v. N.Y. State Indep. Redistricting Comm'n*, 41 N.Y.3d 341, 354–55 (2023), and, as relevant here, Congresswoman Malliotakis was reelected to represent CD11, Moskowitz Aff., Ex.C ("Malliotakis Aff.") ¶ 2. Congresswoman Malliotakis is the daughter of immigrants—her father is from Greece, and her mother is a Cuban refugee of the Castro dictatorship—and she was first elected to the U.S. House of Representatives in 2020, making her the first Latino and minority to represent CD11. *Id.* ¶ 3. Her election also made her the only elected Republican member of Congress representing *any* part of New York City. *See* N.Y. GIS Clearinghouse, GIS Data, *NYS*