

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,

Index No. 164002/2025

Petitioners,

-against-

Memorandum of Law in
Support of Petition

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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TABLE OF CONTENTS

Preliminary Statement..... 1

Background 4

I. New York law protects minority voting rights through expansive prohibitions on racial vote dilution. 4

A. In 2014, New York voters amended the Constitution to explicitly prohibit racial vote dilution in congressional redistricting. 4

B. In 2022, the Legislature extended the Constitution’s protections to local elections through the New York Voting Rights Act and adopted detailed standards for proving racial vote dilution..... 5

II. The Legislature enacted the 2024 Congressional Map following a tumultuous redistricting process..... 8

III. CD-11 fails to account for significant changes in Staten Island’s racial demographics over the last several decades. 10

A. Staten Island has become increasingly diverse since the mid-twentieth century..... 10

B. The current configuration of CD-11 does not account for the recent demographic changes to the district..... 11

Argument 14

I. The NY VRA provides the appropriate framework for evaluating vote dilution under Article III, Section 4 of the New York Constitution..... 14

II. Under the 2024 map, the votes of Black and Latino Staten Islanders are diluted in CD-11, in violation of Article III, Section 4 of the New York Constitution. 19

A. Voting on Staten Island is racially polarized because White citizens vote cohesively to defeat Black and Latino voters’ preferred candidates..... 20

B. Under the totality of the circumstances, Black and Latino voters have less opportunity to elect candidates of their choice and influence the outcomes of elections in CD-11... 22

i. The history of discrimination on Staten Island has led to significant socioeconomic disadvantages for Blacks and Latinos, limiting their ability to participate equally in the political process..... 22

ii. Few Black and Latino candidates have been elected to office on Staten Island. 28

iii. Political campaigns on Staten Island have featured racial appeals..... 29

iv. There is no “compelling policy justification” for the current district lines
in CD-11..... 30

C. A new congressional district can be drawn that would remedy the racial vote dilution
and comply with traditional districting criteria..... 31

Conclusion 39

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Ala. State Conf. of NAACP v. Alabama</i> , 612 F. Supp. 3d 1232 (M.D. Ala. 2020)	20
<i>Bartlett v. Strickland</i> , 556 U.S. 1 (2009)	4, 35
<i>Caster v. Allen</i> , No. 2:21-CV-1536-AMM, 2025 WL 1643532 (N.D. Ala. May 8, 2025)	31
<i>Clarke v. Town of Newburgh</i> , 237 A.D.3d 14 (2d Dept. 2025)	7, 16, 17
<i>Coads v. Nassau County</i> , 236 N.Y.S.3d 490 (Sup. Ct., Nassau County 2024)	17
<i>Diaz v. Silver</i> , 978 F. Supp. 96 (E.D.N.Y. 1997)	35, 37
<i>Harkenrider v. Hochul</i> , 2022 N.Y. Slip Op. 31471(U), 2022 WL 1951609 (Sup. Ct., Steuben County, May 20, 2022)	17
<i>Harkenrider v. Hochul</i> , 38 N.Y.3d 494 (2022)	<i>passim</i>
<i>Harkenrider v. Hochul</i> , 173 N.Y.S.3d 119 (2022)	17, 33, 34
<i>Hayden v. Paterson</i> , 594 F.3d 150 (2d Cir. 2010)	27
<i>Hoffmann v. N.Y. State Indep. Redistricting Comm’n</i> , 41 N.Y.3d 341 (2023)	9
<i>Johnson v. De Grandy</i> , 512 U.S. 997 (1994)	35
<i>People v. Harris</i> , 77 N.Y.2d 434 (1991)	15, 18, 19
<i>Ruiz v. City of Santa Maria</i> , 160 F.3d 543 (9th Cir. 1998)	29

<i>Serratto v. Town of Mount Pleasant</i> , 233 N.Y.S.3d 885 (Sup. Ct., Westchester Cnty. 2025).....	20
<i>Soto Palmer v. Hobbs</i> , 686 F. Supp. 3d 1213 (W.D. Wash. 2023).....	29
<i>Thornburg v. Gingles</i> , 478 U.S. 30 (1986).....	7, 20
<i>Veasey v. Abbott</i> , 830 F.3d 216 (5th Cir. 2016).....	24

Constitutional Provisions and Statutes

N.Y. Const. art. III, § 4(b).....	4, 8
N.Y. Const. art. III, § 4(c).....	<i>passim</i>
52 U.S.C. § 10301	16
N.Y. Elec. Law § 17-200	<i>passim</i>
N.Y. Elec. Law § 17-202	5
N.Y. Elec. Law § 17-204	6, 7, 20
N.Y. Elec. Law § 17-206	<i>passim</i>

Other Authorities

2024 NY Senate Bill S8639, 2024 NY Assembly Bill A9304	9
2024 NY Senate Bill S8653A, 2024 NY Assembly Bill 9310A.....	9
Assembly Mem. In Support, 2013 N.Y. Senate-Assembly Concurrent Resolution S2107, A2086.....	4
Letter re: Proposed Congressional Map, <i>Harkenrider v. Hochul</i> , Index No. E2022-0116CV (N.Y. Sup. Ct., Steuben County), NYSCEF Doc. No. 313.....	36
N.Y. C.L. Union & NAACP Legal Def. Fund, Inc., John R. Lewis Voting Rights Act of New York 1 (2023), https://perma.cc/U53B-CYC5	17
N.Y. City Charter § 52(2)	33
New York Assembly, <i>Charles D. Fall</i> , https://nyassembly.gov/mem/Charles-D-Fall (last visited Nov. 17, 2025).....	28

New York City Council—District 49, https://council.nyc.gov/district-49/ (last visited Nov. 17, 2025)	28
<i>New York Redistricting and You</i> , https://newyork.redistrictingandyou.org/?districtType=cd&propA=cong_nyirc_20240215&propB=cong_legamend_20240226&opacity=0&selected=-74.12227663802202,40.583456106019945#%26map=7.48/41.322/-74.234 (last visited Nov. 17, 2025)	9
<i>New York Redistricting and You</i> , https://newyork.redistrictingandyou.org/?districtType=cd&propA=congress_latfor_20220202&propB=cong_	38
<i>New York Redistricting and You</i> , https://newyork.redistrictingandyou.org/?districtType=cd&propA=congress_specialmastercorrected_20220604&propB=cong_nyirc_20240215&opacity=2&selected=74.12227663802202,40.583456106019945#%26map=10.46/40.6097/-74.0286 (last visited Nov. 17, 2025).	9
Rep. of the Special Master, <i>Harkenrider v. Hochul</i> , Index No. E2022-0116CV (N.Y. Sup. Ct., Steuben County, May 21, 2022), NYSCEF Doc. No. 670	9
Statement of Homecrest Community Services by Kay Wong, Comment Letter to the New York Independent Redistricting Commission (July 28, 2021), https://perma.cc/MKC7-KTBA..	37
Statement of OCA-NY by Dr. Wah Lee, Comment Letter to the New York Independent Redistricting Commission (July 29, 2021), https://perma.cc/MKC7-KTBA	36
U.S. Census Bureau, <i>Profile: Richmond County, New York</i> , https://perma.cc/K397-GT52	10

PRELIMINARY STATEMENT

Although Black and Latino Staten Islanders constitute nearly 30 percent of the Borough's population, they have virtually no ability to influence the outcome of elections and elect a candidate of their choice in their home congressional district encompassing Staten Island, New York's Eleventh Congressional District ("CD-11"). Over the past 45 years, the combined Black and Latino population on Staten Island has climbed from approximately 11% in 1980 to nearly 30% of the Borough's population today. This increase in population, however, has not translated to a corresponding increase in Black and Latino residents' ability to influence the election of their congressional representative. Instead, the current configuration of CD-11 has remained virtually unchanged since it was redrawn after the 1980 Census, which has resulted in a district in which Black and Latino voters have less opportunity than other members of the electorate to elect candidates of their choice and influence elections, in violation of New York law.

In 2014, New York voters amended the New York Constitution to explicitly prohibit the dilution of minority voting strength (the "Redistricting Amendments"). These "historic reforms of the redistricting process," *Harkenrider v. Hochul*, 38 N.Y.3d 494, 501 (2022)—which first became effective following the 2020 Census—provide explicit protection against racial vote dilution, requiring 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) (emphasis added). Instead, Article III of the New York Constitution requires that districts "shall be drawn so that, based on the totality of the circumstances," racial minorities "do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice." *Id.*

Article III, Section 4 of the State Constitution (which governs congressional, State Assembly, and State Senate elections) works in tandem with the 2022 John R. Lewis New York

Voting Rights Act (“NY VRA”) (which governs local elections) to comprehensively safeguard minority voting rights in all elections statewide. *See* N.Y. Elec. Law § 17-200. Although the NY VRA does not, by its terms, directly regulate congressional redistricting, the Legislature plainly intended through that enactment to extend Article III, Section 4’s protections to elections at the local level. Like Article III, Section 4, the NY VRA provides that “[n]o 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 outcome of elections, as a result of vote dilution.” *Id.* § 17-206(2)(a).

The NY VRA, which provides more expansive protection of minority voting rights than federal law, also offers a detailed analytical framework for evaluating a racial vote dilution claim. Because the NY VRA’s vote dilution prohibition protects the same right as the vote dilution prohibition in Article III, Section 4, and given the similarities in language and scope of the two provisions, the best approach is for this Court to use the NY VRA’s analytical framework to evaluate Petitioners’ constitutional vote dilution claim. Failing to do so would create an inconsistent application of vote dilution protections across the state, with the absurd result that New York law would afford more robust protections *only* to voters in municipal and local elections, while lesser protections would apply to congressional, State Assembly, and State Senate elections.

Applying the proper framework, Black and Latino Staten Islanders’ voting strength is unlawfully diluted if their preferred candidates are usually defeated, and either “(A) voting patterns of members of the protected class within the political subdivision are racially polarized; 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.” *Id.* § 17-

206(2)(b)(iii)(A)–(B). In this case, both are true. In CD-11, there is significant racially polarized voting in which Black and Latino voters consistently prefer the same candidates, but the White majority voting bloc has just as consistently defeated those candidates, historically and in recent elections. Moreover, the totality of the circumstances factors strongly support a finding of unlawful racial vote dilution. Staten Island, which comprises the majority of CD-11, has a long and reprehensible history of discrimination against Black and Latino residents, including official policies resulting in extreme residential segregation, which has contributed to disadvantages for Black and Latino residents that have limited their ability to participate in the political process.

CD-11 does not have to be configured as it is in the 2024 map. Staten Island’s population is too small to constitute its own congressional district, but prior to the 1980 Census, Staten Island was joined in a congressional district with several neighborhoods in Manhattan. That configuration also appears in the current State Assembly map, in which State Assembly District 61 joins Staten Island with the southern-most neighborhoods in Manhattan. As shown in Petitioners’ Illustrative Map, *see* Cooper § IV, a congressional district configured in that manner today—joining southern Manhattan with Staten Island—would give Black and Latino Staten Islanders an equal opportunity to elect candidates of their choice in CD-11. The Redistricting Amendments required the Legislature to adopt a districting plan containing such a district, and its failure to do so violates Article III, section 4 of the New York Constitution.

Petitioners therefore respectfully ask this Court to invalidate the 2024 congressional map and order the Legislature to create a district in which Black and Latino Staten Islanders have an opportunity to influence elections and elect a representative of their choice in CD-11, as is demonstrated in Petitioners’ Illustrative Map.

BACKGROUND

I. New York law protects minority voting rights through expansive prohibitions on racial vote dilution.

A. In 2014, New York voters amended the Constitution to explicitly prohibit racial vote dilution in congressional redistricting.

In 2014, “the People of the State of New York amended the State Constitution to adopt historic reforms of the redistricting process,” *Harkenrider*, 38 N.Y.3d at 501, including changes that “guarantee[] the application of substantive criteria that protect minority voting rights.” *See* Assembly Mem. In Support, 2013 N.Y. Senate-Assembly Concurrent Resolution S2107, A2086.

The Constitution’s prohibition on vote dilution is contained in Article III, Section 4(c)(1). It 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). In addition, “[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.” *Id.* These provisions apply specifically to New York’s state assembly, senate, and congressional districts. *Id.* art. III, § 4(b). The Redistricting Amendments list the express prohibition on vote dilution along with other redistricting criteria, including equal population size, contiguity, compactness, maintaining competition and the “cores of existing districts,” as well as a prohibition on partisan or incumbency-based gerrymandering. *See id.* § 4(c)(2)–(5).

By enshrining protections against minority vote dilution in the Constitution, New York voters seized upon the U.S. Supreme Court’s acknowledgement that states may go further than the minimum requirements of the federal Voting Rights Act in order to protect minority voters. *See Bartlett v. Strickland*, 556 U.S. 1, 23 (2009) (plurality op.); *see also* N.Y. Elec. Law § 17-200 (“[T]he protections for the right to vote provided by the constitution of the state of New York . . .

substantially exceed the protections for the right to vote provided by the constitution of the United States.”).

B. In 2022, the Legislature extended the Constitution’s protections to local elections through the New York Voting Rights Act and adopted detailed standards for proving racial vote dilution.

In 2022, the New York Legislature extended the protections against minority vote dilution in the Constitution to local elections in the NY VRA. *Id.* § 17-202. While the NY VRA, by its terms, does not directly regulate congressional redistricting, it provides an analytical framework for evaluating a racial vote dilution claim brought under the New York Constitution, as the two prohibitions protect the same right as applied to different elections. *See* N.Y. Elec. Law §§ 17-200, 17-206(2).

Like the vote dilution prohibition in Article III, Section 4(c)(1), the NY VRA’s protection against vote dilution is expansive. The purpose of the NY VRA is to “[e]nsure that eligible voters who are members of racial, color, and language-minority groups shall have an equal opportunity to participate in the political processes of the state of New York.” *Id.* § 17-200. The law further provides that “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.” *Id.* § 17-202.

The vote dilution provision of the NY VRA prohibits “method[s] of election” that have “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.” *Id.* § 17-206(2)(a). Vote dilution can be proved one of two ways, by showing “that candidates . . . preferred by members of the protected class would usually be defeated, and either: (A) voting patterns of members of the protected class within the political subdivision are racially polarized; 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.” *Id.* § 17-206(2)(b)(i).

Under the first method, racially polarized voting occurs when “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.” *Id.* § 17-204(6). The statute defines a protected class as “a class of individuals who are members of a race, color, or language-minority group,” and therefore includes Black and Latino voters. *Id.* § 17-204(5).

Under the second method of demonstrating vote dilution, petitioners must show that the totality of the circumstances impair the ability of members of the protected class to elect candidates of their choice or influence the outcome of elections. The totality of the circumstances factors 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;
- (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 [access] 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.

Id. § 17-206(3).

The NY VRA sweeps more broadly than federal law. To sustain a claim of racial vote dilution under the NY VRA, plaintiffs must show proof of *either* racially polarized voting *or* that the totality of the circumstances factors have been met. N.Y. Elec. Law § 17-206(2)(b)(ii). Petitioners under the NY VRA do not need to show that a district could be drawn in which the protected minority group would form a majority of the district's residents. Rather, "the NYVRA specifically allows for remedies that might allow for minorities to elect their candidates of choice or influence the outcome of elections without their constituting a majority in a single-member district." *Clarke v. Town of Newburgh*, 237 A.D.3d 14, 38 (2d Dept. 2025). This is in contrast to the federal VRA, for which the U.S. Supreme Court has set forth the following three requirements (known as the *Gingles* factors), all of which must be met to state a claim for racial vote dilution: (1) the protected group "must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district"; (2) it is "politically cohesive"; and (3) the "majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority's preferred candidate." *Thornburg v. Gingles*, 478 U.S. 30, 50–51 (1986).

The NY VRA also explicitly provides for claims on behalf of multiple minority groups: "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.” N.Y. Elec. Law § 17-206(2)(c). Accordingly, under certain circumstances (like those present in this case), the NY VRA requires the creation of crossover and minority influence districts, or districts in which racial minorities can join with other racial minorities and White crossover voters to influence elections and elect their representatives of choice.

II. The Legislature enacted the 2024 Congressional Map following a tumultuous redistricting process.

The Redistricting Amendments reformed the congressional and state legislative redistricting processes and mandated specific substantive criteria for district maps. In addition to prohibiting racial vote dilution in redistricting, among other changes, the Redistricting Amendments created an independent redistricting commission (the “IRC”), which is required to submit proposed redistricting plans for consideration by the Legislature, as well as detailed procedures by which the Legislature could approve, reject, or modify plans submitted by the IRC. *See* N.Y. Const. art. III, § 4(b).

In the first redistricting cycle following the enactment of the Redistricting Amendments—the cycle immediately following the 2020 Census—the IRC process failed. After the IRC’s first proposed set of districting maps was rejected by the Legislature, the IRC deadlocked and failed to send a second set of maps to the Legislature, as required by the New York Constitution. N.Y. Const. art. III, § 4(b); *see Harkenrider*, 38 N.Y.3d at 504–05. As a result, and following a legal challenge to the map eventually passed by the Legislature, the congressional map in place for the 2022 elections (the “2021 Congressional Map”) was drawn by a special master at the behest of the Steuben County Supreme Court with minimal opportunity for public comment and scrutiny. *Harkenrider*, 38 N.Y.3d at 524. The special master admitted in his report that he did not actively avoid the dilution of minority voting strength. Instead, he hoped that dilution would be avoided

simply because “the largest minority groups . . . are almost always highly geographically concentrated.” Rep. of the Special Master at 11, *Harkenrider*, Index No. E2022-0116CV (N.Y. Sup. Ct., Steuben County, May 21, 2022), NYSCEF Doc. No. 670.

Following additional litigation, the Court of Appeals ordered the IRC to redraw the 2021 Congressional Map to fix the procedural defects by requiring the IRC to submit a second congressional map to the Legislature. *Hoffmann v. N.Y. State Indep. Redistricting Comm’n*, 41 N.Y.3d 341, 370 (2023). The IRC submitted a second congressional map to the Legislature that made very few substantive changes and no changes at all to the configuration of CD-11.¹ The Legislature rejected the IRC’s map, *see* 2024 NY Senate Bill S8639, 2024 NY Assembly Bill A9304, and ultimately drew its own, but did not make any sweeping substantive changes.² The 2024 Congressional Map, which was passed by the Legislature on February 28, 2024, did not alter the configuration of CD-11. *See* 2024 NY Senate Bill S8653A, 2024 NY Assembly Bill 9310A. Although the enactment of the 2024 Congressional Map fixed the procedural defects identified in *Hoffman*, it did not remedy the unlawful racial vote dilution in CD-11.

¹ *New York Redistricting and You*, https://newyork.redistrictingandyou.org/?districtType=cd&propA=congress_specialmastercorrected_20220604&propB=cong_nyirc_20240215&opacity=2&selected=74.12227663802202,40.583456106019945#%26map=10.46/40.6097/-74.0286 (last visited Nov. 17, 2025).

² *New York Redistricting and You*, https://newyork.redistrictingandyou.org/?districtType=cd&propA=cong_nyirc_20240215&propB=cong_legamend_20240226&opacity=0&selected=-74.12227663802202,40.583456106019945#%26map=7.48/41.322/-74.234 (last visited Nov. 17, 2025).

III. CD-11 fails to account for significant changes in Staten Island’s racial demographics over the last several decades.

A. Staten Island has become increasingly diverse since the mid-twentieth century.

Staten Island spans 57.5 square miles but is the smallest borough by population.³ When Staten Island was first annexed by New York City in 1898, it was “mostly rural area.” Sugrue ¶ 9. In the twentieth century, however, its population began to grow, spurred in large part by transit links to other parts of New York City. The most important developments were the Staten Island Ferry, which connects Staten Island to Manhattan, and the Verrazano Narrows Bridge, which connects Staten Island to Brooklyn. *Id.* ¶ 10.

Prior to the 1980s, Staten Island was overwhelmingly White. *See id.* ¶ 12. The Island was home to only a small population of Black citizens, and they were confined to the North Shore, particularly the Stapleton area and Sandy Ground. *Id.* ¶ 9. Both neighborhoods carried deep historical significance for the African-American community. Stapleton is “home to Stapleton AME Church, the borough’s oldest Black Church,” and Sandy Ground is “the oldest free Black settlement on the East Coast, founded by former slaves from Maryland in 1828, the year after New York State abolished slavery.” *Id.*

Staten Island’s demography began to meaningfully change in the 1980s. *Id.* ¶ 12. New transportation options between Staten Island and mainland New York City, including the opening of the Verrazzano-Narrows Bridge in 1964, helped facilitate waves of immigration to the borough through the late twentieth and early twenty-first centuries. Between 1980 and 2020, Staten Island’s population ballooned by approximately 40%. During this period, the White population on Staten Island dropped from 85% to 56%, while the combined Black and Latino population increased from

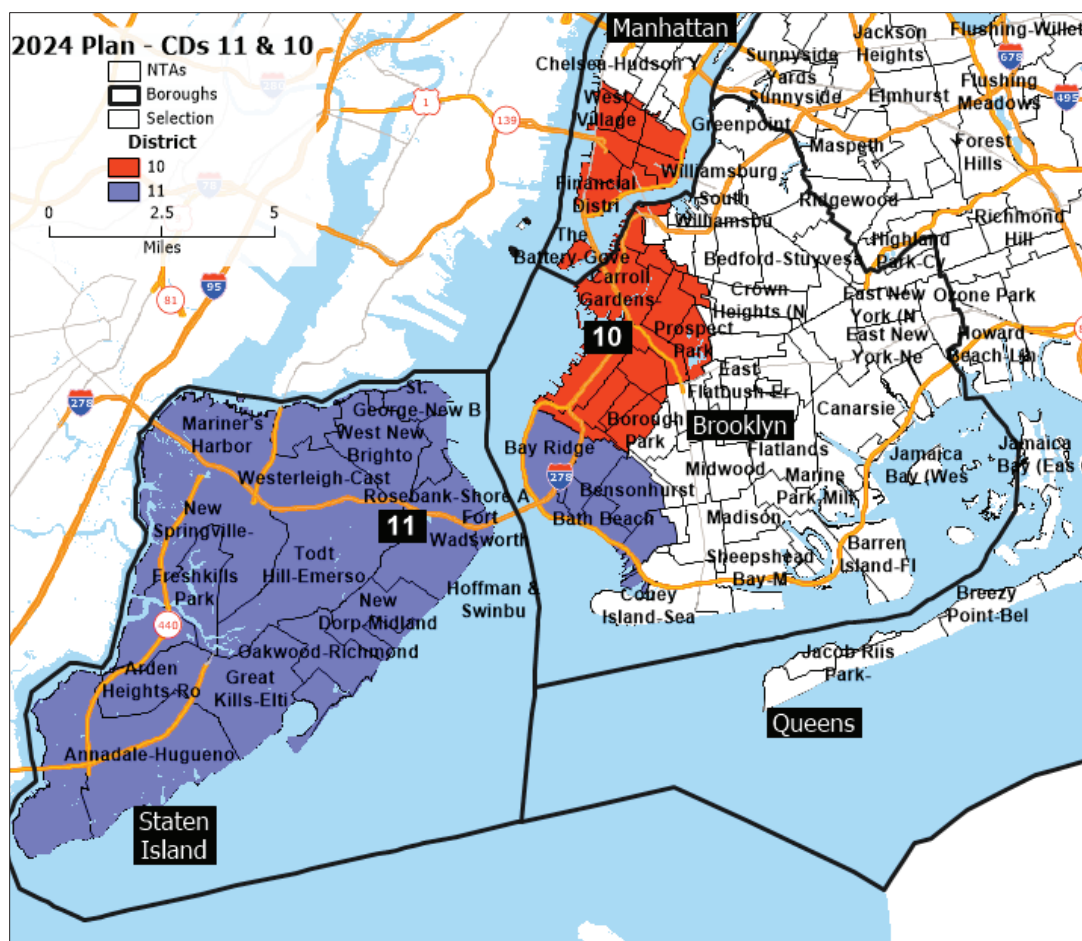
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U.S. Census Bureau, *Profile: Richmond County, New York*, <https://perma.cc/K397-GT52>.

approximately 11% to nearly 30%. *Id.* While the growth of the Black and Latino populations has been significant, it has been unevenly distributed across the Island. Most of Staten Island's Black and Latino residents live in the North Shore, in neighborhoods such as St. George, Tompkinsville, Stapleton, and Clifton. *See id.* ¶ 16.

B. The current configuration of CD-11 does not account for the recent demographic changes to the district.

Even though Staten Island's population began to grow in the twentieth century, it has never had enough residents to comprise its own congressional district. Cooper ¶ 36. Thus, to equalize population, the Legislature has always joined Staten Island with neighboring sections of either Brooklyn or Manhattan. Under the 2024 Congressional Map, CD-11 encompasses all of Staten Island and the southwestern-most portion of Brooklyn across the Verrazzano-Narrows Bridge, including Fort Hamilton, Dyker Heights, New Utrecht, Bath Beach, and Bensonhurst:

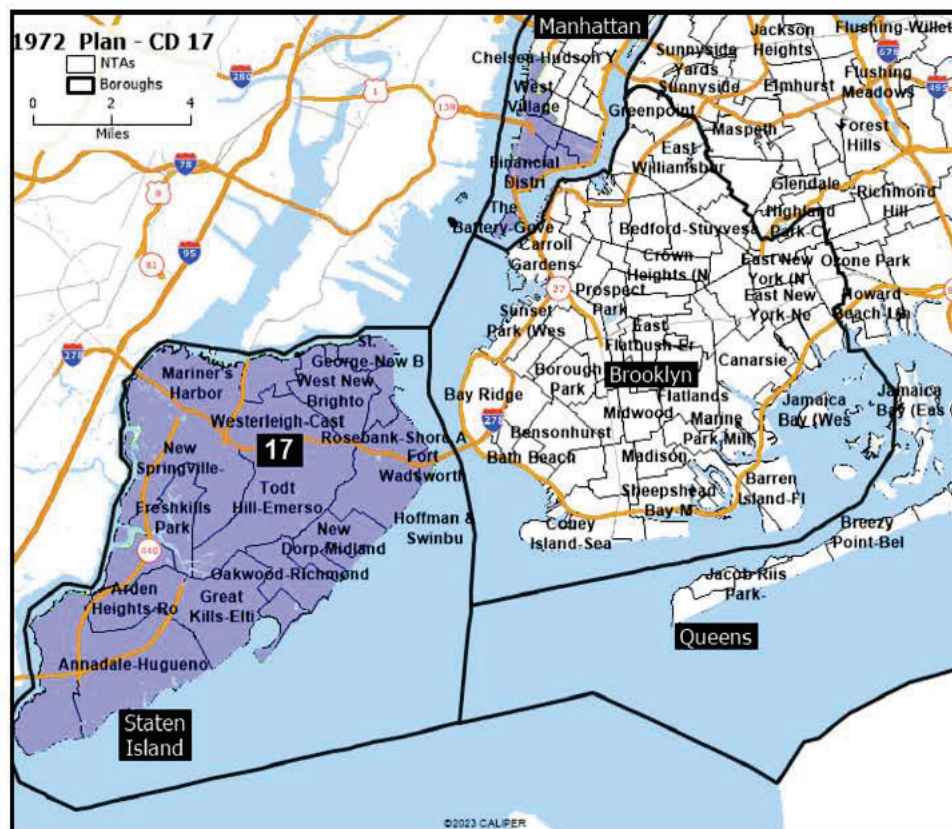


Cooper, Fig. 1 & Ex. F-1.

Staten Island's congressional district has remained roughly the same—joining Staten Island with neighborhoods in southern Brooklyn—since the early 1980s. This configuration of CD-11, however, does not account for the stark changes in the Island's demographic makeup since that time. As a result, Staten Island's Black and Latino residents remain in a district where they consistently and systematically have less opportunity to influence elections and elect their representatives of choice.

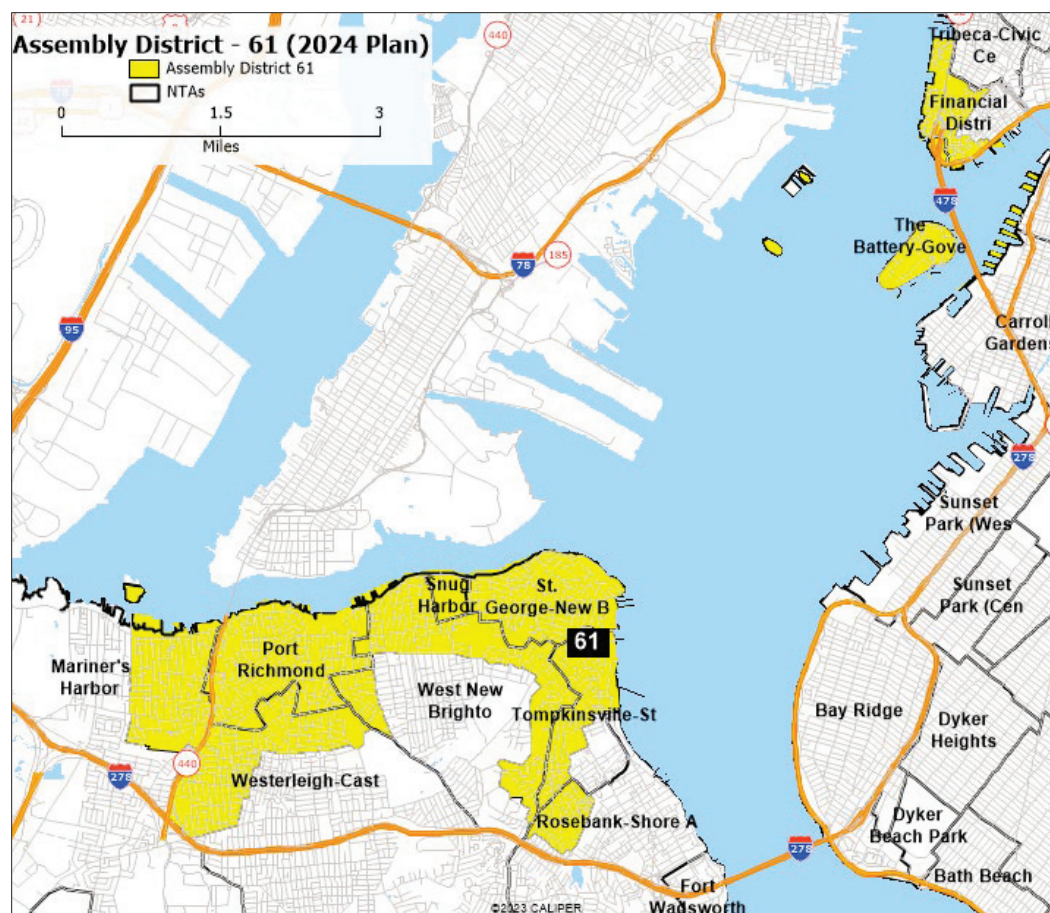
Joining Staten Island with Brooklyn is not the only historical configuration of the Staten Island-based congressional district. In 1972, following the 1970 census, the New York Legislature enacted a congressional map that joined Staten Island with southern Manhattan in what was CD-

17 at the time:



Cooper, Fig. 7. The district remained in this configuration until the contentious 1982 redistricting battle, following the state's loss of five House seats due to population changes. With the two houses of the Legislature controlled by opposite parties, the parties compromised to redraw the Staten Island-based congressional district to include the Bay Ridge section of Brooklyn instead of the southern tip of Manhattan. *See id.* The move was transparently partisan, securing Republican advantage on Staten Island for decades to come and effectively unseating the popular Democratic Representative Leo Zeferetti in Brooklyn. *Id.*

Joining Staten Island with Manhattan has a modern precedent, too. During the last redistricting cycle, the Legislature redrew Assembly District 61, which encompasses Staten Island's North Shore, to include the southernmost neighborhoods of Manhattan as well:



Cooper, Fig. 6.

The Legislature inexplicably failed to adopt a similar configuration for CD-11, which, as explained in detail below, would have afforded Staten Island's Black and Latino residents an equal opportunity to influence elections and elect their candidates of choice.

ARGUMENT

I. The NY VRA provides the appropriate framework for evaluating vote dilution under Article III, Section 4 of the New York Constitution.

This case raises questions of first impression for New York courts. No court has yet interpreted the legal standard applicable to a vote dilution claim brought under Article III, Section 4. However, given the similarities between the vote dilution protections in the Constitution and the NY VRA—including their language and scope, and the State's interest in applying a uniform

standard across all voting districts—this Court should apply the vote dilution framework in the NY VRA to Petitioners’ constitutional claim.

First, the language of the NY VRA is similar to 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 abridgement of the right of members of a protected class to vote.” *Id.* § 17-206(1)(a). The NY VRA’s text lays plain the statute’s relationship to the Redistricting Amendments. In the NY VRA’s statement of purpose, the Legislature announced the “public policy of the State of New York” as “[e]nsur[ing] that eligible voters who are members of racial, color, and language-minority groups shall have an equal opportunity to participate in the [State’s] political processes . . . and especially to exercise the elective franchise.” N.Y. Elec. Law § 17-200. This policy “recogni[zes] . . . the *constitutional guarantees* . . . against the denial or abridgement of the voting rights of members of a race, color, or language-minority group.” *Id.* (emphasis added). In this way, the NY VRA’s protections against minority vote dilution, *id.* § 17-206(2)(a), implement the constitutional guarantee that minority voters shall not have “less opportunity” to elect candidates of choice, N.Y. Const. art. III, § 4(c)(1), and simply extend those protections to local elections.

Statutory interpretation principles confirm that the NY VRA and Redistricting Amendments should be read harmoniously. The Court of Appeals has held that when interpreting the scope of a state constitutional provision, courts may look to “[s]tate statutory or common law defining the scope of the individual right in question.” *People v. Harris*, 77 N.Y.2d 434, 438 (1991) (interpreting Article 1, section 12 of the New York Constitution). Here, the NY VRA provides a

comprehensive framework defining vote dilution and establishing a rubric that courts may follow for evaluating vote dilution claims. *See* N.Y. Elec. Law § 17-206. Because Article III, Section 4 also protects minority voters’ right to live in districts in which they have an equal opportunity to elect their candidates of choice, this Court may appropriately look to the framework set forth in the NY VRA to evaluate Petitioners’ constitutional claim.

Second, New York courts have suggested that Article III and the NY VRA are similar in scope—specifically, that they each provide broader protections against racial vote dilution than federal law does. The primary federal protection against minority vote dilution is in Section 2 of the VRA, 52 U.S.C. § 10301, which implements the federal constitutional protections in the Fourteenth and Fifteenth Amendments, *see, e.g.*, S. Rep. 97-417, at 9–10 (1982) (the Federal Voting Rights Act is “necessary and appropriate legislation to ensure the full enforcement of the rights guaranteed by the Fourteenth and Fifteenth Amendments to the Constitution”). To prove vote dilution under Section 2, plaintiffs are required, among other things, to demonstrate that the minority group is “sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district,” and to show both that there is racially polarized voting in the jurisdiction and that the totality of the circumstances demonstrate that members of the minority group have less opportunity to elect candidates of their choice than other voters. *Clarke*, 237 A.D.3d at 317–18 (alteration in original) (quoting *Allen v. Milligan*, 599 U.S. 1, 18 (2023)).

The NY VRA loosens two of those requirements by requiring petitioners to show *either* racially polarized voting *or* the totality of the circumstances factors, and by allowing them to show that vote dilution could be cured through a crossover or “influence” district. A crossover or influence district is one in which the minority population makes up less than a majority of the voting age population of the district, but can elect its candidate of choice with help from voters

who are members of the majority who “crossover” to support the minority voters’ preferred candidate. *See id.* at 25 (“[T]he major differences between the vote dilution provisions of the [Federal] VRA and the NYVRA are that the NYVRA . . . permits ‘influence’ claims, and does not require the first *Gingles* precondition, i.e., that the minority group must be sufficiently large and geographically compact to constitute a majority in a reasonably configured district.”); *Coads v. Nassau County*, 236 N.Y.S.3d 490, 511–12 (Sup. Ct., Nassau County 2024) (similar).

New York courts have similarly suggested that Article III is more protective of minority voting rights than federal law because it protects crossover districts. In *Harkenrider*, the court found that Article III’s “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.” 173 N.Y.S.3d 109, 112 (Sup. Ct., Steuben County 2022), *aff’d as modified*, 204 A.D.3d 1366 (4th Dept. 2022). And since the 2014 Redistricting Amendments, map-drawers have assumed that the New York Constitution protects districts in which the minority population does not constitute a majority in a district, just as the NY VRA does—even if federal law does not. *Cf. Harkenrider v. Hochul*, 2022 N.Y. Slip Op. 31471(U), 2022 WL 1951609, at *17 & n.22 (Sup. Ct., Steuben County May 20, 2022) (special master adopting a coalition district to “follow[] the injunction[] of the State Constitution . . . to not draw districts that would result in the denial or abridgement of racial or language minority voting rights”). That Article III and the NY VRA have been found to have a similar scope provides further support for applying the same standard to vote dilution claims under both provisions.⁴ *See also, e.g., N.Y. C.L. Union & NAACP*

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It also makes clear that interpreting the vote dilution ban in Article III in line with the narrower federal VRA, which does not provide for crossover districts, would be incorrect. Because Article III’s protections “substantially exceed,” N.Y. Elec. Law § 17-200, the federal Constitution’s protections, which are implemented in Section 2 of the VRA, application of the narrower federal

Legal Def. Fund, Inc., John R. Lewis Voting Rights Act of New York 1 (2023), <https://perma.cc/U53B-CYC5> (describing the NY VRA as a “strong statutory enforcement mechanism[]” for the new “unequivocal constitutional guarantees” in Article III).

Third, the “distinctive attitudes of the [New York] citizenry toward the definition, scope or protection of the” right to live in districts that do not unlawfully dilute the voting strength of racial minorities support interpreting the Article III in line with the NY VRA. *Harris*, 77 N.Y.2d at 438 (quoting *People v. P.J. Video, Inc.*, 68 N.Y.2d 296, 303 (1986)) (interpreting Article 1, section 12 of the New York Constitution). Courts generally are charged with interpreting constitutional rights in line with the will of the citizens of the state. *Id.* at 438–39. Differential treatment of Article III and the NY VRA here would create an inconsistent application of vote dilution protections across New York, with more robust protections afforded only to voters in municipal and local elections, and lesser protections applying to congressional and senate elections. Such an outcome would thoroughly undermine the will of New York voters who, through their democratically elected governor and Legislature, have made clear that providing especially robust protection against racial vote dilution is of particular importance to the citizenry of the state.

For example, the Governor’s signing statement for the NY VRA declares that the law was enacted in light of “the federal government[’s] fail[ure] to fulfill its duty to uphold voting rights across the nation,” and to “ensure[] that the state continues to move toward being a national leader in voting rights.” Governor’s Approval Mem, Bill Jacket, L 2022, ch 226 at 5. And in the NY VRA’s preamble, the Legislature emphasized that “all statutes, rules and regulations . . . shall be construed liberally in favor of . . . ensuring voters of race, color, and language-minority groups

VRA standard here would deprive New York voters of the additional protections enshrined in the New York Constitution.

have equitable access to fully participate in the electoral process in registering to vote and voting,” and that the voting rights protections of the New York Constitution “substantially exceed” those in the federal Constitution. N.Y. Elec. Law § 17-202; *id.* § 17-200. These statements emphasize the importance New York voters and their representatives place on ensuring strong protections against minority vote dilution in all aspects of the political process, including congressional redistricting. Applying the NY VRA’s robust vote dilution standards to Petitioners’ constitutional claim ensures that this Court interprets the provision in line with the will of the citizens of the state.

For all of these reasons, this Court should apply the standards set forth under the NY VRA to adjudicate Petitioners’ constitutional vote dilution claim.⁵

II. Under the 2024 map, the votes of Black and Latino Staten Islanders are diluted in CD-11, in violation of Article III, Section 4 of the New York Constitution.

Applying the NY VRA framework, Petitioners can prove their constitutional claim by showing that candidates preferred by Black and Latino Staten Islanders are usually defeated and either (a) voting is racially polarized in the political subdivision, *or* (b) under the totality of the circumstances, the ability of Black and Latino voters, individually and collectively, to elect candidates of their choice or influence the outcome of elections is impaired. N.Y. Elec. Law § 17-206(2)(b)(ii). In this case, Petitioners can demonstrate unconstitutional vote dilution under both standards: voting in Staten Island is highly racially polarized, and the totality of the circumstances factors overwhelmingly demonstrate that Black and Latino voters’ ability to elect candidates of their choice and influence the outcome of elections is impaired. The current configuration of CD-

⁵ Even if the Court adopts a different constitutional standard than the one set forth in the NY VRA, Petitioners would readily satisfy it. By presenting evidence of both racially polarized voting in which Black and Latino voters’ candidates are consistently defeated, alongside strong totality of the circumstances evidence, Petitioners satisfy any possible standard.

11 thus violates the vote dilution prohibition in Article III, Section 4, and the 2024 congressional map should be invalidated.

A. Voting on Staten Island is racially polarized because White citizens vote cohesively to defeat Black and Latino voters' preferred candidates.

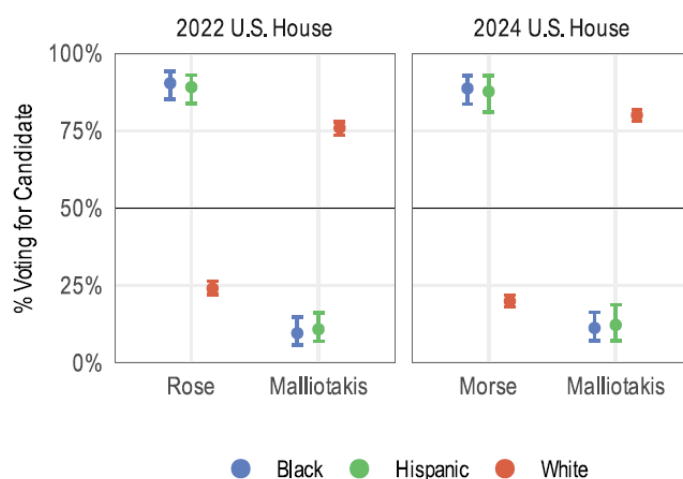
“Racially polarized voting” means “voting in which there is a divergence in the candidate, political preferences, or electoral choice of members in a protected class from the candidates, or electoral choice of the rest of the electorate.” *Id.* § 17-204(6). Racially polarized voting is proven through evidence of “bloc voting.” “Bloc voting by [minority voters] tends to prove that the [minority] community is politically cohesive, that is, it shows that [minorities] prefer certain candidates whom they” would elect if given the opportunity. *Gingles*, 478 U.S. at 69. At the same time, “the white majority [also] votes sufficiently as a bloc to enable it . . . usually to defeat the [minority groups'] preferred candidate.” *Id.* at 51. Evidence offered in support of racially-polarized-voting analysis is “weighed and considered consistent with several well-defined princip[les].” *Serratto v. Town of Mount Pleasant*, 233 N.Y.S.3d 885, 890 (Sup. Ct., Westchester County 2025); *see* N.Y. Elec. Law § 17-206(2)(c). Courts weigh statistical evidence most heavily, and “evidence concerning election for members” of the challenged district is the most probative. *Id.* § 17-206(2)(c).

Voting in CD-11 is heavily racially polarized. Petitioners' expert Dr. Maxwell Palmer examined voting patterns in CD-11 using official election data and Census data, and employing “ecological inference analysis,” he found that White voters have consistently voted as a bloc to defeat the Black and Latino-preferred candidate.⁶ *See* Palmer ¶¶ 5-6; 9-11; *see also* *Ala. State Conf. of NAACP v. Alabama*, 612 F.Supp.3d 1232, 1275 n.27 (M.D. Ala. 2020) (recognizing

⁶ Throughout this memorandum and Petitioners' expert reports, Petitioners use the terms “Latino” and “Hispanic” interchangeably.

ecological inference as the “gold standard” for racially polarized voting analysis (quoting *Wright v. Sumter Cnty. Bd. of Elections & Registration*, 301 F. Supp. 3d 1297, 1305 (M.D. Ga. 2018))).

Dr. Palmer’s analysis of CD-11 demonstrates that Black and Latino Staten Islanders have remained “extremely cohesive” over nearly a decade of elections. Palmer ¶ 15. In the two most recent congressional elections—2022 and 2024—Black voters had “a clear preferred candidate,” and Latino voters shared that choice. *Id.* ¶ 15. Across these elections, this candidate (Democrat Max Rose in 2022 and Democrat Andrea Morse in 2024) averaged 89.55% of the Black vote and 88.4% of the Latino vote. *Id.* ¶ 15, fig. 1; *id.* at 10 (Table 1). White voters in CD-11, however, voted as a bloc to defeat the Black and Latino–preferred candidate in both elections. *Id.*



Palmer ¶ 15, fig. 1.

Broadening the lens beyond congressional elections, Dr. Palmer’s analysis revealed the high levels of racial polarization in CD-11 across all state and federal elections he studied over nearly a decade, from 2017 to 2024. In all 20 elections he examined, Black voters supported their preferred candidates with 90.5% of the vote on average. Palmer ¶ 17. Latino voters “supported their preferred candidates with 87.7% of the vote.” *Id.* ¶ 18. White voters, meanwhile, voted just as cohesively *against* the Black and Latino–preferred candidate with an average of 73.7% of the vote. *Id.* ¶ 19. They supported Black and Hispanic–preferred candidates with only 26.3% of the

vote. *Id.*

The effect of this bloc voting is unmistakable: of the 20 elections Dr. Palmer analyzed, the Black and Latino–preferred candidate won only five times. *Id.* ¶ 20. And those few candidates who won prevailed by very narrow margins, averaging 53.9% of the vote. *See id.* at 12 (Table 3). These victories are also quite dated. No Black and Latino–preferred candidate has been elected on Staten Island since 2018, and voting on Staten Island has become *increasingly* racially polarized since then. *Id.* ¶ 20, fig. 3.

B. Under the totality of the circumstances, Black and Latino voters have less opportunity to elect candidates of their choice and influence the outcomes of elections in CD-11.

Petitioners can also show that “under the totality of the circumstances, the ability of [Black and Latino Staten Islanders] to elect candidates of their choice or influence the outcome of elections is impaired.” N.Y. Elec. Law § 17-206(2)(b)(i). Courts evaluating vote dilution claims analyze the totality of the circumstances through the non-exhaustive factors identified in N.Y. Elec. Law § 17-206(3). The applicable factors weigh in Petitioners’ favor here. Staten Island has a long history of discrimination against Blacks and Latinos which has led to significant disadvantages that limit both groups’ ability to participate in the political process. Very few Black and Latino candidates have been elected to office on Staten Island; political campaigns on Staten Island have featured racial appeals; and there is no compelling policy justification for CD-11’s current district lines, which result in the dilution of Black and Latino voting strength.

i. The history of discrimination on Staten Island has led to significant socioeconomic disadvantages for Blacks and Latinos, limiting their ability to participate equally in the political process.

The NY VRA directs courts to consider, among other factors, the “history of discrimination” in or affecting the political subdivision, “the extent to which [Blacks and Latinos] are disadvantaged in areas including but not limited to education, employment, health, criminal

justice, housing, land use, or environmental protection,” and the extent to which Blacks and Latinos participate in political campaigns and “vote at lower rates than other members of the electorate.” *Id.* § 17-206(3). These factors all weigh heavily in Petitioners’ favor.

As detailed in the report of Dr. Thomas J. Sugrue, Professor of History and Social and Cultural Analysis at New York University, “Staten Island has a long history of racial segregation, discrimination, and disparate treatment against Blacks and Latinos,” which has resulted in significant disparities between these groups and White residents in “housing, education, socioeconomic status, and others—all of which are known to have a negative impact on political participation and the ability to influence elections.” Sugrue ¶ 8.

Residential Segregation. Staten Island has long been one of most racially segregated areas of the United States and remains so, despite its increasing diversity. *Id.* at 8. This legacy of discrimination and segregation is longstanding and has contributed to socioeconomic disadvantages for Black and Latino residents of Staten Island today.

Beginning in the 1930s, pro-homeownership programs at federal government agencies, including the Federal Home Loan Bank Board, the Home Owner’s Loan Corporation (HOLC), the Federal Housing Administration, and the Veterans Administration, all dramatically expanded White consumers’ access to credit for the purchase and improvement of homes, which led to a great expansion in homeownership rates for Whites. Blacks and Latinos, however, were excluded from the benefits of these programs for more than a third of a century. *Id.* at 18. On Staten Island, these federal agencies engaged in redlining, a practice by which the agencies drew boundaries around neighborhoods based on residents’ race and then denied access to loans, mortgages, and other financial services to areas that had significant populations of racial minorities. The HOLC, for example, gave every neighborhood on Staten Island with even a small Black population the

agency's lowest ranking—a “D.” *Id.* at 22. That included historic Sandy Ground, Staten Island's oldest Black community, which in 1940, the HOLC described as “on the downgrade for years” with “little hope for recovery,” and concluded that “it is difficult to envisage any further decline, but the trend, if any, would be downward.” *Id.* at 21–22.

White realtors on Staten Island followed the government's lead by also maintaining policies aimed at excluding Blacks and Latinos. For example, in 1963, the Staten Island Real Estate Board challenged the constitutionality of New York's anti-housing discrimination laws and lobbied for a “Property Owner's Bill of Rights” that would have permitted racial discrimination in housing. *Id.* at 25–26. After the passage of the Fair Housing Act in 1968, Staten Island realtors frequently flouted fair housing laws and developed tactics that reinforced residential segregation. *Id.* at 26. One such tactic was “steering,” in which realtors directed White homebuyers or renters to all-white communities and non-whites to predominantly non-White or racially transitional neighborhoods. *Id.* at 27.

Courts evaluating the totality of the circumstances have held that the “history of discrimination . . . cannot be ignored in the discriminatory effect analysis, because even these seemingly remote instances of State-sponsored discrimination continue to produce . . . racial disparities.” *Veasey v. Abbott*, 830 F.3d 216, 257 n.53 (5th Cir. 2016) (analyzing this factor under the federal VRA). And that is the case on Staten Island today. A “substantial body of scholarship by historians, sociologists, public health scholars, and economists” has demonstrated that redlining in the mid-twentieth century has had long-term impacts on nearly every aspect of community life for minorities in redlined neighborhoods. Sugrue ¶ 40. Among other things, residents of previously redlined neighborhoods are more likely to have lower incomes and access to lower quality housing, and to face a range of environmental hazards. *Id.* The previously redlined neighborhoods of Staten

Island that are currently home to minority populations, especially on the North Shore, are emblematic of the remnants of redlining. Sugrue ¶¶ 34–40.

Under the most commonly used measure of racial segregation, the dissimilarity index, which measures the evenness of a population’s distribution across a geographic area, Blacks on Staten Island continue to experience a “high” degree of segregation while Latinos experience a “moderate” degree of segregation. *Id.* at 13.⁷ Most Blacks and Latinos live in the northern third of the Island; most Whites live in the southern two-thirds. The North Shore, which centers around the Staten Island Ferry Terminal, has some of the borough’s oldest housing stock, many apartment buildings, and most of the Island’s public housing projects. *Id.* Neighborhoods to the south of the Staten Island Expressway—Mid-Island and South Shore—resemble postwar suburbia, dominated by post-World War II single-family homes. *Id.* The southern neighborhoods of Staten Island remain overwhelmingly White. Indeed, since at least the late 1980s, Staten Island residents have called the Staten Island Expressway the “Mason Dixon line,” because it divides the predominantly White southern part of the Island from its increasingly racially diverse northern section. Sugrue ¶ 22. Figures 2 and 3 below show the distribution of Black and Latino residents on Staten Island, with the Staten Island Expressway marked on the maps in black.

Figure 2: 2023 Black Population by Percentage on Staten Island

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The U.S. Department of Housing and Urban Development (HUD) considers a dissimilarity value of 40 or below to be a low level of racial segregation; a range from 40-55 indicates moderate segregation; and any value above 55 is considered a high degree of segregation. *Id.* ¶ 24. As of 2023, the Black/White dissimilarity value for Staten Island was 75, and the Latino/White dissimilarity value was 42. *Id.* ¶¶ 27–28.

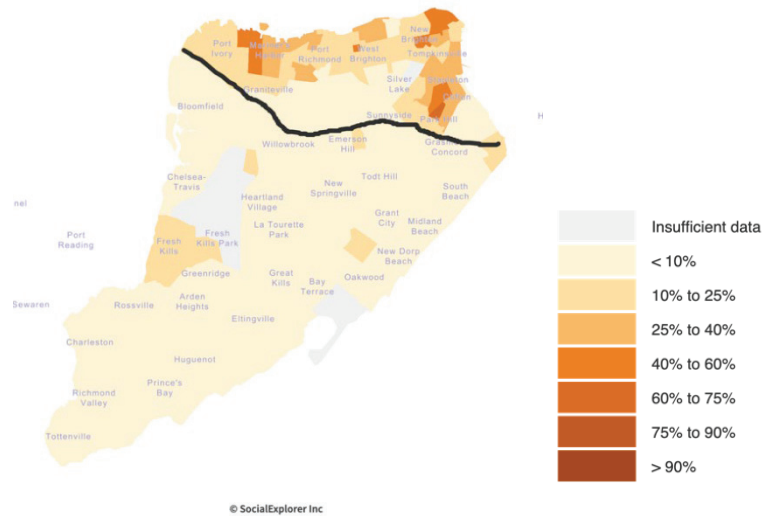
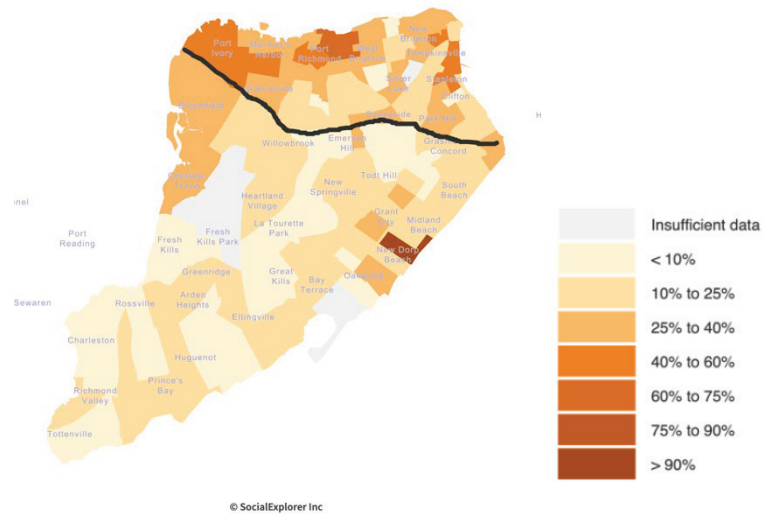


Figure 3: 2023 Latino Population by Percentage on Staten Island



Id. at 11–12.

Socioeconomic Disparities. In addition to severe residential segregation, the incomes of Black and Latino Staten Islanders lag significantly behind those of White Staten Islanders. Between 2019 and 2023, Latinos and Blacks earned only about 60 percent of the per capita income of their White counterparts. Sugrue ¶ 78. Additionally, the Black poverty rate was nearly four times that of the White poverty rate, and the Latino poverty rate was more than double the White

poverty rate. *Id.* Blacks and Latinos also face a substantial homeownership gap when compared with Whites. As a result of the significant levels of discrimination in housing, while more than three quarters of Whites on Staten Island are homeowners, less than half of Latinos and only approximately one third of Blacks own their homes. *Id.* at 79. Homeownership, like education and income, “is strongly correlated with political participation,” with higher homeownership rates correlated with higher political participation. *Id.*

Educational Discrimination. Black and Latino Staten Island residents face substantial educational discrimination as well. For example, Black and Latino graduation rates from Staten Island public high schools lag far behind White graduation rates. In 2024, Black and Latino high school graduation rates were more than 15% lower than White graduations rates. While 93% of White students graduated, only 78% of Latino students and 74% of Black students did. Racial disparities in education and socio-economic status, among other factors, are known to negatively affect minorities’ political participation. Sugrue ¶ 8.

Political Participation and Voting. New York also has a long history of discrimination in voting which has contributed to the lower levels of political participation by Black and Latino voters on Staten Island today. For example, although by 1821, White New Yorkers’ eligibility to vote was not dependent upon the voter being a property owner, Black men were required to own property to be eligible for the franchise. *Hayden v. Paterson*, 594 F.3d 150, 157–59 (2d Cir. 2010). Indeed, New Yorkers repeatedly defeated referenda that would have eliminated the property requirement for Black voters. *Id.* It took the passage of the Fifteenth Amendment to remove this discriminatory voting practice. *See id.* at 159. Later, in the early 1920s, the New York State Board of Regents administered stringent literacy tests in order to disenfranchise voters who did not speak English as their first language. Sugrue ¶ 88. These literacy tests continued to be in effect in New

York through the mid-twentieth century and were found to have disenfranchised Black and Latino voters. *Id.* ¶ 89.

The effects of these past discriminatory actions are still apparent in the differential voter turnout rates on Staten Island today. Over the 2020, 2022, and 2024 elections, Black and Latino voters on Staten Island turned out to vote at significantly lower rates than White voters. In the 2022 midterm elections, for example, Black and Latino voter turnout was 20% lower than White voter turnout: 34% as compared with 54%. Palmer ¶ 28.

ii. Few Black and Latino candidates have been elected to office on Staten Island.

Black and Latino candidates have had very limited success in being elected to public office on Staten Island. In 2009, Debi Rose was elected to the New York City Council, representing the 49th district and becoming the first Black Staten Islander to be elected to higher public office. *See* Sugrue ¶ 90. Since then, Black candidates have had some limited success in city council and state assembly elections—but *only* in districts in the North Shore where Black and Latino voters are concentrated. *See id.* In 2022, Kamillah Hanks succeeded Debi Rose to represent the 49th city council district.⁸ Charles Fall, who is Black, has represented Assembly District 61, which is comprised of the North Shore and parts of lower Manhattan, in the State Assembly since 2019.⁹ There has never been a Black or Latino candidate elected to be Staten Island Borough President.

The congressional district encompassing Staten Island has also never elected a Black representative to the U.S. House of Representatives. Representative Malliotakis is the only Latina candidate to have ever been elected to that office; however, Representative Malliotakis is

⁸ *See New York City Council—District 49*, <https://council.nyc.gov/district-49/> (last visited Nov. 17, 2025).

⁹ *See New York Assembly, Charles D. Fall*, <https://nyassembly.gov/mem/Charles-D-Fall> (last visited Nov. 17, 2025).

definitively not the candidate of choice for either Black or Latino voters.¹⁰ In both 2022 and 2024, the vast majority of Black and Latino voters opposed Representative Malliotakis's candidacy: in 2022, more than 90% of Black voters and more than 89% of Latino voters voted against Malliotakis, and in 2024, nearly 89% of Black voters and nearly 88% of Latino voters voted against Malliotakis. Palmer Rep ¶ 15, fig. 1; *id.* at 10 (Table 1). The same was true in 2017 when Malliotakis ran for mayor of New York City: she was not the candidate of choice for Black and Latino voters. In that election, she was opposed by 89.1% of Black voters and 79.8% of Latino voters. Palmer at 10 (Table 1). At the same time, Representative Malliotakis has consistently been White voters' candidate of choice; she won more than 75% of the White vote in both U.S. House of Representatives elections in 2022 and 2024. Palmer ¶ 15, fig. 1.

iii. Political campaigns on Staten Island have featured racial appeals.

Campaigns for political office on Staten Island have featured racial appeals. When campaigns make “race an issue on the campaign trail . . . the possibility of inequality in electoral opportunities increases.” *Soto Palmer v. Hobbs*, 686 F. Supp. 3d 1213, 1230 (W.D. Wash. 2023). Racial appeals featured prominently in White Staten Islanders' opposition to the influx of non-White residents to the Island during the middle of the 20th century. Sugrue ¶ 92–93. For example, in 1967, the Staten Island Advance published an article opposing the construction of temporary housing for families affected by urban renewal in other parts of New York city. The editorial warned that “[t]he effect [of the temporary housing] on Staten Island would be [] disastrous” because it would “put into our midst a homogeneous group that had no ties with the community.” *Id.* ¶ 45. Along with the editorial, the paper published a cartoon, entitled “Unwelcome Import,”

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Courts have long understood that “a minority preferred candidate may be a non-minority,” and “a candidate is not minority-preferred simply because the candidate is a member of the minority.” *Ruiz v. City of Santa Maria*, 160 F.3d 543, 551 (9th Cir. 1998).

showing the New York City Mayor John Lindsay bringing “ghetto areas” to Staten Island. *Id.* ¶ 92, fig. 10.



Id.

Racial appeals on Staten Island have continued into the modern era. In 2017, for example, Richard Luthmann, a Republican political operative allegedly created a fake Facebook page in Representative Debi Rose’s name, stating that she supported welcoming a “welfare hotel full of criminals and addicts” and turning a St. George property into “a heroin/methadone den.” *Id.* ¶ 99, fig. 11

iv. There is no “compelling policy justification” for the current district lines in CD-11.

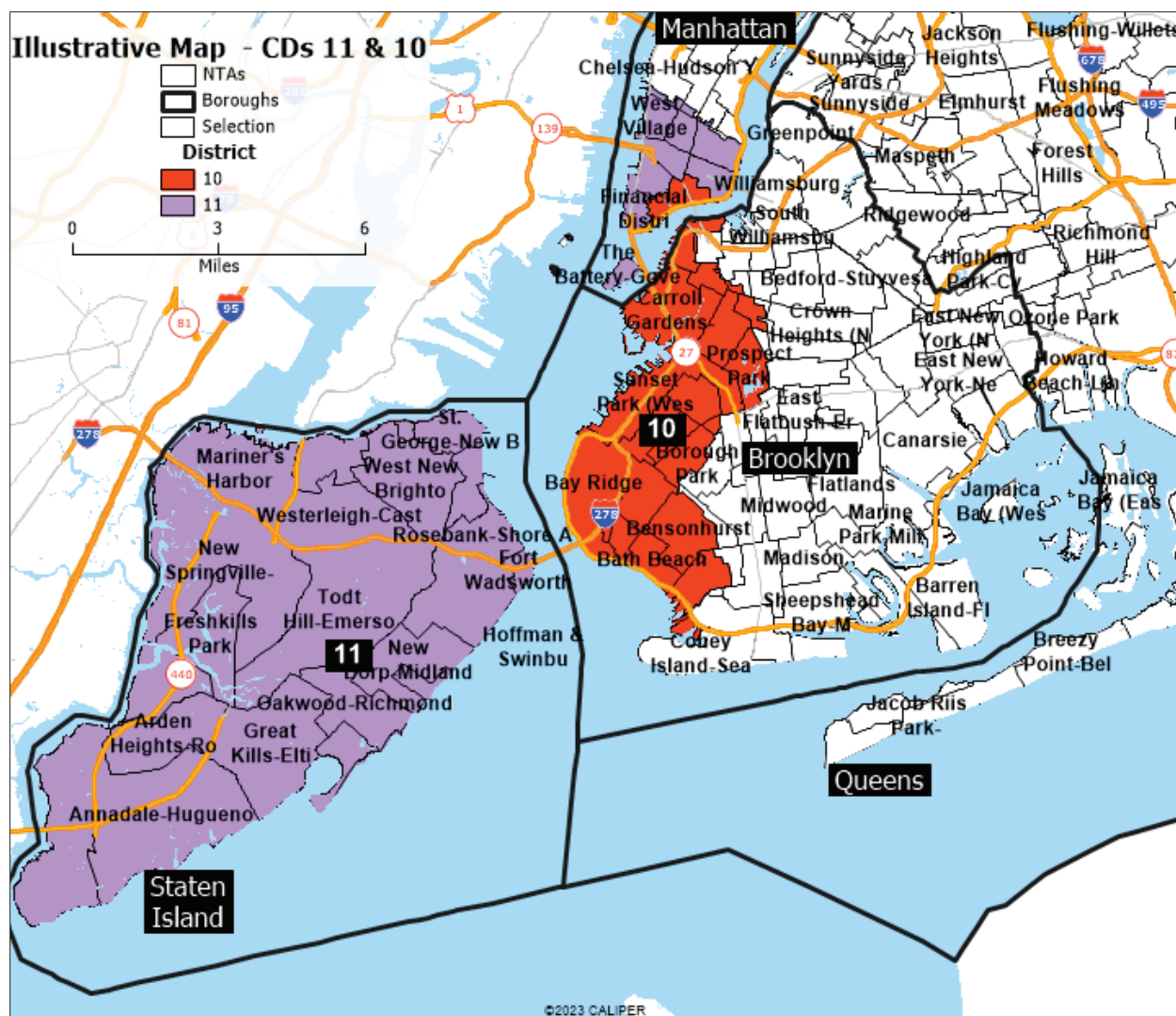
Finally, courts also examine whether there is a “compelling policy justification that is substantiated and supported by evidence for adopting or maintaining” the voting practice at issue. N.Y. Elec. Law § 17-206(3)(k). Here, there is no compelling policy justification to support the current congressional district lines in CD-11, which result in the dilution of the votes of Black and Latino Staten Islanders. Indeed, “[t]he Supreme Court has made clear that the policies underlying

a districting plan may be tenuous if they entrench racial vote dilution, even if those policies might be legitimate in another context.” *Caster v. Allen*, No. 2:21-CV-1536-AMM, 2025 WL 1643532, at *169 (N.D. Ala. May 8, 2025) (citing *LULAC v. Perry*, 548 U.S. 399, 441 (2006) (interpreting the federal VRA)). As currently drawn, the district lines contravene substantial New York public policy interests as stated in Article III of the State Constitution and the NY VRA. *See* N.Y. Const. art. III, § 4(c)(1) (holding “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. Elec. Law § 17-200 (the purpose of the NY VRA is to “[e]nsure that eligible voters who are members of racial, color, and language-minority groups shall have an equal opportunity to participate in the political processes of the state of New York.”).

C. A new congressional district can be drawn that would remedy the racial vote dilution and comply with traditional districting criteria.

Petitioners have presented an alternative configuration of CD-11 that “would allow the minority group to ‘have equitable access to fully participate in the electoral process.’” *Clarke*, 226 237 A.D.3d at 39 (quoting N.Y. Elec. Law § 17–206(5)(a)). Expert demographer William Cooper offers an illustrative map that would allow Black and Latino voters the opportunity to elect their candidates of choice and that otherwise complies with New York redistricting criteria. *See* Cooper § IV & Ex. H-1; *see also* Palmer ¶¶ 26. This district is merely illustrative, submitted for the purpose of showing that the racial vote dilution in CD-11 can be remedied. If this Court finds that the current configuration of CD-11 violates the Constitution, then the Legislature “shall have a full and reasonable opportunity to correct the law’s legal infirmities.” N.Y. Const. art. III, § 5.

The illustrative map presented by Petitioners—which, as depicted below, joins Staten Island with a compact portion of lower Manhattan and would only impact the current configurations of one other congressional district—CD-10:



In this district, the combined Black and Latino Citizen Voting Age Population is increased to 24.7%. Cooper ¶ 50 & Fig. 9. Dr. Palmer examined the illustrative district and found that it would allow Black and Latino voters an opportunity to combine with other voters to elect their candidate of choice. Specifically, although the voting of Black and Latino voters remains cohesive in the illustrative district, *see* Palmer ¶¶ 23–24, a higher percentage (41.8%) of White voters supported Black and Hispanic-preferred candidates. *Compare id.* ¶ 25 with *id.* ¶ 19; *id.* at 10 (Table 1). Because voting under this plan is significantly less racially polarized, Black and Latino voters would have the opportunity to form alliances with “cross-over” White voters to elect their

candidate of choice. This map unequivocally demonstrates that the Legislature can craft a district that remedies vote dilution in CD-11, ensuring that Black and Latino Staten Islanders “have equitable access to fully participate in the electoral process.” *See id.* (quoting N.Y. Elec. Law § 17-206(5)(a)).

As outlined below, the Illustrative Map also comports with New York’s other redistricting criteria. Indeed, the Illustrative Map fares *better* than the current configuration of CD-11 with regard to communities of interest in several respects.

1. Equal Population. The Illustrative Map ensures that CD-10 and CD-11 maintain equal populations. *See* N.Y. Const. art. III, § 4(c)(2) (“To the extent practicable, districts shall contain as nearly as may be an equal number of inhabitants.”). *See* Cooper ¶ 26.

2. Contiguity. The New York Constitution also requires that districts be contiguous. N.Y. Const. art. III, § 4(c)(3). “A contiguous district requires that all parts of the district be connected,” which “is usually measured by whether it is possible to travel to all parts of the district without ever leaving the district.” *Harkenrider*, 173 N.Y.S. 3d at 119. A district may be contiguous even if sections are connected by water. *See id.* at 119–120; *cf.* N.Y. City Charter § 52(2) (requiring that districts at the city level “shall be contiguous, and whenever a part of a district is separated from the rest of the district by a body of water, there shall be a connection by a bridge, a tunnel, a tramway or by regular ferry service”).

As discussed, because Staten Island is not sufficiently populous to comprise its own congressional district, it must be joined with a neighboring borough. Cooper ¶¶ 36, 55. The Illustrative Map—or any other plan joining Staten Island and southern Manhattan—would be at least as contiguous as CD-11 as presently enacted. Whereas the Verrazzano Bridge connects Staten Island to Brooklyn, the Staten Island Ferry connects the same to Manhattan via Whitehall

Terminal. Cooper ¶¶ 22, 37, 54. The Staten Island Ferry has been a mainstay on the Island since its founding in 1817. Indeed, before the Verrazzano-Narrows Bridge opened in 1964, ferries were the *only* way to travel between Staten Island and the mainland.

3. Compactness. The Illustrative Map is also reasonably compact. “Compactness” means, “in scientific terms,” “the extent to which a district’s geography is dispersed around its center.” *Harkenrider*, 173 N.Y.S.3d at 119. Here, the Illustrative Map is comprised of two significantly compact sub-parts—Staten Island and Lower Manhattan. Cooper ¶¶ 52–58. Staten Island, of course, remains equally compact in any district configuration, while the densely populated Lower Manhattan portion of the Illustrative Map registers strong compactness scores relative to the average for New York’s other congressional districts. *Id.* While the Illustrative Map nominally has a lower compactness score than existing CD-11, that is largely attributable to the presence of Upper New York Bay between the sub-parts of the district, rather than any landmass with a population of voters. *Id.* The two sub-parts of CD-11 in the Illustrative Map are also connected by around-the-clock free ferry service offered by the City of New York. *Id.* ¶ 58.

4. Competitiveness. Dr. Palmer’s analysis demonstrates that the illustrative district would be competitive. Again, Dr. Palmer reports that voting in the illustrative district is far less racially polarized, with, on average, 41.8% of White voters supporting the Black and Latino–preferred candidate. Palmer ¶ 25. Under the Illustrative Map, the Black and Latino–preferred candidate succeeds in many, but not all, elections. *See* Palmer ¶ 26, fig. 5. The electoral margins are generally quite narrow, and far more competitive than the same elections in the current CD-11—particularly since 2022. *See id.* at 11 (Table 3). Put another way, whereas the Black and Latino–preferred candidate is consistently defeated by large margins by a unified White majority within the current CD-11, the Illustrative Map would offer Black and Latino voters the same opportunity as others

“to pull, haul, and trade to find common political ground” with White voters to elect their candidates of choice. *Johnson v. De Grandy*, 512 U.S. 997, 1020 (1994). In this way, crossover districts like the Illustrative Map “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.

5. Preexisting district boundaries. The Illustrative Map also “maintain[s] . . . [the] cores of existing districts” and localities. N.Y. Const. art. III, § 4(c)(5). The plan includes all of Staten Island and simply pulls the additional population necessary to form a complete congressional district from lower Manhattan instead of Brooklyn.

A district of this configuration has both historical and contemporary precedent. As explained above, *supra* § III.B, Staten Island was joined with Manhattan in a congressional district throughout the 1970s—one that substantially resembles the Illustrative Map presented here. The Legislature changed this configuration following the 1980 census specifically to preserve Republican advantage on Staten Island—a consideration that is prohibited under the Redistricting Amendments. *See* N.Y. Const. art. III, § 4(c)(5). Joining Staten Island with lower Manhattan would also align the district with New York’s existing Assembly District boundaries. Specifically, the 61st Assembly District links communities in Staten Island’s North Shore with neighborhoods in lower Manhattan that would likewise be included in a new CD-11 under the Illustrative Map.

6. Communities of interest. The Constitution also requires map-drawers to consider the maintenance of “communities of interest.” *Id.* § 4(c)(5). Generally, “[c]ourts will find the existence of a community of interest where residents share substantial cultural, economic, political and social ties.” *Diaz v. Silver*, 978 F. Supp. 96, 123 (E.D.N.Y. 1997). The Illustrative Map would help unify communities of interest that the existing congressional map divides. Under the Illustrative Map, CD-10 would include Chinatown (Manhattan), Sunset Park (Brooklyn), and Bensonhurst and Bath

Beach (Brooklyn), all of which are home to significant Chinese American populations that form a community of interest. *See* Letter re: Proposed Congressional Map at 4–5, *Harkenrider v. Hochul*, Index No. E2022-0116CV (N.Y. Sup. Ct., Steuben County), NYSCEF Doc. No. 313 (explaining that the 2021 enacted map configured CD-10 to unite Chinese-American communities of interest in Chinatown, Sunset Par, Bath Beach, and Bensonhurst).

Advocates for the Asian-American communities in New York City have urged the IRC and the Legislature to consider that several Brooklyn communities, including Sunset Park, Bensonhurst, Dyker Heights, and Bath Beach have “an interconnection bounded by common culture, language and socioeconomic factors,” and should be “together in one Congressional district . . . [to] ensur[e] communities of interest are not ignored or neglected.” *Harkenrider*, 38 N.Y.3d at 542 (Wilson, J., dissenting) (quoting OCA-NY letter). For example, Dr. Wah Lee of OCA-NY (formerly Organization for Chinese Americans) testified that “[c]urrent Sunset Park residents commute daily to Manhattan Chinatown via the N train”; and on 86th Street—which separates Bensonhurst and Bath Beach—“there are Asian businesses including more than a dozen supermarkets, pharmacies, doctor’s offices, restaurants, bakeries, bubble tea houses, salons, and 99 cent stores.”¹¹ Dr. Lee also explained that “86th Street is . . . a major, essential transportation corridor via the D train for commuters from Bath Beach/Bensonhurst, connecting this Brooklyn region to Manhattan.”¹² Kay Wong of Homecrest Community Services likewise testified that “many Asian immigrants are migrating down south to Bensonhurst and Homecrest . . . [a]s Sunset

¹¹ Statement of OCA-NY by Dr. Wah Lee at 29, Comment Letter to the New York Independent Redistricting Commission (July 29, 2021), <https://perma.cc/MKC7-KTBA> (“Lee Testimony”).

¹² *Id.*

Park becomes increasingly overcrowded.”¹³ And “[m]any articles and newspapers describe Bensonhurst as the satellite Chinatown.”¹⁴ One federal court has found that similar evidence supports finding a community of interest in these neighborhoods. *See Diaz*, 978 F. Supp. at 124 (accepting evidence that “Asian communities of Sunset Park and Chinatown” are “mostly of Chinese background” and “regularly work together, attend the same health clinics, and shop in the same stores” to assume a community of interest).

Meanwhile, these same advocates “urged the IRC that, with regard to District 11 . . . ‘Bensonhurst and Bath Beach should NOT be with Staten Island,’” because “‘Staten Island does not share a similar concentration of Asians, nor the culture of Asian businesses as Bath Beach/Bensonhurst, nor do residents in Bath Beach/Bensonhurst travel on a regular basis to Staten Island and vice versa.’” *Harkenrider*, 38 N.Y.3d at 542 (Wilson, J., dissenting) (quoting Lee Testimony). Indeed, Ms. Wong testified to her personal knowledge of “candidates and elected officials representing [Congressional] District 11 completely ignor[ing] the Chinese community or not support[ing] issues important to an immigrant base like comprehensive immigration reform.” Wong Testimony at 61.

In light of this testimony, the map the Legislature first enacted following the 2020 Census united, to the greatest extent possible, united Chinatown and the neighborhoods in Brooklyn with prominent Chinese-American communities—a decision Chief Judge Wilson discussed at length in

¹³ Statement of Homecrest Community Services by Kay Wong at 60, Comment Letter to the New York Independent Redistricting Commission (July 28, 2021), <https://perma.cc/MKC7-KTBA> (“Wong Testimony”).

¹⁴

Id.

his *Harkenrider* dissent. *Harkenrider*, 38 N.Y.3d at 532 (Wilson, J., dissenting).¹⁵ See NYSCEF Doc. No. 8, A. 9187, in *Harkenrider v. Hochul*, Sup. Ct., Steuben County, index No. E2022-0116CV. After the *Harkenrider* court invalidated the Legislature's map, including CD-10, Senate leadership and the Asian American Legal Defense and Education Fund urged the special master to ensure the new map continued to respect the Chinese-American communities of interest in Manhattan and Brooklyn. See NYSCEF Doc. 310, Senate Majority Leader's Letter to Special Master, in *Harkenrider*; NYSCEF, Doc. 313, Senate Majority Leader's Letter re: Proposed Congressional Map, in *Harkenrider*; NYSCEF, Doc. 384, Asian Am. Legal Def. Fund Letter to Special Master. The legislative defendants even specifically proposed maintaining the boundaries of CD-10 and -11 that the Legislature first enacted for this reason. See NYSCEF Doc. No. 8, A. 9187, in *Harkenrider*. But the special master failed to do so. These communities were divided in the map the special master proposed, and in the one the Legislature ultimately adopted.¹⁶ Under the current map, the Chinese-American communities in Chinatown and Sunset Park are united in CD-10, while Bensonhurst and Bath Beach are paired with Staten Island in CD-11, despite unequivocal testimony of community advocates that they lack any community or cultural ties to Staten Islanders and elected officials disregard their interests.

Petitioners' Illustrative Map corrects this division by uniting the Chinese-American communities in Chinatown, Sunset Park, Bath Beach, and Bensonhurst in CD-10. Thus, in addition

¹⁵ *New York Redistricting and You*, https://newyork.redistrictingandyou.org/?districtType=cd&propA=congress_latfor_20220202&propB=cong_nyirc_20240215&opacity=0&selected=-73.96190954213697,40.64313413631294#%26map=11.94/40.70665/-73.983.

¹⁶ The special master divided the community at issue across three districts, with Sunset Park in the proposed D-11, Chinatown in CD-10, and Bensonhurst and Bath Beach in CD-9. The 2024 map at least minimizes that divide, with Chinatown, Sunset Park, and Bay Ridge in CD-10, and Bensonhurst and Bath Beach in CD-11.

to remedying the unlawful dilution of Black and Latino Staten Islanders' voting strength on Staten Island, the Illustrative Map provides the additional benefit of uniting communities of interest that advocates had implored the IRC, Legislature, and special master to keep together in the first place.

CONCLUSION

For the reasons provided herein, this Court should find that the 2024 congressional plan unconstitutionally dilutes Black and Latino Staten Islanders' voting strength in CD-11 in violation of Article III, Section 4(c)(1) of the New York Constitution. It should therefore permanently enjoin Respondents from using the 2024 Congressional Map in any future elections, and order the Legislature to create a minority influence district that provides Black and Latino Staten Islanders with an opportunity to elect a representative of their choice in CD-11, as demonstrated by Petitioners' Illustrative Map.

Dated: November 19, 2025

Respectfully submitted,

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CERTIFICATIONS

I hereby certify that the foregoing memorandum of law complies with the word count limitations set forth in the Parties' stipulation for 11,000 words for Petitioners' memorandum of law in support of the Petition. This memorandum of law contains 10,765 words, excluding parts of the document exempted by Rule 202.8-b(b).

I further certify that no generative artificial intelligence program was used in the drafting of any affidavit, affirmation, or memorandum of law contained within the submission.

/s/ Aria C. Branch