



## Center for Law and Social Justice

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### VIA ECF

The Honorable Roanne L. Mann  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: **Favors v. Cuomo**  
11 Civ. 5632

Dear Judge Mann:

Plaintiffs-Intervenors Donna Drayton et al., in accordance with the Court's instruction at the hearing held on February 27, 2012, respectfully submit this letter brief, along with the attached Declaration of Dr. Andrew Beveridge, objecting to certain of the plans submitted by the parties herein. This letter focuses on whether these plans violate Section 2 of the Voting Rights Act. Dr. Beveridge's Declaration provides an analysis of these plans in light of the Voting Rights Act and in light of the other criteria set forth in Rodriguez v. Pataki, 207 F. Supp. 2d 123, 125 (S.D.N.Y. 2002).

### **Introduction**

Using the Unity Plan as a bench mark, plaintiffs-intervenors examined the areas that cover the four New York City Congressional districts where Blacks have traditionally elected representatives, as well as the dense Black communities of the Northeast Bronx/ Lower Westchester and Long Island. In so doing, we focused on whether the other proposed redistricting plans submitted by the parties herein complied with the Voting Rights Act. Although the Supreme Court has held that redistricting plans prepared and adopted by a federal court are exempt from Section 5 review, see Connor v. Johnson, 402 U.S. 690, 691 (1971), the Court has also made clear that court-ordered plans must meet the requirements of Section 2 of the Voting Rights Act. See e.g., Winter v Brooks, 461 U.S. 921 (1983) (mem).

Section 2 of the Voting Rights Act prohibits any state or political subdivision from imposing any voting qualification, standard, practice or procedure that deprives voters of an effective opportunity to nominate and elect candidates of choice because of

their race, color or status as a member of a language minority group. 42 U.S.C. Section 1973(a). Generally, in the reapportionment context, Section 2 challenges involve claims by protected groups that their communities have been “packed” or “fractured.” In brief, “packing” occurs when a minority group is concentrated into one or more districts so that the group constitutes an overwhelming majority in those districts, thus minimizing the number of districts in which the minority could elect candidates of their choice. See e.g., Voinovich v. Quilter, 507 U.S. 146, 153-54 (1993). “Fracturing,” “cracking” or “splitting” occurs when a group of minority voters is broken off from a concentration of minority voters and added to a large majority district. Gingles v. Edmisten, 590 F. Supp. 345, 374-375 (E.D. N. C. 1984), *aff’d in part, rev’d in part sub nom. Thornburg v. Gingles*, 478 U.S. 30 (1986). As detailed below, the maps submitted by Common Cause, the Assembly Majority, the Assembly Minority, the Senate Majority and the Rose Intervenors each engage in these nefarious practices.

## I. COMMON CAUSE MAPS

**DISTRICT 6** (Queens and Western Long Island) – Common Cause’s District 6 wrongly excludes the heavily Black area of Elmont, where residents form a community of interest with the Black residents of South East Queens. It also unnecessarily includes the Jamaica Estates area.

**DISTRICT 10** (Central Brooklyn and South Brooklyn) – Common Cause’s District 10 cracks the traditionally Black communities of Crown Heights and Prospect Heights. In addition, it splits Canarsie, an emerging Black community and excludes two additional areas with substantial Black population—namely, the South East area of Brooklyn and Coney Island. Common Cause’s District 10 also fails to follow the Black residential migration towards South East Brooklyn.

**DISTRICT 11** (Central Brooklyn) – Common Cause’s District 11 cracks both Crown Heights and Canarsie. It also wrongly includes heavily White voting areas of Marine Park and Gravesend.

**DISTRICT 13** (South Brooklyn) – Common Cause’s District 13 splits Canarsie and the emerging Black populations in Mill Basin from other Black areas in South East Brooklyn and Coney Island.

**DISTRICT 14** (Harlem and the West Bronx)- Common Cause’s District 14 cracks Harlem (which should be included as a whole within a district) by splitting West Harlem from Central Harlem and East Harlem and instead including Riverdale, a predominately White community in the West Bronx.

**DISTRICT 15** (Harlem and South and Central Bronx)- Common Cause’s District 15 cracks Harlem by splitting West Harlem from Central Harlem and East Harlem.

**DISTRICT 17** (North Bronx and Westchester) – Common Cause’s District 17 combines Williamsbridge with Rye and Mamaroneck, two predominately NH White communities,



rather than following the historical pattern of combining Williamsbridge with Mount Vernon and adjacent areas that have elected a Black state representative.

## II. ASSEMBLY MAJORITY MAPS

**DISTRICT 6** (Western Long Island) - Assembly Majority District 6 improperly splits the Rockaway peninsula.

**DISTRICT 8 [UNITY MAP 10]** (Central Brooklyn and South Brooklyn) Assembly Majority District 8 splits off Black communities of Mill Basin and Coney Island from similar communities in Southern Brooklyn. It instead pairs these communities with the West Side of *Manhattan*, including the Upper West Side and joins them to dissimilar communities in West Brooklyn like Boro Park and Bay Ridge.

**DISTRICT 10** (Central Brooklyn and South Brooklyn) - Assembly Majority District 10 removes the Black community of Coney Island and the emerging Black community of Mill Basin.

**DISTRICT 11** (Central Brooklyn) - Assembly Majority District 11 cracks East Flatbush.

**DISTRICT 15** (Harlem, Upper West Side and Queens)- Assembly Majority District 15 excludes Rikers Island.

**DISTRICT 17** (North Bronx and Westchester)- Assembly Majority District 17 cracks Black communities of interest by splitting Co-Op City and Black areas in Southern Westchester from the Bronx's Williamsbridge area.

## III. KOLB ASSEMBLY MINORITY MAPS

**DISTRICT 5 [UNITY MAP 6]** (Western Long Island) Assembly Minority District 5 cracks the Black communities in Queens by removing the Rockaways from Jamaica and bordering South East Queens. Instead, it includes the Five Towns area within the district.

**DISTRICT 8 [UNITY MAP 15]** (Harlem, Northern Manhattan, Upper West Side and Queens) - Assembly Minority District 8 excludes the Inwood community of Northern Manhattan, increases the area from the Upper West Side, and includes an increased area of Western Queens.

**DISTRICT 10** (Central Brooklyn and South Brooklyn) - Assembly Minority District 10 cracks Flatbush/East Flatbush and removes Black communities in Southeast Brooklyn, instead including White areas of Carroll Gardens, Boerum Hill and Brooklyn Heights.

**DISTRICT 11** (Central Brooklyn) - Assembly Minority District 11 cracks Flatbush/ East Flatbush.

**DISTRICT 12** (NorthEast Brooklyn Red Hook Sunset Park, Chinatown) Assembly Minority District 12 destroys the traditional district where a Latina has been elected, and replaces it with a highly questionable “minority district.”

**DISTRICT 15** (North Bronx /Westchester) - Assembly Minority District 15 splits Co-Op City by placing one part of it in 15 and the other part in 16. In addition, it also includes all of Eastchester, which has a NH White population of 87%, as opposed to the Unity Plan which instead includes Greenburgh which only has a NH White population of 67%.

**DISTRICT 16** [UNITY MAP 17] (North Bronx and Westchester) - Assembly Minority District 16 cracks Black communities of interest by splitting Co-Op City from the Williamsbridge area, Mount Vernon and New Rochelle.

#### IV SENATE MAJORITY

**DISTRICT 5** [UNITY MAP 6] (Queens Western Long Island)- Senate Majority District 5 improperly splits the Rockaway peninsula.

**DISTRICT 9** [UNITY MAP 11] (Central Brooklyn)- Senate Majority District 9 removes Southeast Brooklyn’s Black communities of Mill Basin and Coney Island, instead including the heavily White area of Park Slope.

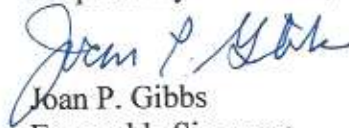
**DISTRICT 10** [UNITY MAP 11] (Central Brooklyn and South Brooklyn) - Senate Majority District 10 removes Mill Basin and Coney Island communities and, instead, *by a thin neck*, includes Bensonhurst area.

**DISTRICT 14** [UNITY MAP 15] (Harlem, Upper West Side and Queens)- Senate Majority District 14 **cracks Harlem into three districts**-- District 12 West Harlem, District 14 Central Harlem and District 15 East Harlem.

**DISTRICT 17** (North Bronx, Westchester and Orange) - Senate Majority District 17 cracks Black communities of interest by splitting the Williamsbridge area from Co-op City and Southern Westchester’s New Rochelle and Yonkers areas. Instead, it joins Williamsbridge with Greenburgh via a thin neck thru most of Westchester and adding Orange County.

In conclusion, the Court should reject the proposed plans of Common Cause, the Assembly Majority, the Assembly Minority, the Senate Majority and the Rose Intervenors (see Plaintiffs-Intervenors Ramos’ Response to Congressional Redistricting Plan, pages 7-9) as their adoption would serve to dilute the votes of Black voters in violation of Section 2 of the Voting Rights Act.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joan P. Gibbs". The signature is written in a cursive style with a large initial "J".

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