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 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.

----------X

Index No. 164002/2025

Petitioners' Memorandum of Law Regarding Remedy

[Signature block on the following page]

Andrew G. Celli, Jr. (No. 2434025)
Emily Wanger (No. 5816210)
EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL, LLP
One Rockefeller Plaza, 8th Floor
New York, New York 10020
Tel.: (212) 763-5000
acelli@ecbawm.com
ewanger@ecbawm.com

Counsel for Petitioners

Aria C. Branch*
Christopher Dodge (No. 5245907)
Lucas Lallinger (No. 5443460)
Nicole Wittstein*
ELIAS LAW GROUP LLP
250 Massachusetts Avenue, Suite 400
Washington, D.C. 20001
Tel.: (202) 968-4490
abranch@elias.law
cdodge@elias.law
llallinger@elias.law
nwittstein@elias.law

*Admitted *pro hac vice*

PRELIMINARY STATEMENT

Over the course of a multi-day hearing, Petitioners established that the 2024 Congressional Map, SB S8653A, codified at New York State Law §§ 110–12 (McKinney 2024), violates the New York Constitution's prohibition on diluting minority voting strength. *See* N.Y. Const. art. III, § 4. The current configuration of Congressional District 11 ("CD-11"), which combines Staten Island with a portion of Southwest Brooklyn, unconstitutionally dilutes the voting strength of Black and Latino voters. Petitioners' evidence showed that voting in CD-11 is racially polarized, Tr. 152:1–241:2 (Testimony of Dr. Maxwell Palmer); the totality of the circumstances factors support the conclusion that Black and Latino voters on Staten Island have an unequal opportunity to elect their candidates of choice, Tr. 40:1–150:15 (Testimony of Dr. Thomas Sugrue); and that a new congressional map that offers Black and Latino voters on Staten Island a fair opportunity to elect their candidates of choice could readily be drawn, Tr. 242:11–375:19 (Testimony of William S. Cooper). Petitioners' forthcoming post-trial summation brief will set forth in detail their entitlement to relief on the merits.

While reserving judgment on the merits, the Court requested briefing on the proper remedy should it rule in Petitioners' favor. Tr. 816:9–17. Petitioners agree with State Respondents' observation that, depending on the circumstances, appropriate remedies may include (1) allowing the Legislature to redraw Congressional District 11; (2) ordering the Independent Redistricting Commission ("IRC") to reconvene and propose a new congressional map to the Legislature and then allowing the Legislature to either accept the IRC's map or reject it and adopt its own; and (3) appointing a special master to draw the map. *See* Doc. 95 at 6.

At this juncture, a legislative remedy is both constitutionally preferred and feasible. The Constitution requires that, if any court invalidates a redistricting plan, "the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities." *See* N.Y. Const. art. III, § 5.

If the Court grants relief to Petitioners, the Legislature should redraw Congressional District 11 to remedy the unconstitutional dilution of Black and Latino voting strength. In the alternative, the Court should order the IRC to reconvene and propose maps to the Legislature for its approval or rejection pursuant to Article III, Section 5-b of the Constitution. Finally, although the Court *may* appoint a special master to draft a remedial map for the Court to put in place, the Court should resort to this approach only if a legislative solution proves impossible on the timeline necessary to obtain relief ahead of the 2026 election.

As the Court is well aware, time is of the essence in this matter. Relief is imperative before the 2026 election, for "the People of this state" cannot be subjected "to an election conducted pursuant to an unconstitutional reapportionment" where at least a judicial remedy is feasible. *Harkenrider v. Hochul*, 38 N.Y.3d 494, 521, 197 N.E.3d 437, 454 (2022). Although New York's election deadlines can be amended by the Court or the Legislature, candidate petitioning is currently set to begin on February 24, and the primary election is scheduled for June 23.[1] Petitioners presently believe that a legislative remedy is possible, but that view may change if relief in this matter is delayed given the appellate process and other contingencies. Accordingly, if the Court rules in Petitioners' favor, Petitioners respectfully request that the Court promptly schedule a status conference to discuss the appropriate remedy and timeline for relief at that time.

[1] *2026 Political Calendar*, N.Y. Bd. of Elec., https://elections.ny.gov/system/files/documents/2025/12/2026-political-calendar-quad-fold-12.9.2025-final.pdf (last visited Jan. 12, 2026).

ARGUMENT

I. The Court should first declare the configuration of CD-11 under the 2024 Congressional Map unconstitutional and enjoin Respondents from using the map in future elections.

The 2024 Congressional Map unconstitutionally dilutes the votes of Black and Latino voters in CD-11. The Court should therefore *declare* the 2024 Congressional Map unconstitutional under Article III, Section 4(c)(1) and *enjoin* Defendants from conducting any election thereunder or otherwise giving any effect to the boundaries of the map as drawn. *See* Doc. 1 at 27–28. The Court's power to declare congressional maps unconstitutional and enjoin their use in future elections is well-established under New York law. *See* N.Y. Const. art. III, § 5 ("In any judicial proceeding relating to redistricting of congressional or state legislative districts, any law establishing congressional or state legislative districts found to violate the provisions of this article shall be invalid in whole or in part."). This relief is standard in redistricting litigation. *See Harkenrider v. Hochul*, 76 Misc. 3d 171, 194 (Sup. Ct. N.Y. Cnty. 2022) (finding the 2022 Congressional map "to be void and not usable"); *see also Callais v. Landry*, 732 F. Supp. 3d 574, 613–14 (W.D. La. 2024) ("grant[ing] plaintiffs' request for injunctive relief" and "prohibit[ing]" the State of Louisiana "from using SB8's map of congressional districts for any election").

Declaratory and injunctive relief is essential before the 2026 election. To the extent that Respondents claim that laches bars relief and "no remedy should be ordered for the [upcoming] election cycle because the election process for this year is already underway," that argument has already been rejected by the Court of Appeals when it ordered the redraw of a new congressional map in April of an election year. *Harkenrider*, 38 N.Y.3d at 521 (rejecting "invitation to subject the People of this state to an election conducted pursuant to an unconstitutional reapportionment"). There is adequate time to remedy the unconstitutional congressional map ahead of the 2026 election.

II. Under Article III, Section 5 of the New York Constitution, the Legislature should have a "full and reasonable opportunity" to redraw the congressional map.

When a court finds that a congressional district map violates the New York Constitution, "the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities." *See* N.Y. Const. art. III, § 5. Invalidating the map triggers the Legislature's constitutional authority to "modif[y]" the redistricting plan to remedy the constitutional defect. *See id.*; *id.* § 4(e) ("A reapportionment plan and the districts contained in such plan shall be in force until the effective date of a plan based upon the subsequent federal decennial census taken in a year ending in zero *unless modified pursuant to court order*.") (emphasis added).

The Legislature has the constitutional authority to enact a new map upon the Court's order. The Court of Appeals' decision in *Hoffman v. New York State Independent Redistricting Commission*, 41 N.Y. 3d 341 (2023), does not compel the Court to instead order the IRC to present new maps to the Legislature in the first instance. In that case, the Court granted mandamus relief to petitioners challenging the 2022 congressional map, which the *Harkenrider* court had previously adopted with the assistance of a special master. *Id.* at 367. In *Harkenrider*, the Court of Appeals had invalidated the *2021* congressional map in part because the Legislature had enacted the maps itself when the IRC deadlocked and failed to propose a second set of maps, as the Constitution required. *See Harkenrider*, 38 N.Y.3d at 508–17; N.Y. Const. art. III, § 4(b). But because the *Harkenrider* decision issued in late April 2022, the Court ordered a special master to draft maps for the 2022 election in lieu of remanding the matter back to the IRC. In *Hoffmann*, the Court held that the Constitution "[i]ndisputably . . . requires the IRC to deliver a second set of maps and implementing legislation to the legislature," an obligation it had not fulfilled since the 2020 census. 41 N.Y.3d at 367. It thus ordered the IRC to "comply with its constitutional mandate by submitting . . . a second congressional redistricting plan and implementing legislation" to the Legislature. *Id.*

at 370. A similar IRC directive is not necessary here precisely because the IRC now *has* submitted two congressional redistricting plans to the Legislature, both of which the Legislature rejected. The IRC has thus already satisfied its constitutional obligations, as set out in *Hoffmann*.

Petitioners agree with the State Respondents, Doc. 95 at 6, that the Court need not order the Legislature to adopt Petitioners' Illustrative Map. Petitioners offered the Illustrative Map for the limited purpose of "show[ing] that 'vote dilution' has occurred and that there is an alternative [map] that would allow [Black and Latino voters] to have equitable access to fully participate in the electoral process." *Clarke v. Town of Newburgh*, 237 A.D.3d 14, 39 (2d Dept. 2025) (quotation omitted). Petitioners have been clear that their Illustrative Map is not the only remedy available, and the Legislature may still remedy the unconstitutional vote dilution by adopting a different map. And Petitioners' expert, William Cooper, testified at the hearing that several different choices could be made regarding the precise lines of any remedial district—a fact that was essentially uncontested by Respondents. *See, e.g.*, Tr. 371:1–23. Even so, although the Court need not order the Legislature to *adopt* the Illustrative Map, the Court should recognize that Petitioners have met their constitutional burden because the Illustrative Map *would* remedy the unconstitutional dilution of Black and Latino voting strength in CD-11.

III. In the alternative, the Court should remand this matter to the IRC for further proceedings by a date certain.

A separate provision of the Constitution provides that, "[o]n or before February first of each year ending with a zero and 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." N.Y. Const. art. III, § 5-b(a). If the Court were to determine that the Constitution requires reconvening the IRC pursuant to this provision, then Petitioners respectfully request that the Court order the IRC to

complete its process by a date certain to ensure timely adoption of a new congressional map to govern the 2026 election. *See Nichols v. Hochul*, 212 A.D.3d 529, 531 (1st Dept. 2023) (the court is authorized to "set[] deadlines for, among other things, the IRC's submission of maps, in order to facilitate [a new redistricting] plan"); *Hoffmann*, 41 N.Y.3d at 370 (ordering the IRC to act by February 28, 2024). To that end, if the Court is inclined to remand this matter to the IRC, Petitioners would request that the Court first hold a status conference with the parties—including Respondent State Board of Elections—to determine the specific dates by which the IRC would need to act to facilitate adoption of a new map in time for the 2026 election.[2]

IV. Appointing a special master is permissible, but is not a preferred remedy at this time.

A third option available to the Court is to appoint a special master to propose a new map for the Court to adopt on its own initiative. This was the approach the Court of Appeals took in *Harkenrider*, when it invalidated the 2021 congressional and state senate maps as both procedurally and substantively unconstitutional. 38 N.Y.3d at 517, 520. Since then, the First Department has indicated that court-enacted maps are appropriate where "time constraints created by the electoral calendar" make a legislative remedy impossible.

As of the time of this filing, Petitioners believe that a legislative remedy is still possible, and allowing the Legislature the opportunity to draw a new map is thus preferable to imposing a judicial remedy. But with candidate petition circulation set to begin on February 24, and primary elections scheduled for June 23, time is of the essence. Petitioners therefore respectfully request that the Court set a date certain by which it will appoint a special master to draw a new

[2] If the Court ultimately pursues this option, it will be necessary to add the IRC and its Commissioners to this case as Respondents, as was done in *Nichols*. *See Nichols v. Hochul*, 77 Misc. 3d 245, 255 (Sup. Ct. N.Y. Cnty. 2022).

congressional map for the Court to order in place for the 2026 election if the Legislature has not done so by that time.

CONCLUSION

For the foregoing reasons, the Court should declare the 2024 Congressional Map unconstitutional, enjoin Respondents from using the 2024 Map in future elections, and allow "the legislature . . . a full and reasonable opportunity to" adopt a new map that remedies the dilution of Black and Latino voters in Congressional District 11 by a date certain. *See* N.Y. Const. art. III, § 5. Given the need to monitor the timing of the remedy and the potential for future litigation regarding the remedy, Petitioners also request that the Court "retain jurisdiction over this action and any challenges to the procedures of the legislature, the procedures of the independent redistricting commission and/or the resulting [congressional] map." *Nichols*, 77 Misc. 3d at 257.

Dated: January 12, 2026

Respectfully submitted,

EMERY CELLI BRINCKERHOFF ABADY WARD & MAAZEL, LLP

Andrew G. Celli, Jr. (No. 2434025)
Emily Wanger (No. 5816210)
One Rockefeller Plaza, 8th Floor
New York, New York 10020
Tel.: (212) 763-5000
acelli@ecbawm.com
ewanger@ecbawm.com

ELIAS LAW GROUP LLP

/s/ *Aria C. Branch*
Aria C. Branch*
Christopher Dodge (No. 5245907))
Lucas Lallinger (No. 5443460)
Nicole Wittstein*
250 Massachusetts Avenue, Suite 400
Washington, D.C. 20001
Tel.: (202) 968-4490
abranch@elias.law
cdodge@elias.law
llallinger@elias.law
nwittstein@elias.law

**Admitted pro hac vice*

CERTIFICATIONS

I hereby certify that the foregoing memorandum of law complies with the page limitation prescribed by the Court. *See* Tr. 816:16-17. This memorandum of law contains 7 pages, 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